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CONTINUING COVENANT AGREEMENT

dated as of September 1, 2017

by and between

TRINITY HEALTH,  
as Obligated Group Representative,  
on behalf of itself and the other Obligated Group Members comprising the Obligated Group

and

BREMER BANK, N.A.

relating to

\$31,875,000  
COUNTY OF WARD, NORTH DAKOTA  
HOSPITAL FACILITY REVENUE REFUNDING BONDS  
(TRINITY OBLIGATED GROUP)  
SERIES 2017A-1

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## CONTINUING COVENANT AGREEMENT

THIS CONTINUING COVENANT AGREEMENT, dated as of September 1, 2017 (as amended, modified or restated from time to time, this "*Agreement*"), between TRINITY HEALTH, a North Dakota nonprofit corporation (the "*Corporation*" and, in its capacity as Obligated Group Representative on behalf of itself and the other hereinafter defined Obligated Group Members comprising the Obligated Group, the "*Obligated Group Representative*"), on behalf of itself and the other Obligated Group Members comprising the Obligated Group, and BREMER BANK, N.A. (as more particularly defined herein, the "*Purchaser*").

### RECITALS

WHEREAS, the County of Ward, North Dakota (the "*Issuer*") has issued its Hospital Facility Revenue Refunding Bonds (Trinity Obligated Group), Series 2017A-1 in the original aggregate principal amount of \$31,875,000 (the "*Bonds*") pursuant to an Indenture of Trust of even date herewith (as the same may be amended, modified or restated in accordance with the terms thereof and hereof, the "*Bond Indenture*"), between the Issuer and The Bank of New York Mellon Trust Company, N.A., as bond trustee (the "*Bond Trustee*"); and

WHEREAS, the Issuer has loaned the proceeds of the Bonds to the Corporation pursuant to a Loan Agreement of even date herewith (as the same may be amended, modified or restated in accordance with the terms thereof and hereof, the "*Loan Agreement*"), between the Issuer and the Corporation; and

WHEREAS, the Purchaser has agreed to make a loan to the Obligated Group Representative by purchasing the Bonds and, as a condition to such purchase, the Purchaser has required the Obligated Group Representative, on behalf of itself and on behalf of the other Obligated Group Members, to enter into this Agreement.

NOW, THEREFORE, to induce the Purchaser to make a loan to the Obligated Group Representative by purchasing the Bonds, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Obligated Group Representative, on behalf of itself and on behalf of the other Obligated Group Members, and the Purchaser hereby agree as follows:

### ARTICLE I DEFINITIONS

*Section 1.01 Certain Defined Terms.* In addition to the terms defined in the recitals and elsewhere in this Agreement, the Master Indenture (hereinafter defined), the Bond Indenture and the Loan Agreement, the following terms shall have the following meanings:

"*Affiliate*" means (a) with respect to any Obligated Group Member, an entity controlling, controlled by or under common control with an Obligated Group Member and (b) with respect to any other Person, means any other Person directly or indirectly controlling or controlled by or under common control with such Person, and shall include any Subsidiary of such Person. For purposes of clause (a) of this definition, control means the power to direct the management and policies of an entity through the ownership of a majority of its voting securities, or through the right to designate or elect or remove a majority of the members of its board of directors or other governing board or body, or by contract or otherwise.

"*Agreement*" has the meaning set forth in the introductory paragraph hereof.

"*Anti-Terrorism Laws*" has the meaning set forth in **Section 5.25(a)**.

*"Applicable Law"* means, collectively, all international, foreign, federal, state and local constitutions, statutes, treaties, rules, guidelines, regulations, ordinances, codes, orders and administrative or judicial precedents or authorities, including all applicable common law and principles of equity, together with the interpretation or administration of any of the foregoing by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative and arbitral orders, directed duties, decisions, judgments, writs, injunctions, decrees, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

*"Authorized Representative"* means with respect to each Member, the chair of its Governing Body, its chief executive officer or its chief financial officer or any other person designated an Authorized Representative of such Member by a Certificate of such Member, respectively, signed by the chair of its Governing Body or its chief executive officer or chief financial officer and delivered to the Purchaser; provided, however, that with respect to certifications made pursuant to the terms of this Agreement relating to any financial statements of the Obligated Group or any Obligated Group Member, *"Authorized Representative"* shall mean the chief executive officer or the chief financial officer of the Obligated Group Representative.

*"Bond Indenture"* has the meaning set forth in the recitals hereof.

*"Bond Interest is Taxable"* means that interest paid or to be paid on a Bond is or will be includable for federal income tax purposes in the gross income of the Purchaser or any other Bondholder (including any former Bondholder) thereof, but excluding the inclusion of interest on such Bond as an item of tax preference for purposes of the calculation of an alternative minimum tax imposed on the Purchaser or such other Bondholder (including any former Bondholder).

*"Bond Trustee"* has the meaning set forth in the recitals hereof.

*"Bondholder"* means the registered owner of any Bond or any portion thereof.

*"Bonds"* has the meaning set forth in the recitals hereof.

*"Bremer"* means Bremer Bank, N.A., its successors and assigns.

*"Business Day"* means a day which is not (a) a Saturday, Sunday or legal holiday on which banking institutions in New York, New York or the states where the principal corporate office of the Obligated Group Representative or the designated corporate trust office of the Bond Trustee is located are authorized by law to close, (b) a day on which the New York Stock Exchange or the Federal Reserve Bank is closed or (c) a day on which the principal office of the Purchaser is closed.

*"Change in Law"* means the occurrence, after the date hereof, of any of the following: (a) the adoption or taking effect of any Applicable Law, including, without limitation, any Risk-Based Capital Guidelines, (b) any change in any Applicable Law or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, ruling, guideline, regulation or directive (whether or not having the force of law) by any Governmental Authority; *provided, however*, that notwithstanding anything herein to the contrary, (i) the Dodd Frank Wall Street Reform and Consumer Protection Act and all requests, rules, rulings, guidelines, regulations or directives thereunder or issued in connection therewith and (ii) all requests, rules, rulings, guidelines, regulations or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States of America or foreign regulatory authorities shall in each case be deemed to be a *"Change in Law,"* regardless of the date enacted, adopted or issued.

*"Code"* means the Internal Revenue Code of 1986, as amended, and, where appropriate, any statutory predecessor or any successor thereto.

*"Compliance Certificate"* means a certificate substantially in form of Exhibit A hereto.

*"Controlled Group"* means all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control which, together with the Obligated Group Members, any Subsidiary or Affiliate, are treated as a single employer under Section 414 of the Code.

*"Days of Operating Expenses"* means operating expenses of the Obligated Group minus depreciation and amortization expense divided by the number of days for the applicable period.

*"Debt Being Refunded"* means \$53,185,000 aggregate principal amount of the Issuer's Health Care Facilities Revenue Bonds (Trinity Obligated Group), Series 2006.

*"Default"* means any event or condition which, with notice, the passage of time or any combination of the foregoing, would constitute an Event of Default.

*"Default Rate"* [REDACTED]

*"Determination of Taxability"* has the meaning set forth in the Bond Indenture.

*"DTC"* means The Depository Trust Company, New York, New York and its successors and assigns.

*"Effective Date"* means September 27, 2017, subject to the satisfaction or waiver by the Purchaser of the conditions precedent set forth in **Article III**.

*"EMMA"* means Electronic Municipal Market Access as provided by the Municipal Securities Rulemaking Board.

*"Environmental Laws"* means any and all federal, state, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

*"ERISA"* means the Employee Retirement Income Security Act of 1974, as amended, and any successor statute of similar import, and regulations thereunder, in each case as in effect from time to time. References to Sections of ERISA shall be construed also to refer to any successor Sections.

*"ERISA Event"* means (a) a reportable event (as defined in ERISA) with respect to a Plan; (b) a withdrawal by the Obligated Group Representative, any other Obligated Group Member or any member of their respective Controlled Group from a Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Obligated Group Representative, any other Obligated Group Member or any member of their respective Controlled Group or notification that a Plan is in reorganization; (d) the filing of a notice of intent to terminate a Plan, the treatment of a Plan amendment as a termination under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Plan; (e) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan; or (f) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Obligated Group Representative, any other Obligated Group Member or any member of their respective Controlled Group.



*"Event of Default"* with respect to this Agreement has the meaning set forth in **Section 7.01** and, with respect to any Related Document, has the meaning assigned therein.

*"Excess Interest Amount"* has the meaning set forth in **Section 4.11(b)**.

*"Excluded Taxes"* means, with respect to the Purchaser or any other Bondholder, (a) taxes imposed on or measured by its overall net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which the Purchaser or such Bondholder is organized or in which its principal office is located, and (b) any branch profits taxes imposed by the United States or any similar tax imposed by any other jurisdiction in which any Obligated Group Member is located.

*"Executive Order"* has the meaning set forth in **Section 5.25(a)**.

*"Favored Covenant"* has the meaning set forth in **Section 6.08(c)**.

*"Fiscal Year"* means the twelve month period from July 1 through the following June 30.

*"Fitch"* means Fitch Ratings, Inc., and any successor rating agency.

*"FRB"* means the Board of Governors of the Federal Reserve System of the United States, together with any successors thereof.

*"Fundamental Change"* has the meaning set forth in **Section 6.25**.

*"Generally Accepted Accounting Principles"* or *"GAAP"* means generally accepted accounting principles in effect from time to time in the United States and applicable to entities such as the Obligated Group Members.

*"Governing Body"* means, when used with respect to any Obligated Group Member, its board of directors, board of trustees, or other board or Group of individuals in which the general governing powers of the Obligated Group Member are vested.

*"Governmental Approvals"* means an authorization, consent, approval, permit, license, certificate of occupancy or an exemption of, a registration or filing with, or a report to, any Governmental Authority.

*"Governmental Authority"* means the government of the United States of America or any other nation or any political subdivision thereof or any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, central bank, service, district or other instrumentality of any governmental entity or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government (including any supra national bodies such as the European Union or European Central Bank), or any arbitrator, mediator or other Person with authority to bind a party at law.

*"Health Care Laws"* means all relevant federal and state laws regulating health services or payment, including, but not limited to, Section 1128B(b) and Section 1877 of the Social Security Act, the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)), the Stark Law (42 U.S.C. § 1395nn), the Anti-Inducement Law (42 U.S.C. § 1320a-7a(a)(5)), the civil False Claims Act (31 U.S.C. § 3729 *et seq.*), the administrative False Claims Law (42 U.S.C. § 1320a-7b(a)), the exclusion laws (42 U.S.C. § 1320a-7), the civil monetary penalty laws (42 U.S.C. § 1320a-7a), the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. §§ 1320d-1320d-8), Medicare, Medicaid, and any other state or federal

law, regulation, guidance document, manual provision, program memorandum, opinion letter, or other issuance which regulates kickbacks, patient or program charges, recordkeeping, referrals, the hiring of employees or acquisition of services or supplies from those who have been excluded from government health care programs, quality, safety, privacy, security, licensure, accreditation, or any other aspect of providing health care.

*"Health Care Reportable Event"* means (a) the Obligated Group Representative or any other Obligated Group Member becomes subject to any civil or criminal investigations, or any material inquiries, validation reviews, program integrity reviews, reimbursement audits or statements of deficiencies, involving and/or related to its compliance with Health Care Laws; (b) any material exclusion, voluntary disclosure, notice of claim to recover material overpayments, revocation, suspension, termination, probation, restriction, limitation, denial, or non-renewal affecting the Obligated Group Representative or any other Obligated Group Member with respect to any material Program; or (c) the occurrence of any reportable event under any settlement agreement or corporate integrity agreement involving and/or related to its compliance with Health Care Laws entered into with any Governmental Authority.

*"Incorporated Provisions"* has the meaning set forth in **Section 6.08(a)**.

*"Indebtedness"* means all obligations for borrowed money, installment sales and capitalized lease obligations, incurred or assumed by a Member (other than Indebtedness of one Member to another Member or the Guaranty by any Member of Indebtedness of any other Member), including Guaranties, Long-Term Indebtedness, Short-Term Indebtedness or any other obligation for payments of principal and interest with respect to money borrowed, provided, however, that if more than one Member shall have incurred or assumed a Guaranty of a Person other than a Member, or if more than one Member shall be obligated to pay any obligation, for purposes of any computations or calculations hereunder such Guaranty or obligation shall be included only one time. Financial Products Agreements, trade payables, operating lease obligations, accrued expenses in the normal course of business, physician income guaranties and contingent liabilities not reflected on financial statements in accordance with GAAP, shall not constitute Indebtedness.

*"Indebtedness Ratio"* means the ratio determined by dividing the aggregate principal amount of all Indebtedness of the Obligated Group then Outstanding by the sum of (a) the aggregate principal amount of such Indebtedness and (b) total unrestricted net assets (or, in the case of for-profit Obligated Group Members, shareholders' equity) of the Obligated Group Members (as reflected in or derived from the most recent Obligated Group financial statements delivered to the Purchaser).

*"Indemnified Taxes"* means Taxes other than Excluded Taxes.

*"Indemnatee"* has the meaning set forth in **Section 8.01**.

*"Initial Purchase Price"* has the meaning set forth in **Section 2.01(a)**.

*"Interest Payment Date"* means each June 1 and December 1, commencing December 1, 2017.

*"Investment Policy"* means the respective investment policy(s) of the Obligated Group Representative and each other Obligated Group Member delivered to the Purchaser, pursuant to **Section 3.01(a)(vi)**.

*"Issuer"* has the meaning set forth in the recitals hereof.

*"Liabilities"* has the meaning set forth in **Section 8.01**.

*"Liquidity Requirement"* has the meaning set forth in **Section 6.32(b)**.

*"Loan Agreement"* has the meaning set forth in the recitals hereof.

*"Majority Holder"* means the Bondholders holding a majority of the aggregate principal amount of Bonds Outstanding from time to time. As of the Effective Date, Bremer shall be the Majority Holder.

*"Margin Stock"* has the meaning ascribed to such term in Regulation U promulgated by the FRB, as now and hereafter from time to time in effect.

*"Master Bond Note"* means the Series 2017A-1 Master Note dated the Effective Date, issued under the Master Indenture, issued to the Bond Trustee pursuant to the Related Bond Supplement and the Master Indenture to secure the Bonds.

*"Master Indenture"* means the Amended and Restated Master Trust Indenture dated as of September 27, 2017 between the Obligated Group Members and the Master Trustee, as the same may be amended or supplemented from time to time in accordance with the terms hereof and thereof.

*"Master Indenture Obligation"* has the meaning ascribed to the term "Obligation" in the Master Indenture.

*"Master Purchaser Note"* means that certain Trinity Health, Series 2017A-1 Master Purchaser Note dated the Effective Date, issued in favor of the Purchaser pursuant to the Related Agreement Supplement to secure the Obligations owed to the Purchaser hereunder.

*"Master Trustee"* means The Bank of New York Mellon Trust Company, N.A., and its successors and assigns, as master trustee under the Master Indenture.

*"Material Adverse Effect"* means: (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties, liabilities (actual or contingent), condition (financial or otherwise) of the Obligated Group Representative or any other Obligated Group Member; (b) a material impairment of the ability of any Obligated Group Member to perform its obligations under any Related Document to which it is a party; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against any Obligated Group Member of any Related Document to which it is a party or the rights, security, interests or remedies of the Purchaser hereunder or under any other Related Document.

*"Material Plan"* has the meaning set forth in **Section 7.01(I)**.

*"Maturity Date"* means June 1, 2027.

*"Maximum Lawful Rate"* means the maximum, non-usurious, lawful rate of interest that may be contracted for, charged or received in connection with the relevant obligation under Applicable Law without regard to any filing made by a lender with respect to notice of rates in excess of any statutory or regulatory threshold interest rate.

*"Medicaid"* means, collectively, the health care assistance program established by Title XIX of the Social Security Act (42 U.S.C. §§ 1396 *et seq.*) and any statutes succeeding thereto, and all laws, rules, regulations, manuals, orders, guidelines or requirements pertaining to such program including (a) all federal statutes (whether set forth in Title XIX of the Social Security Act or elsewhere) affecting such program; (b) all state statutes and plans for medical assistance enacted in connection with such program and federal rules and regulations promulgated in connection with such program; and (c) all applicable provisions of all rules, regulations, manuals, orders and administrative and reimbursement guidelines and requirements of all

government authorities promulgated in connection with such program (whether or not having the force of law), in each case, as the same may be amended, supplemented or otherwise modified from time to time.

*"Medicare"* means, collectively, the health insurance program for the aged and disabled established by Title XVIII of the Social Security Act (42 U.S.C. §§ 1395 *et seq.*) and any statutes succeeding thereto, and all laws, rules, regulations, manuals, orders or guidelines pertaining to such program including (a) all federal statutes (whether set forth in Title XVIII of the Social Security Act or elsewhere) affecting such program; and (b) all applicable provisions of all rules, regulations, manuals, orders and administrative and reimbursement guidelines and requirements of all governmental authorities promulgated in connection with such program (whether or not having the force of law), in each case, as the same may be amended, supplemented or otherwise modified from time to time.

*"Moody's"* means Moody's Investors Service, Inc. and any successor rating agency.

*"1933 Act"* means the Securities Act of 1933, as amended.

*"Obligated Group"* has the meaning set forth in the Master Indenture.

*"Obligated Group Member," "Member of the Obligated Group," "Member" or "Obligor"* means each signatory to the Master Indenture (other than the Master Trustee), together with each other Person which is obligated thereunder to the extent and in accordance with the provisions of Section 3.09 or 3.11 of the Master Indenture and this Agreement, from and after the date upon which such Person joins the Obligated Group, but excluding any Member which withdraws from the Obligated Group to the extent and in accordance with the provisions of Section 3.12 of the Master Indenture and this Agreement, from and after the date of such withdrawal.

*"Obligated Group Representative"* has the meaning set forth in the introductory paragraph hereof.

*"Obligations"* means all amounts payable by any Obligated Group Member, and all other obligations to be performed by the Obligated Group Members, to the Purchaser or any other Bondholder pursuant to this Agreement and the other Related Documents (including, without limitation, all obligations of the Obligated Group Representative and the other Obligated Group Members to pay principal and Purchase Price of and premium and interest on the Bonds when due and any amounts to reimburse the Purchaser for any advances or expenditures by it under any of such documents).

*"OFAC"* has the meaning set forth in **Section 5.25(b)(v)**.

*"Other Bonds"* means, collectively, (a) the County of Ward, North Dakota Revenue Refunding Bonds (Trinity Obligated Group), Series 2017A-2 issued on the Effective Date in the original aggregate principal amount of \$15,000,000 and (b) the County of Ward, North Dakota Revenue Bonds (Trinity Obligated Group), Series 2017B issued on the Effective Date in the original aggregate principal amount of \$10,000,000.

*"Other Taxes"* means all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or under any other Related Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Related Document.

*"Outstanding"* has the meaning set forth in the Master Indenture; *provided, however*, that when used with respect to the Bonds, has the meaning set forth in the Bond Indenture.

*"Parity Debt"* means any Indebtedness evidenced or secured by a Master Indenture Obligation.

*"Participant(s)"* means any bank(s), other financial institution(s) or other Qualified Buyer(s) which may purchase a participation interest from the Purchaser in this Agreement and certain of the other Related Documents pursuant to a participation agreement between the Purchaser and the Participant(s).

*"Patriot Act"* means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Title III of Pub. L. 107-56 (signed into law October 26, 2001).

*"PBGC"* means the Pension Benefit Guaranty Corporation or any successor thereto.

*"Pension-Related Event"* means any of the following events or conditions that would reasonably be expected to result in a Material Adverse Effect on the Obligated Group: (a) any action is taken by any Person (i) to terminate, or that would result in the termination of, a Plan, either pursuant to its terms or by operation of law (including any amendment of a Plan that would result in a termination under Section 4041(e) of ERISA), or (ii) to have a trustee appointed for a Plan pursuant to Section 4042 of ERISA; (b) the PBGC notifies any Person of its determination that an event described in Section 4042 of ERISA has occurred with respect to a Plan, that a Plan should be terminated, or that a trustee should be appointed for a Plan; (c) any Reportable Event occurs with respect to a Plan; (d) any action occurs or is taken that would reasonably be expected to result in any Obligated Group Member becoming subject to liability for a complete or partial withdrawal by any Person from a Multiemployer Plan (including seller liability incurred under Section 4204(a)(2) of ERISA), or any Obligated Group Member receives from any Person a notice or demand for payment on account of any such alleged or asserted liability; (e)(i) there occurs any failure to meet the minimum funding standard under Section 302 of ERISA or Section 412 of the Code with respect to a Plan, or any tax return is filed showing any tax payable under Section 4971(a) of the Code with respect to any such failure, or any Obligated Group Member receives a notice of deficiency from the Internal Revenue Service with respect to any alleged or asserted such failure, or (ii) any request is made by any Person for a variance from the minimum funding standard, or an extension of the period for amortizing unfunded liabilities, with respect to a Plan, or (iii) any Obligated Group Member fails to pay the PBGC premium with respect to a Plan when due and it remains unpaid for more than 30 days thereafter; or (f) there occurs any "prohibited transaction" within the meaning of Section 406 of ERISA or Section 4975 of the Code involving a Plan.

*"Permit"* means any permit, approval, authorization, certification, license, variance, accreditation or permission required from a Governmental Authority under an applicable law or any accrediting organization.

*"Person"* means any individual, corporation, not for profit corporation, partnership, limited liability company, joint venture, association, professional association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other form of entity.

*"Plan"* means, with respect to the Obligated Group or any Obligated Group Member and each Subsidiary at any time, an employee pension benefit plan which is covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code and either (i) is maintained, or has within the preceding five plan years been maintained, by a member of the Controlled Group for employees of a member of the Controlled Group of which the Obligated Group Representative or any other Obligated Group Member or such Subsidiary is a part, (ii) is maintained pursuant to a collective bargaining agreement or any other arrangement under which more than one employer makes contributions and to which a member of the Controlled Group of which the Obligated Group Representative or any other Obligated Group Member or such Subsidiary is a part is then making or accruing an obligation to make contributions or has within the preceding five plan years made contributions.

*"Program"* has the meaning set forth in **Section 5.05(c)**.

*"Property"* means any and all rights, titles and interests in and to any and all property whether real or personal, tangible or intangible and wherever situated, now owned or hereafter acquired.

*"Purchase Price"* means, as of any date of determination with respect to the Bonds, one hundred percent (100%) of the principal amount thereof which are Outstanding, plus accrued and unpaid interest thereon to the date of purchase.

*"Purchaser"* means, initially, Bremer, and upon the receipt from time to time by the Bond Trustee and the Obligated Group Representative of a notice described in **Section 9.13(a)** from time to time means the Person designated in such notice as the Purchaser, as more fully provided in **Section 9.13(a)**.

*"Qualified Buyer"* means a "qualified institutional buyer," as defined in Rule 144A promulgated under the 1933 Act.

*"Rating Agency"* means any of S&P, Moody's, Fitch or other nationally recognized statistical rating agency, as applicable.

*"Rating Documentation"* has the meaning set forth in **Section 3.01(d)(v)**.

*"Related Agreement Supplement"* means Supplemental Indenture No. 2 to the Master Indenture of even date herewith, between the Obligated Group Representative, on behalf of itself and the other Obligated Group Members, and the Master Trustee, pursuant to which the Master Bond Note is issued.

*"Related Bond Supplement"* means Supplemental Indenture No. 1 to the Master Indenture of even date herewith, between the Obligated Group Representative, on behalf of itself and the other Obligated Group Members, and the Master Trustee, pursuant to which the Master Purchaser Note is issued.

*"Related Bonds"* has the meaning set forth in the Master Indenture.

*"Related Documents"* means this Agreement, the Bond Indenture, the Bonds, the Loan Agreement and the Master Indenture (including, without limitation, the Related Supplements), the Master Purchaser Note, the Master Bond Note, the Mortgage and any other documents related to any of the foregoing or executed in connection therewith, and any and all future renewals and extensions or restatements of, or amendments or supplements to, any of the foregoing.

*"Related Party"* or *"Related Parties"* means, with respect to any specified Person, such Person's Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person's Affiliates.

*"Related Supplements"* means, collectively, Related Bond Supplement and Related Agreement Supplement.

*"Relevant Agreement"* has the meaning set forth in **Section 6.08(c)**.

*"Reportable Event"* means (a) a reportable event described in Section 4043 of ERISA and regulations thereunder, (b) a withdrawal by a substantial employer from a Plan to which more than one employer contributes, as referred to in Section 4063(b) of ERISA, (c) a cessation of operations at a facility causing more than twenty percent (20%) of Plan participants to be separated from employment, as referred to in Section 4068(f) of ERISA, or (d) a failure to make a required installment or other payment with respect to a Plan when due in accordance with Section 412 of the Code or Section 302 of ERISA that causes the total unpaid balance of missed installments and payments (including unpaid interest) to exceed \$1,000,000.

*"Restricted Information"* means any information contained in the books and financial records of any Obligated Group Member to be examined by the Purchaser pursuant to **Section 6.07**, to the extent such

information (a) relates to a Third Party, (b) does not relate to or affect any security for the Obligations and (c) is not permitted to be disclosed to the Purchaser pursuant to a written non-disclosure agreement, confidentiality agreement or similar agreement between such Third Party and such Obligated Group Member.

*"Risk-Based Capital Guidelines"* means (a) the risk based capital guidelines in effect in the United States of America, including transition rules, and (b) the corresponding capital regulations promulgated by regulatory authorities outside the United States of America including transition rules, and any amendment to such regulations.

*"S&P"* means S&P Global Ratings, a division of S&P Global, and any successor rating agency.

*"Sanctions"* means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government, including those administered by OFAC or the U.S. Department of State.

*"Sanctioned Country"* means, at any time, a country or territory which is itself the subject or target of any Sanctions (at the time of this Agreement, Cuba, Iran, North Korea, Sudan and Syria).

*"Sanctioned Person"* means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person owned or controlled by any such Person or Persons.

*"Social Security Act"* means the Social Security Act of 1965, as amended.

*"Solvent"* means, with respect to any Person, that as of the date of determination (without duplication) both (a) (i) the sum of such Person's debt (including contingent liabilities) does not exceed all of its property, at a fair valuation; (ii) the Person is able to pay the probable liabilities on such Person's then existing debts as they become absolute and matured; (iii) such Person's capital is not unreasonably small in relation to its business or any contemplated or undertaken transaction; and (iv) such Person does not intend to incur, or believe (nor should it reasonably believe) that it will incur, debts beyond its ability to pay such debts as they become due; and (b) such Person is "solvent" within the meaning given that term and similar terms under applicable laws relating to fraudulent transfers and conveyances. For purposes of this definition, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability (discounted to present value at rates believed to be reasonable by such Person acting in good faith).

*"State"* means the State of North Dakota.

*"Subject Parcel"* means the portion of the Mortgaged Property described in Exhibit A to the Mortgage that is not described in Exhibit B to the Mortgage.

*"Subsidiary"* of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares or securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a "Subsidiary" or to "Subsidiaries" shall refer to a Subsidiary or Subsidiaries of the Obligated Group or any Obligated Group Member, as applicable.

*"Swap Agreement"* means an interest rate swap, exchange, cap, collar, floor, forward, futures, option (e.g., a call, put, cap, floor or collar), asset swap, basis swap or other hedging agreement, arrangement or security, however denominated, identified to the Purchaser in a certificate of the Obligated Group Representative as having been entered into by any Obligated Group Member with a third party (the *"Counterparty"*) which may be with respect to all or a portion of Indebtedness, whether outstanding or to be issued (which Indebtedness shall be specifically identified in the certificate), or with respect to an existing Swap Agreement for the purpose of (a) reducing or otherwise managing the risk of interest rate changes, or (b) effectively converting the interest rate exposure, in whole or in part, from a fixed rate exposure to a variable rate exposure, or from a variable rate exposure to a fixed rate exposure; *provided, however*, that no Swap Agreement shall entail any exchange of principal or any assumption of liability for the payment of principal of or interest on any particular Indebtedness of any Obligated Group Member or the Counterparty, as the case may be; and *provided further* that a Swap Agreement shall not constitute Indebtedness within the meaning of the Master Indenture.

*"Taxable Date"* means the date on which interest on any of the Bonds is first includable in gross income of a Bondholder (including, without limitation, any previous Bondholder) thereof as a result of a Determination of Taxability.

*"Taxable Period"* has the meaning set forth in **Section 4.03(a)**.

*"Taxable Rate"* means [REDACTED]

*"Taxes"* means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, fines, additions to tax or penalties applicable thereto.

*"Third Party"* means a Person other than an Obligated Group Member or an Affiliate of an Obligated Group Member.

*"Transferee"* means has the meaning set forth in **Section 9.13(c)**.

*"Trust Estate"* means the Gross Revenues, the Mortgaged Property and all other Property now or hereafter pledged to secure the payment of the Master Indenture Obligations.

*"Unfunded Vested Liabilities"* means, with respect to any Plan at any time, the amount (if any) by which (a) the present value of all vested nonforfeitable accrued benefits under such Plan exceeds (b) the fair market value of all Plan assets allocable to such benefits, all determined as of the then most recent valuation date for such Plan, but only to the extent that such excess represents a potential liability of a member of the Controlled Group to the PBGC or such Plan under Title IV of ERISA.

*"Unrestricted Cash and Investments"* means the amount of unrestricted and unencumbered cash, cash equivalents, and marketable liquid investments of the Obligated Group (including board designated funds); provided, however, that there shall be excluded therefrom the amounts specified in clauses (a) through (d): (a) the amount of or in any trustee-held funds, debt service funds, debt service reserve funds, construction funds, litigation reserve funds, malpractice funds or other self-insurance or captive insurance funds, pension or retirement funds, and any other funds set aside or reserved in such a manner so as to restrict the funds so that such funds are not available to the Obligated Group to pay debt service on Indebtedness; (b) any amounts realized from the sale or factoring of receivables during the 90 day period preceding a computation date of Unrestricted Cash and Investments; (c) the principal amount of (i) any borrowed moneys payable in one year or less or (ii) any demand obligations for which the Obligated Group is obligated to provide payment or the purchase price on demand unless, in each case there exists a commitment by a bank, insurance company or other financial institution rated at least "A+" or better by S&P or "A1" or better by Moody's which provides refinancing



sufficient to pay such obligation when due and any repayment term to such financial institution by the member of the Obligated Group is at least two years; and (d) any amounts pledged or posted, or required to be pledged or posted, to secure obligations under a swap agreement or in connection with any derivative transaction. For purposes of this definition of Unrestricted Cash and Investments, if marketable securities are loaned pursuant to a security lending program, either the market value of such securities that are loaned or any cash held as collateral under such lending program shall be included as Unrestricted Cash and Investments, but not both such amounts.

*“Welfare Plan”* means a “welfare plan,” as such term is defined in Section 3(1) of ERISA.

*Section 1.02 Computation of Time Periods.* In this Agreement, in the computation of a period of time from a specified date to a later specified date, the word “from” means “from and including” and the words “to” and “until” each mean “to but excluding.”

*Section 1.03 Construction.* Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular, to the singular include the plural and to the part include the whole. The word “including” shall be deemed to mean “including but not limited to,” and “or” has the inclusive meaning represented by the phrase “and/or.” The words “hereof,” “herein,” “hereunder” and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. The article, section and subsection headings contained in this Agreement and the table of contents preceding this Agreement are for reference purposes only and shall not control or affect the construction of this Agreement or the interpretation thereof in any respect. Article, section, subsection, schedule and exhibit references are to this Agreement unless otherwise specified. Except as otherwise expressly set forth in this Agreement, whenever the phrase “satisfactory to the Purchaser” or “acceptable to the Purchaser” or any other phrase of similar connotation is used in this Agreement, such phrase means “satisfactory to the Purchaser in its sole and absolute discretion.” Any exhibit, schedule or annex attached hereto is incorporated by reference herein and is a constituent part of this Agreement. The recitals hereto are true and correct and are incorporated into this Agreement. Defaults and Events of Default are deemed to be “continuing” and upon their occurrence shall at all times thereafter “exist” unless and to the extent the Purchaser specifically provides otherwise in writing.

*Section 1.04 Accounting Terms and Determinations.* Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared, in accordance with GAAP. If, after the Effective Date, there shall occur any change in GAAP from those used in the preparation of the financial statements referred to in **Section 6.05** and such change shall result in a change in the method of calculation of any financial covenant, standard or term found in this Agreement including, without limitation, a recharacterization of operating leases to the effect that certain operating leases are to be treated as capital leases, either the Obligated Group Representative or the Purchaser may by notice to the other party hereto, require that the Purchaser and the Obligated Group Representative negotiate in good faith to amend such covenants, standards, and terms so as equitably to reflect such change in accounting principles, with the desired result being that the criteria for evaluating the financial condition of the Obligated Group shall be the same as if such change had not been made. No delay by the Obligated Group Representative or the Purchaser in requiring such negotiation shall limit their right to so require such a negotiation at any time after such a change in accounting principles. Until any such covenant, standard, or term is amended in accordance with this Section 1.05, financial covenants shall be computed and determined in accordance with GAAP in effect prior to such change in accounting principles.

*Section 1.05 Relation to Other Documents; Acknowledgment of Different Provisions of Related Documents; Incorporation by Reference.*

(a) Nothing in this Agreement shall be deemed to amend, or relieve any Obligated Group Member of its obligations under, any Related Document to which it is a party. Conversely, to the extent that the provisions of any Related Document allow any Obligated Group Member to take certain actions, or not to take certain actions, with regard for example to permitted liens, transfers of

assets, maintenance of financial ratios and similar matters, such Obligated Group Member nevertheless shall be fully bound by the provisions of this Agreement.

(b) Except as provided in subsection (c) of this **Section 1.05**, all references to other documents shall be deemed to include all amendments, modifications and supplements thereto to the extent such amendment, modification or supplement is made in accordance with the provisions of such document and this Agreement.

(c) All provisions of this Agreement making reference to specific Sections of any Related Document shall be deemed to incorporate such Sections into this Agreement by reference as though specifically set forth herein (with such changes and modifications as may be herein provided) and shall continue in full force and effect with respect to this Agreement notwithstanding payment of all amounts due under or secured by the Related Documents, the termination or defeasance thereof or any amendment thereto or any waiver given in connection therewith, so long as this Agreement is in effect and until all Obligations are paid in full. No amendment, modification, consent, waiver or termination with respect to any of such Sections shall be effective as to this Agreement until specifically agreed to in writing by the parties hereto with specific reference to this Agreement.

## **ARTICLE II PURCHASE OF BONDS**

### *Section 2.01 Purchase of Bonds.*

(a) *Initial Purchase Price.* Upon satisfaction of the conditions precedent set forth in **Article III** and based on the representations, warranties and covenants of the Corporation set forth in the Loan Agreement and herein, the Purchaser hereby agrees to make a loan to the Obligated Group Representative by purchasing from the Issuer, and the Corporation hereby agrees to cause the Issuer to sell to the Purchaser, all, but not less than all, of the Bonds at the purchase price of \$31,875,000 representing the aggregate principal amount of the Bonds (the "*Initial Purchase Price*").

(b) *Closing.* On the Effective Date, the Obligated Group Representative, on behalf of itself and the other Obligated Group Members comprising the Obligated Group, shall deliver to the Purchaser the documents described in **Article III**. Upon delivery of such documents, the Purchaser will pay the full Initial Purchase Price for the Bonds in immediately available federal funds payable to the Bond Trustee on behalf of the Corporation. One fully registered Bond in the aggregate principal amount equal to the Initial Purchase Price, shall be issued to and registered in the name of the Purchaser, or as otherwise directed by the Purchaser. The Bonds shall be so issued and registered to and held by the Purchaser, or as otherwise directed by the Purchaser.

## **ARTICLE III CONDITIONS PRECEDENT TO PURCHASE OF BONDS**

*Section 3.01 Documentary Requirements.* The obligation of the Purchaser to make a loan to the Obligated Group Representative by purchasing the Bonds is subject to the conditions precedent that the Purchaser shall have received, reviewed and approved, on or before the Effective Date, the items listed below in this Section, each dated and in form and substance as is satisfactory to the Purchaser.

(a) The following Obligated Group organizational documents:

(i) copies of the resolutions of the Governing Body of each Obligated Group Member approving the execution and delivery of the Related Documents to which it is a party and the other matters contemplated hereby, certified by an Authorized Representative

of such Obligated Group Member as being true and complete and in full force and effect on the Effective Date;

(ii) the bylaws of each Obligated Group Member certified by an Authorized Representative of such Obligated Group Member to be in full force and effect on the Effective Date;

(iii) the articles of incorporation of each Obligated Group Member, certified to be in full force and effect as of a date not more than thirty (30) days preceding the Effective Date by an appropriate official of the applicable jurisdiction of organization of such Obligated Group Member and certified by an Authorized Representative to be in full force and effect on the Effective Date;

(iv) certificates issued by an appropriate official of each Obligated Group Member's jurisdiction of organization, issued no more than fifteen (15) days preceding the Effective Date, stating that each such Obligated Group Member is in good standing in such jurisdiction;

(v) the audited consolidated financial statements of the Obligated Group Representative and its consolidated Affiliates for the Fiscal Year ended June 30, 2016, together with internally prepared consolidated financial statements of the Obligated Group Representative and its consolidated Affiliates for the fiscal quarters ended September 30, 2016, December 31, 2016, March 31, 2017 and June 30, 2017;

(vi) a copy of the Investment Policy of each Obligated Group Member as in effect as of the Effective Date;

(vii) letters from the Internal Revenue Service to the effect that each Obligated Group Member is an organization described in Section 501(c)(3) of the Code, and is exempt from federal income taxation under Section 501(a) of the Code; and

(viii) a certificate dated the Effective Date and executed by an Authorized Representative of the Obligated Group Representative certifying the names and signatures of the persons authorized to sign, on behalf of the Obligated Group Representative, the Related Documents to which it is a party and the other documents to be delivered by it hereunder or thereunder.

(b) The following financing documents:

(i) an executed original or certified copy, as applicable, of each of the Related Documents;

(ii) one fully registered Bond, in certificated form, executed by the Issuer, in the principal amount of \$31,875,000, issued to and registered in the name of the Purchaser, or as otherwise directed by the Purchaser;

(iii) such financing statements as may be required by the Purchaser;

(iv) one fully registered Master Purchaser Note and a specimen copy of the fully registered Master Bond Note, each in certificated form, executed by the Obligated Group Representative and authenticated by the Master Trustee, in the respective principal amounts of \$31,875,000 and \$31,875,000, issued to and registered in the name of, in the case

of the Master Purchaser Note, the Purchaser or as otherwise directed by the Purchaser, and, in the case of the Master Bond Note, the Bond Trustee;

(v) copies of Uniform Commercial Code, judgment and litigation, tax liens and bankruptcy search reports dated a date reasonably near to the Effective Date, listing all effective financing statements which name any Obligated Group Member (under its present names and any previous names) as debtor, together with (A) copies of such financing statements and (B) such Uniform Commercial Code termination statements as the Purchaser may reasonably request;

(vi) a copy of the Master Indenture certified by an Authorized Representative of the Obligated Group Representative to be a true, correct and complete copy thereof as of the Effective Date; and

(vii) copies of all documentation relating to any Swap Agreement secured on a parity with the Bonds.

(c) The following opinions, dated the Effective Date and addressed to the Purchaser or on which the Purchaser is otherwise expressly authorized to rely:

(i) from counsel to the Obligated Group, opinions as to the due authorization, execution, delivery and enforceability of the Related Documents to which any Obligated Group Member is a party, the validity and perfection of the security interests created by the Mortgage and the pledge of Gross Revenues created by the Master Indenture, the status of each Obligated Group Member as an organization described in 501(c)(3) of the Code and such other customary matters as the Purchaser may reasonably request;

(ii) from Dorsey & Whitney LLP, bond counsel, in customary form, opinions as to the due authorization, execution, delivery and enforceability of the Related Documents to which the Issuer is a party, an opinion to the effect that the Bonds have been duly authorized and validly issued, that the Bond Indenture creates a valid lien on the property described in the granting clauses therein and that interest on the Bonds will not be included in gross income of the owners thereof for federal tax purposes and such other customary matters as the Purchaser may reasonably request;

(iii) from Pringle & Herigstad, P.C., the opinions required pursuant to Section 6.03 of the Master Indenture; and

(iv) from Dorsey & Whitney LLP, opinions as to the defeasance of the Debt Being Refunded;

(d) The following documents and other information:

(i) a certificate dated the Effective Date and executed by an Authorized Representative of the Obligated Group Representative certifying (A) that there has been no event or circumstance since June 30, 2016, that has had or could be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect, (B) that the representations and warranties contained or incorporated by reference in **Article V** and the other Related Documents are true and correct in all material respects on the Effective Date, (C) no event has occurred and is continuing, or would result from entry into this Agreement, which would constitute a Default or Event of Default, and (D) since the dated date of the Rating Documentation, the unenhanced long-term debt ratings assigned to any Parity Debt have not been withdrawn, suspended or reduced;

(ii) a certificate dated the Effective Date and executed by an Authorized Representative of the Obligated Group Representative, certifying that the Obligated Group is in compliance with the financial covenants set forth in **Section 6.32** in effect on the Effective Date;

(iii) true and correct copies of all Governmental Approvals, if any, necessary for each Obligated Group Member to execute, deliver and perform the Related Documents to which it is a party;

(iv) evidence of insurance meeting or exceeding the requirements set forth herein and in the Master Indenture;

(v) evidence that the unenhanced long-term debt rating assigned by S&P to the Outstanding Parity Debt is at least "BBB-" (the "*Rating Documentation*");

(vi) the Mortgage shall have been duly filed and indexed with the Official Records of the Ward County Recorder (or provision satisfactory to the Purchaser shall have been made therefor), which shall be in form and substance satisfactory to the Purchaser;

(vii) an irrevocable commitment to issue an ALTA 2006 Loan Policy satisfactory to the Purchaser from the a title insurance company satisfactory to the Purchaser in an amount equal to the original aggregate collective principal amount of the Bonds and the Other Bonds, naming the Master Trustee as the insured party and the Corporation as the owner and fee simple title holder of the Mortgaged Property, and insuring the lien of the Mortgage as a first priority lien upon the Mortgaged Property, subject to no exceptions other than exceptions approved by the Purchaser;

(viii) copies of all covenants, conditions, restrictions, easements and matters of record affecting the Mortgaged Property; and

(ix) copies of the primary operating licenses of the Obligated Group Members; and

(e) The only condition precedent to the purchase of the Other Bonds by the Purchaser is the purchase of the Bonds by the Purchaser on the Effective Date.

*Section 3.02 Litigation.* There shall be no actions, suits or proceedings pending or threatened against any Obligated Group Member or any of its Affiliates in any court or before any arbitrator of any kind or before or by any governmental or non-governmental body which could reasonably be expected to result in a Material Adverse Effect, if any, and such other statements, certificates, agreements, documents and information with respect thereto as the Purchaser may reasonably request.

*Section 3.03 Other Matters.* All other legal matters pertaining to the execution and delivery of this Agreement and the Related Documents shall be satisfactory to the Purchaser and its counsel, and the Purchaser shall have received such other statements, certificates, agreements, documents and information with respect to the Obligated Group, the Issuer and the other parties to the Related Documents and matters contemplated by this Agreement as the Purchaser may reasonably request.

*Section 3.04 Payment of Fees and Expenses.* On the Effective Date, (a) the Purchaser shall have received its documentation fee by wire transfer of immediately available funds an amount equal to \$50,000 together with reimbursement of the Purchaser's fees and expenses and any other fees incurred in connection with the transaction contemplated by the Related Documents, and (b) counsel to the Purchaser, shall have received

payment of its legal fees and expenses incurred in connection with the preparation, review, negotiation, execution and delivery of the Related Documents.

*Section 3.05 No Bond Rating; DTC; CUSIP.* The Bonds shall not be (a) assigned a specific rating by any Rating Agency, (b) registered with DTC or any other securities depository, (c) issued pursuant to any type of official statement, private placement memorandum or other offering document, (d) assigned a CUSIP number by Standard & Poor's CUSIP Service or (e) placed or offered by a broker-dealer in the capacity of an underwriter or a placement agent.

#### **ARTICLE IV THE OBLIGATED GROUP'S OBLIGATIONS**

*Section 4.01 Payment Obligations.* The Obligated Group Representative, on behalf of the Obligated Group, hereby unconditionally, irrevocably and absolutely agrees to make prompt and full payment of all payment obligations owed to the Purchaser under the Related Documents and to pay any other Obligations owing to the Purchaser whether now existing or hereafter arising, irrespective of their nature, whether direct or indirect, absolute or contingent, with interest thereon at the rate or rates provided in such Related Documents and under such Obligations. Without limiting the generality of the foregoing, the parties hereto acknowledge and agree that the payment obligations of the Obligated Group Members described in this Section are obligations in the nature of a loan and separate and independent of the Obligated Group Member's obligations under the Related Documents. In addition to, and without limiting the foregoing, the Obligated Group Representative, on behalf of the Obligated Group, unconditionally, irrevocably and absolutely agrees to pay to the Purchaser the following:

- (a) interest on an amount equal to the principal amount of the Bonds on each Interest Payment Date for the Bonds at the interest rate applicable to such Bonds, all as set forth in the Bond Indenture;
- (b) principal of the respective Bonds on the Sinking Fund Payment Dates in amounts necessary to pay the Sinking Fund Requirements set forth in Section 4.01(b) of the Bond Indenture; and
- (c) an amount equal to the Outstanding principal amount of the Bonds on the Maturity Date.

To the extent that the Purchaser receives payment through ownership of the Bonds, the Obligated Group Representative's obligation to cause the Obligated Group to make payments pursuant this Section, to the extent of the payment so received by the Purchaser, shall be deemed satisfied.

*Section 4.02 Default Rate.* The Obligated Group Representative, on behalf of the Obligated Group, agrees to pay, or cause to be paid, to the Purchaser, upon demand, interest on any and all amounts due and owing by any Obligated Group Member to the Purchaser or any other Bondholder under this Agreement, the Bonds or the other Related Documents from and after the earlier of (a) the date amounts owed hereunder are due and not paid and (b) the occurrence and continuance of an Event of Default, but only for so long as such amounts due remain unpaid or such Event of Default continues, at the Default Rate. The obligations of the Obligated Group Representative, on its own behalf and on behalf of the Obligated Group, under this Section shall survive the termination of this Agreement and the payment in full of the Bonds and the other Obligations.

*Section 4.03 Determination of Taxability.*

- (a) In the event a Taxable Date occurs, in addition to (but not in duplication of) the amounts required to be paid pursuant to the Related Documents, the Obligated Group Representative, on behalf of the Obligated Group, hereby agrees to pay to the Purchaser and any other Bondholder, as applicable, on demand therefor (i) an amount equal to the difference between (A) the

amount of interest actually paid to the Purchaser and such other Bondholder on the Bonds during the period in which interest on any of the Bonds is includable in the gross income of the Purchaser or such other Bondholder beginning on the Taxable Date (the "*Taxable Period*") and (B) the amount of interest that would have been payable to the Purchaser and such other Bondholder during such Taxable Period had the Bonds borne interest at the Taxable Rate, and (ii) an amount equal to any interest, penalties or charges owed by the Purchaser and such other Bondholder as a result of interest on any of the Bonds becoming includable in the gross income of the Purchaser or such other Bondholder, together with any and all attorneys' fees, court costs, or other out of pocket costs incurred by the Purchaser or such other Bondholder in connection therewith.

(b) Subject to the provisions of subsections (c) and (d) below, the Purchaser or such other Bondholder, as applicable, shall afford the Obligated Group Representative, on behalf of the Obligated Group, the opportunity, at the Obligated Group's sole cost and expense, to contest (i) the validity of any amendment to the Code which causes the interest on the Bonds to be includable in the gross income of the Purchaser or such other Bondholder or (ii) any challenge to the validity of the tax exemption with respect to the interest on the Bonds, including the right to direct the necessary litigation contesting such challenge (including administrative audit appeals).

(c) As a condition precedent to the exercise by the Obligated Group Representative of its right to contest set forth in subsection (b) above, the Obligated Group Representative, on behalf of the Obligated Group, shall, on demand, immediately reimburse the Purchaser and such other Bondholder, as applicable, for (i) any and all expenses (including attorneys' fees for services that may be required or desirable, as determined by the Purchaser and such other Bondholder, as applicable, in their sole discretion) that may be incurred by the Purchaser and such other Bondholder, as applicable, in connection with any such contest, and (ii) any and all penalties or other charges payable by the Purchaser and such other Bondholder, as applicable, for failure to include such interest in its gross income.

(d) The obligations of the Obligated Group Representative, on behalf of itself and on behalf of the Obligated Group, under this Section shall survive the termination of this Agreement and the payment in full of the Bonds and the other Obligations.

*Section 4.04 Fees, Costs and Expenses.* The Obligated Group Representative, on behalf of the Obligated Group, shall pay within thirty (30) days after demand:

(a) for each amendment of this Agreement or any Related Document to which the Purchaser is a party, or consent or waiver by the Purchaser under this Agreement or any Related Document, in each case a fee in amount determined by the Purchaser;

(b) the reasonable fees and out of pocket expenses for counsel or other reasonably required consultants to the Purchaser in connection with this Agreement or the Related Documents, including, but not limited to, with respect to advising the Purchaser as to its rights and responsibilities under this Agreement or the Related Documents or in connection with responding to requests from the Obligated Group Representative or any other Obligated Group Member for consents, amendments and waivers; and

(c) all of the Purchaser's out-of-pocket expenses (including, without limitation, fees and expenses of counsel or other reasonably required consultants to the Purchaser) arising in connection with the enforcement or administration of, or preservation of rights (including in any bankruptcy or insolvency proceeding or any workout) in connection with, this Agreement or the Related Documents.

*Section 4.05 Computation of Interest and Fees.* Interest payable hereunder shall be calculated on the basis of a year of 360 days and twelve thirty day months. Fees and other amounts payable hereunder shall be calculated on the basis of a year of 360 days and twelve thirty day months. Interest shall accrue during each period for which interest is computed from and including the first day thereof to but excluding the last day thereof.

*Section 4.06 Increased Payments.*

(a) *Increased Costs Generally.* If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or advances, loans or other credit extended or participated in by, the Purchaser or any other Bondholder;

(ii) subject to the Purchaser or any other Bondholder to any Tax of any kind whatsoever with respect to this Agreement or the Bonds, or change the basis of taxation of payments to the Purchaser or such other Bondholder in respect thereof (except for Indemnified Taxes or Other Taxes covered by **Section 4.07** and the imposition of, or any change in the rate of any Excluded Tax payable by the Purchaser or such other Bondholder); or

(iii) impose on the Purchaser or any other Bondholder any other condition, cost or expense affecting this Agreement or the Bonds;

and the result of any of the foregoing shall be to increase the cost to the Purchaser or such other Bondholder of owning the Bonds (or of maintaining its obligation to purchase the Bonds), or to reduce the amount of any sum received or receivable by the Purchaser or such other Bondholder hereunder or under the Bonds (whether of principal, interest or any other amount) then, upon written request of the Purchaser or such other Bondholder, the Obligated Group Representative, on behalf of the Obligated Group, shall promptly pay to the Purchaser or such other Bondholder, as the case may be, such additional amount or amounts as will compensate the Purchaser or such other Bondholder, as the case may be, for such additional costs incurred or reduction suffered.

(b) *Capital Requirements.* If the Purchaser or any other Bondholder determines that any Change in Law affecting the Purchaser or such other Bondholder or the Purchaser's or such other Bondholder's parent or holding company, if any, regarding capital requirements, has or would have the effect of reducing the rate of return on the Purchaser's or such other Bondholder's capital or the capital of the Purchaser's or such other Bondholder's parent or holding company holding, if any, as a consequence of this Agreement, or ownership of the Bonds, to a level below that which the Purchaser or such other Bondholder or the Purchaser's or such other Bondholder's parent or holding company could have achieved but for such Change in Law (taking into consideration the Purchaser's or such other Bondholder's policies and the policies of the Purchaser's or such other Bondholder's parent or holding company with respect to capital adequacy), then from time to time upon written request of the Purchaser or such other Bondholder, the Obligated Group Representative, on behalf of the Obligated Group, shall promptly pay to the Purchaser or such other Bondholder, as the case may be, such additional amount or amounts as will compensate the Purchaser or such other Bondholder or the Purchaser's or such other Bondholder's parent or holding company for any such reduction suffered.

(c) *Certificates for Reimbursement.* A certificate of the Purchaser or any other Bondholder setting forth the amount or amounts necessary to compensate the Purchaser or any such other Bondholder, or the Purchaser's or any such other Bondholder's parent or holding company, as the



case may be, as specified in paragraph (a) or (b) of this Section and delivered to the Obligated Group Representative shall be conclusive absent manifest error. The Obligated Group Representative, on behalf of the Obligated Group, shall pay the Purchaser or any such other Bondholder, as the case may be, the amount shown as due on any such certificate within ten (10) Business Days after receipt thereof.

(d) *Delay in Requests.* Failure or delay on the part of the Purchaser or any such other Bondholder to demand compensation pursuant to this Section shall not constitute a waiver of the Purchaser's or any such other Bondholder's right to demand such compensation.

(e) *Survival.* Without prejudice to the survival of any other agreement of the Obligated Group Representative or the Obligated Group hereunder, the agreements and obligations of the Obligated Group Representative, on its own behalf and on behalf of the Obligated Group, contained in this Section shall survive the termination of this Agreement and the payment in full of the Bonds and the other Obligations.

#### *Section 4.07 Taxes.*

(a) *Payments Free of Taxes.* Any and all payments to the Purchaser or other Bondholder by or on account of any obligation of the Obligated Group Representative or the Obligated Group Members hereunder or under the Bonds shall be made free and clear of and without reduction or withholding for any Indemnified Taxes or Other Taxes; *provided, however*, that if the Obligated Group Representative or any Obligated Group Member shall be required by Applicable Law to deduct any Indemnified Taxes (including any Other Taxes) from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) the Purchaser or such other Bondholder receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Obligated Group Representative shall not, and shall not permit any such Obligated Group Member, to make such deductions and (iii) the Obligated Group Representative shall cause the Obligated Group Members to timely pay the full amount deducted to the relevant Governmental Authority in accordance with Applicable Law.

(b) *Payment of Other Taxes.* Without limiting the provisions of paragraph (a) above, the Obligated Group Representative shall cause the Obligated Group Members to timely pay any Other Taxes to the relevant Governmental Authority in accordance with Applicable Law.

(c) *Indemnification.* The Obligated Group Representative, on behalf of the Obligated Group, shall indemnify the Purchaser and the other Bondholders, within ten (10) Business Days after demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) paid by the Purchaser or such other Bondholder and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate stating the amount of such payment or liability delivered to the Obligated Group Representative by the Purchaser or such other Bondholder shall be conclusive absent manifest error. In addition, the Obligated Group Representative, on behalf of the Obligated Group, shall indemnify the Purchaser and the other Bondholders, within ten (10) Business Days after demand therefor, for any incremental Taxes that may become payable by the Purchaser as a result of any failure of the Obligated Group Representative or any other Obligated Group Member to pay any Taxes when due to the appropriate Governmental Authority or to deliver to the Purchaser and the other Bondholders, pursuant to clause (d) below, documentation evidencing the payment of Taxes.

(d) *Evidence of Payments.* As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Obligated Group Representative or any other Obligated Group

Member to a Governmental Authority, the Obligated Group Representative shall deliver to the Purchaser and such other Bondholder, as applicable, the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Purchaser or such other Bondholder, as applicable.

(e) *Treatment of Certain Refunds.* If the Purchaser or any other Bondholder determines, in its sole discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been indemnified pursuant to this Section (including additional amounts paid by the Obligated Group Representative, on behalf of the Obligated Group, pursuant to this Section), it shall pay to the applicable indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, under this Section with respect to the Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Purchaser or such other Bondholder, as applicable, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); *provided, however*, that the applicable indemnifying party, upon the request of the Purchaser or such other Bondholder, as applicable, agrees to repay the amount paid over pursuant to this Section (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Purchaser or such other Bondholder, as applicable, in the event the Purchaser or such other Bondholder, as applicable, is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (e), in no event will the Purchaser or such other Bondholder, as applicable, be required to pay any amount to an indemnifying party pursuant to this paragraph (e) the payment of which would place the Purchaser or such other Bondholder, as applicable, in a less favorable net after-Tax position than the Purchaser or such other Bondholder, as applicable, would have been in if the indemnification payments or additional amounts giving rise to such refund had never been paid. This paragraph shall not be construed to require the Purchaser or such other Bondholder, as applicable, to make available its tax returns (or any other information relating to its taxes which it deems confidential) to any Obligated Group Member or any other Person.

*Section 4.08 Method and Application of Payments.* All payments by or on behalf of the Obligated Group Representative or the Obligated Group Members to the Purchaser hereunder shall be fully earned when due and nonrefundable when paid and made in lawful currency of the United States of America and in immediately available funds. Any payment received by the Purchaser after 3:30 p.m. on the date payment is due shall be deemed to have been received by the Purchaser on the next Business Day. If any payment hereunder is due on a day that is not a Business Day, then such payment shall be due on the next succeeding Business Day, and, in the case of the computation of the interest or fees hereunder, such extension of time shall, in such case, be included in the computation of the payment due hereunder. Payments received by the Purchaser shall be applied, first, to any fees, costs, charges or expenses payable by the Obligated Group Representative or the Obligated Group Members under this Agreement; second, to past due interest; third, to current interest; and, fourth, to principal.

*Section 4.09 Maintenance of Accounts.* The Purchaser shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Obligated Group Members and the amounts payable and paid from time to time hereunder. In any legal action or proceeding in respect of this Agreement, the entries made in such account or accounts shall be presumptive evidence of the existence and amounts of the obligations of the Obligated Group Members therein recorded. The failure to record any such amount shall not, however, limit or otherwise affect the obligations of the Obligated Group Members, on behalf of itself and on behalf of the other Obligated Group Members, hereunder to repay all amounts owed hereunder, together with all interest accrued thereon as provided herein.

*Section 4.10 Cure.* The Purchaser shall have the right, but not the obligation, to cure any Default, Event of Default or event of nonperformance. The Obligated Group Representative, on behalf of the Obligated Group, agrees to pay to the Purchaser on demand, any amounts advanced by or on behalf of the Purchaser, to

the extent required to cure any Default, Event of Default or event of nonperformance under this Agreement or any Related Document, together with interest thereon at the Default Rate.

*Section 4.11 Maximum Interest Rate.*

(a) If the amount of interest payable for any period in accordance with the terms hereof or the Bonds exceeds the amount of interest that would be payable for such period had interest for such period been calculated at the Maximum Lawful Rate, then interest for such period shall be payable in an amount calculated at the Maximum Lawful Rate for such period.

(b) Any interest that would have been due and payable for any period but for the operation of subsection (a) above shall accrue and be payable as provided in this subsection (b) and shall, less interest actually paid to the Purchaser or any other Bondholder, as applicable, for such period, constitute the "*Excess Interest Amount*." If there is any accrued and unpaid Excess Interest Amount as of any date then the principal amount with respect to which interest is payable shall bear interest at the Maximum Lawful Rate, until payment to the Purchaser and each other Bondholder, as applicable, of the entire Excess Interest Amount.

(c) Notwithstanding the foregoing, on the date on which no principal amount hereunder remains unpaid, to the extent possible without violating Applicable Law, the Obligated Group Representative, on behalf of the Obligated Group Members, shall pay to the Purchaser and each other Bondholder, as applicable, a fee equal to any accrued and unpaid Excess Interest Amount.

*Section 4.12 Obligations Absolute.* The payment obligations of the Obligated Group Representative, on behalf of itself and the other Obligated Group Members comprising the Obligated Group, under this Agreement shall be unconditional and irrevocable and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including without limitation the following:

(a) any lack of validity or enforceability of this Agreement, the Bonds or any of the other Related Documents;

(b) any amendment or waiver of or any consent to departure from all or any of the Related Documents;

(c) the existence of any claim, set-off, defense or other right which any Obligated Group Member may have at any time against the Purchaser, any other Bondholder or any other person or entity, whether in connection with this Agreement, the other Related Documents, the transactions contemplated herein or therein or any unrelated transaction; or

(d) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing.

*Section 4.13 Funding Indemnity.* In the event the Purchaser shall incur any loss, cost, or expense (including, without limitation, any loss, cost, or expense incurred by reason of the liquidation or reemployment of deposits or other funds acquired or contracted to be acquired by the Purchaser to purchase or hold the Bonds or the relending or reinvesting of such deposits or other funds or amounts paid or prepaid to the Purchaser) as a result of any redemption of all or any portion of the Bonds on a date other than an Interest Payment Date for such Bonds for any reason, whether before or after default, and whether or not such payment is required by any provision of this Agreement or the Bond Indenture, then upon the demand of the Purchaser, the Obligated Group Representative, on behalf of itself and the other Obligated Group Members comprising the Obligated Group, shall pay to the Purchaser, in addition to any premium payable under the Bond Indenture, a redemption premium in such amount as will reimburse the Purchaser for such loss, cost, or expense. If the Purchaser requests such redemption premium, it shall provide to the Obligated Group Representative, on behalf of itself and the other

Obligated Group Members comprising the Obligated Group, a certificate setting forth the computation of the loss, cost, or expense giving rise to the request for such redemption premium in reasonable detail and such certificate shall be conclusive if reasonably determined. All of the Obligated Group's obligations under this **Section 4.13** shall survive the termination of this Agreement and the repayment, satisfaction or discharge of all other Obligations.

*Section 4.14 Joint and Several Obligations.* The Obligated Group Representative, on behalf of itself and on behalf of the other Obligated Group Members, hereby acknowledges and agrees that the Obligations owed to the Purchaser hereunder are the joint and several obligations of the Obligated Group and are absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever by the Purchaser. By the execution and delivery of this Agreement by the Obligated Group Representative, on behalf of itself and on behalf of the other Obligated Group Members, each Obligated Group Member hereby expressly waives and surrenders any defense to its joint and several obligation with respect to the Obligations based upon any of the foregoing. In furtherance thereof, the Obligated Group Representative, on behalf of itself and on behalf of the other Obligated Group Members, agrees that wherever in this Agreement it is provided that the Obligated Group Representative, on behalf of itself and on behalf of the other Obligated Group Members, is liable for a payment, such obligation is the joint and several obligation of each Obligated Group Member.

*Section 4.15 Survival.* Without prejudice to the survival of any other agreement of the Obligated Group Representative or the Obligated Group hereunder, the agreements and obligations of the Obligated Group Members contained in this Section shall survive the termination of this Agreement and the payment in full of the Bonds and the other Obligations.

## **ARTICLE V REPRESENTATIONS AND WARRANTIES**

The Obligated Group Representative, on behalf of itself and the other Obligated Group Members comprising the Obligated Group, hereby makes the following representations and warranties to the Purchaser and each other Bondholder:

*Section 5.01 Existence and Power; Tax Status.*

(a) The Obligated Group Representative is a nonprofit corporation duly organized, validly existing and in good standing under the laws of the State, each other Obligated Group Member is a nonprofit corporation duly organized, validly existing and in good standing under the laws of its applicable jurisdiction of organization and each Obligated Group Member has the power and authority to own its properties and to carry on its businesses as now being conducted and as currently contemplated to be conducted hereafter and is duly qualified to do business in each jurisdiction in which the character of the properties owned or leased by it or in which the transactions of any material portion of its business (as now conducted and as currently contemplated to be conducted) makes such qualification necessary.

(b) Each Obligated Group Member is an organization described in Section 501(c)(3) of the Code, is exempt from federal income tax under Section 501(a) of the Code except for taxes imposed on unrelated business income (other than unrelated business income pursuant to Section 511 of the Code) and is an organization described in Section 170(b)(1)(A) of the Code and is not a "private foundation" as defined by Section 509(a) of the Code. No portion of the net earnings of any Obligated Group Member inures to the benefit of any private shareholder or individual within the meaning of Section 501(c)(3) of the Code. No Obligated Group Member has received notice from the Internal Revenue Service that its respective returns are being audited or its respective status as an organization described in Section 501(c)(3) of the Code is being investigated or challenged. Each Obligated Group Member is in compliance in all material respects with all requirements of such status.

*Section 5.02 Due Authorization.*

(a) The Obligated Group Representative has the corporate power, and has taken all necessary corporate action to authorize the Related Documents to which it is a party, on behalf of the other Obligated Group Members comprising the Obligated Group, and to execute, deliver and perform its obligations under this Agreement and each of the other Related Documents to which it is a party in accordance with their respective terms. The Obligated Group Representative, on behalf of itself and the other Obligated Group Members comprising the Obligated Group, has approved the form of the Related Documents to which it is not a party.

(b) Each Obligated Group Member is duly authorized and licensed to own its Property and to operate its business under the laws, rulings, regulations and ordinances of all Governmental Authorities having the jurisdiction to license or regulate such Property or business activity and the departments, agencies and political subdivisions thereof, and each Obligated Group Member has obtained all requisite approvals of all such governing bodies required to be obtained for such purposes. All Governmental Approvals necessary for the Obligated Group Representative to enter into this Agreement and the other Related Documents, on behalf of itself and on behalf of the Obligated Group, and all Governmental Approvals necessary for the Obligated Group Members to perform the transactions contemplated hereby and thereby and to conduct their respective business activities and own their respective Properties have been obtained and remain in full force and effect and are subject to no further administrative or judicial review. No other Governmental Approval or other action by, and no notice to or filing with, any Governmental Authority is required for the due execution, delivery and performance by the Obligated Group Representative, on behalf of the Obligated Group, of this Agreement or the due execution, delivery or performance by the Obligated Group Representative and the other Obligated Group Members of the Related Documents.

*Section 5.03 Valid and Binding Obligations.* This Agreement has been duly executed and delivered by one or more duly authorized officers of the Obligated Group Representative, on behalf of itself and on behalf of the other Obligated Group Members, and each of the Related Documents to which any Obligated Group Member is a party, when executed and delivered by the Obligated Group Representative, on its own behalf and on behalf of other Obligated Group Members, will be, a legal, valid and binding obligation of the Obligated Group Representative and each other Obligated Group Member enforceable in accordance with its terms, except as such enforceability may be limited by (a) the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors' rights generally, and (b) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law.

*Section 5.04 Noncontravention.* The execution, delivery and performance of this Agreement and each of the other Related Documents in accordance with their respective terms do not and will not (a) contravene any Obligated Group Member's articles of incorporation, by-laws or other similar organizational documents, (b) require any consent or approval of any creditor of any Obligated Group Member, (c) violate any Applicable Laws (including, without limitation, Regulations T, U or X of the FRB, or any successor regulations), (d) conflict with, result in a breach of or constitute a default under any contract to which any Obligated Group Member is a party or by which it or any of its respective Property may be bound or (e) result in or require the creation or imposition of any Lien upon or with respect to any Property now owned or hereafter acquired by any Obligated Group Member or any Affiliate thereof except such Liens, if any, expressly created by a Related Document.

*Section 5.05 Compliance with Laws.*

(a) *Compliance with Laws.* Each Obligated Group Member is in compliance with the requirements of all Applicable Laws (including, without limitation, all Health Care Laws), except in such instances in which (i) such requirement of Applicable Law is being contested in good faith by

appropriate proceedings diligently conducted or (ii) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

(b) *Health Care Laws.* No Governmental Authority or accreditation organization is considering limiting, suspending, terminating, or revoking any Permit, except for notices or occurrences for which the related Obligated Group Member is pursuing a plan of compliance or taking similar actions to correct any such deficiency in a manner acceptable to the related Governmental Authority or related accreditation organization such that upon completion of the related plan of compliance such Obligated Group Member does not reasonably expect a limitation, suspension, termination or revocation of such Permit. All Permits are valid and in full force and effect.

(c) *Programs.* To the extent it participates in a particular Program, each Obligated Group Member meets in all material respects all of the requirements of participation and payment of Medicare, Medicaid, any other state or federal government health care programs and any other public or private third party payor programs (each, a “Program” and, collectively, “Programs”) and is a party to valid participation agreements for payment by such Programs. There is no investigation, audit, claim review, or other action pending or, to the knowledge of the Obligated Group Representative, threatened which could result in a revocation, suspension, termination, probation, material restriction, material limitation, or non-renewal of any Program participation agreement or result in the Obligated Group Representative’s or any other Obligated Group Member’s exclusion from any Program.

(d) *Exclusion.* Neither the Obligated Group Representative, any other Obligated Group Member nor any of their respective officers and directors has been or is currently excluded from participation in any government health care programs pursuant to 42 U.S.C. § 1320a-7.

(e) *Settlement Agreements, Etc.* Neither the Obligated Group Representative nor any other Obligated Group Member has any reporting obligations pursuant to a settlement agreement, plan of correction, or other remedial measure entered into with any Governmental Authority. The Obligated Group Representative and each other Obligated Group Member has complied with the terms and conditions of any corporate integrity agreements, settlement agreements, plans of correction, other remedial agreements to which it is a party, and to search warrants, subpoenas, civil investigative demands, or contract letters received by an Obligated Group Member.

*Section 5.06 Pending Litigation and Other Proceedings.* There is no action, suit or proceeding pending in any court, any other governmental authority with jurisdiction over any Obligated Group Member or any arbitration in which service of process has been completed against any Obligated Group Member or, to the knowledge of any Obligated Group Member, any other action, suit or proceeding pending or threatened in any court, any other governmental authority with jurisdiction over such Obligated Group Member or any arbitrator, in either case against any Obligated Group Member or any of its Properties or revenues, or any of the Related Documents to which it is a party, which if determined adversely to such Obligated Group Member would adversely affect the rights, security, interests or remedies of the Purchaser hereunder or under any of the other Related Documents or which could reasonably be expected to result in a Material Adverse Effect.

*Section 5.07 Financial Statements.* The audited consolidated financial statements of the Obligated Group Representative and its consolidated Affiliates and the related consolidated statements of operations, changes in net assets and cash flows, and the auditors’ reports with respect thereto, copies of which have heretofore been furnished to the Purchaser, are complete and correct and fairly present the financial condition, changes in net assets and results of operations of the Obligated Group Representative and its consolidated Affiliates, at such dates and for such periods, and were prepared in accordance with GAAP, consistently applied. After the end of the Obligated Group Representative’s most recent Fiscal Year and prior to the Effective Date, there has been no material adverse change in the financial condition or operations of the Obligated Group Representative, except as set forth in Schedule 5.07. Since June 30, 2016, no transaction or event has occurred

and no change has occurred in the financial condition or operations of the Obligated Group Representative or any other Obligated Group Member which could reasonably be expected to result in a Material Adverse Effect.

*Section 5.08 ERISA.* Each Plan of the Obligated Group Representative, each other Obligated Group Member and each member of their respective Controlled Group is in compliance in all material respects with ERISA and other laws to the extent applicable thereto, and neither the Obligated Group Representative nor any other Obligated Group Member nor a member of their respective Controlled Group has received notice to the contrary from the PBGC or any other Governmental Authority. Neither the Obligated Group Representative nor any other Obligated Group Member nor a member of their respective Controlled Group has any Unfunded Vested Liabilities. No condition exists or event or transaction has occurred with respect to any Plan which could reasonably be expected to result in the incurrence by the Obligated Group Representative, any other Obligated Group Member or a member of their respective Controlled Group of any material liability, fine or penalty. No ERISA Event has occurred which could reasonably be expected to result in a Material Adverse Effect. Neither the Obligated Group Representative nor any other Obligated Group Member nor any of their respective Subsidiaries has any contingent liability with respect to any post-retirement benefits under a Welfare Plan, other than liability for continuation of coverage described in Part 6 of Title I of ERISA.

*Section 5.09 No Defaults.* No default by the Obligated Group Representative or any other Obligated Group Member has occurred and is continuing in the payment of the principal of or premium, if any, or interest on any Indebtedness or any Swap Agreement. No bankruptcy, insolvency or other similar proceedings pertaining to any Obligated Group Member is pending or presently contemplated. No Default or Event of Default has occurred and is continuing hereunder. No “default” or “event of default” under, and as defined in, any of the other Related Documents has occurred and is continuing. Neither the Obligated Group Representative nor any other Obligated Group Member is presently in default under any material agreement to which it is a party which could reasonably be expected to have a Material Adverse Effect. Neither the Obligated Group Representative nor any other Obligated Group Member is in violation of any term of the organizational documents applicable to the Obligated Group Representative or such Obligated Group Member or any term of any bond indenture or agreement to which it is a party or by which any of its Property is bound which could reasonably be expected to result in a Material Adverse Effect.

*Section 5.10 Insurance.* The Obligated Group Representative and each other Obligated Group Member currently maintains insurance in accordance with the terms of the Master Indenture.

*Section 5.11 Title to Assets.* Each Obligated Group Member has good and marketable title to its assets free and clear of all Liens except for those permitted by the Master Indenture and **Section 6.15**.

*Section 5.12 Incorporation by Reference.* The representations and warranties of the Obligated Group Representative and the other Obligated Group Members comprising the Obligated Group contained in the other Related Documents to which such Obligated Group Members are a party, together with the related definitions of terms contained therein, are hereby incorporated by reference in this Agreement as if each and every such representation and warranty and definition were set forth herein in its entirety, and the representations and warranties made by such Obligated Group Members in such Sections are hereby made for the benefit of the Purchaser. No amendment to or waiver of such representations and warranties or definitions made pursuant to the relevant Related Document or incorporated by reference shall be effective to amend such representations and warranties and definitions as incorporated by reference herein without the prior written consent of the Purchaser.

*Section 5.13 Correct Information.* All information, reports and other papers and data with respect to the Obligated Group furnished by the Obligated Group Representative or any other Obligated Group Member to the Purchaser were, at the time the same were so furnished, correct in all material respects. Any financial, budget and other projections furnished by or on behalf of the Obligated Group Representative or any other Obligated Group Member to the Purchaser were prepared in good faith on the basis of the assumptions stated therein, which assumptions were fair and reasonable in light of conditions existing at the time of delivery of such financial, budget or other projections, and represented, and as of the date of this representation, represent (subject

to the updating or supplementation of any such financial, budget or other projections by any additional information provided to the Purchaser in writing, the representations contained in this Agreement being limited to financial, budget or other projections as so updated or supplemented), in the judgment of the Obligated Group Representative or such other Obligated Group Member, a reasonable, good faith estimate of the information purported to be set forth, it being understood that uncertainty is inherent in any projections and that no assurance can be given that the results set forth in the projections will actually be obtained. No fact is known to the Obligated Group Representative or any other Obligated Group Member that materially and adversely affects or in the future may (as far as it can reasonably foresee) materially and adversely affect the security for any of the Bonds, or the ability of the Obligated Group Representative, on behalf of itself and the other Obligated Group Members comprising the Obligated Group, to repay when due the Obligations, that has not been set forth in the financial statements and other documents referred to in this Section or in such information, reports, papers and data or otherwise disclosed in writing to the Purchaser. The documents furnished and statements made by the Obligated Group Representative in connection with the negotiation, preparation or execution of this Agreement and the Related Documents do not contain untrue statements of material facts or omit to state material facts necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

*Section 5.14 Investment Company.* No Obligated Group Member, nor any Affiliate thereof, is an “investment company” or a company “controlled” by an “investment company,” as such terms are defined in the Investment Company Act of 1940, as amended.

*Section 5.15 Margin Stock.* Neither the Obligated Group Representative nor any other Obligated Group Member is engaged in the business of extending credit for the purpose of purchasing or carrying Margin Stock, and no part of the proceeds from the issuance of the Bonds will be used to purchase or carry any such Margin Stock or extend credit to others for the purpose of purchasing or carrying any such Margin Stock.

*Section 5.16 Usury.* None of the Related Documents or the Bonds provides for any payments that would violate any applicable law regarding permissible maximum rates of interest.

*Section 5.17 Security; Perfection of Security.*

(a) The Master Indenture provides a Lien on and security interest in the Trust Estate (which includes a Lien on and security interest in the Gross Revenues) to secure the prompt payment of (i) the Bonds as evidenced by the Master Bond Note and (ii) all Obligations owing to the Purchaser hereunder as evidenced by the Master Purchaser Note. The Master Bond Note and the Master Purchaser Note have been duly and validly issued under Related Bond Supplement and Related Agreement Supplement, respectively, and each is a valid and binding joint and several obligation of each Obligated Group Member and ranks on a parity with all other Master Indenture Obligations issued and Outstanding pursuant to the Master Indenture.

(b) The Mortgage creates a valid lien on and/or security interest in the collateral described therein, and the Master Trustee has a perfected security interest in or valid lien on, as applicable, such collateral. All disbursements or payments made by the Purchaser hereunder, from time to time, together with all other Obligations owed to the Purchaser pursuant to the Related Documents, the Purchaser’s attorneys’ fees and all other loan expenses, as and when incurred, will be secured by the Mortgage to the same extent and effect as if the terms and provisions of this Agreement were set forth therein.

(c) The Obligated Group Representative, on behalf of itself and the other Obligated Group Members comprising the Obligated Group, has taken any and all action necessary to perfect the Lien on and security interest in the Trust Estate (which includes a Lien on and security interest in the Gross Revenues) granted to the Master Trustee, on behalf of the holders of the Master Indenture Obligations, pursuant to the Master Indenture by the filing of appropriate financing statements



(to the extent that perfection of the Lien and security interest in the Trust Estate may be achieved by the filing of a financing statement).

*Section 5.18 Pending Legislation and Decisions.* There is no amendment, or to the knowledge of the Obligated Group Representative or any other Obligated Group Member, proposed amendment to the Constitution of the State or any State law or any administrative interpretation of the Constitution of the State or any State law, or any legislation that has passed either house of the legislature of the State, or any judicial decision interpreting any of the foregoing, the effect of which will materially adversely affect the remarketing of any of the Bonds, the security for any of the Bonds, or any Obligations, the creation, organization, or existence of the Obligated Group Representative or any other Obligated Group Member or the titles to office of any officers executing this Agreement or any Related Documents to which the Obligated Group Representative or any other Obligated Group Member is a party or the Obligated Group's ability to repay when due its obligations under this Agreement, any of the Bonds or any other Obligation.

*Section 5.19 Bond Trustee; Master Trustee.* The Bank of New York Mellon Trust Company, N.A. is the duly appointed and acting bond trustee for the Bonds, and The Bank of New York Mellon Trust Company, N.A. is the duly appointed and acting master trustee under the Master Indenture.

*Section 5.20 Environmental Matters.* The operations of each Obligated Group Member are in material compliance with all of the requirements of applicable federal, state and local environmental, health and safety statutes and regulations and are not the subject of any governmental investigation evaluating whether any remedial action is needed to respond to a release of any toxic or hazardous waste or substance into the environment, where a failure to comply with any such requirement or the need for any such remedial action could reasonably be expected to result in a Material Adverse Effect.

*Section 5.21 Solvency.* The Obligated Group Representative and each other Obligated Group Member is Solvent.

*Section 5.22 Taxes.* All material taxes, assessments, fees and other governmental charges (other than those presently payable without penalty or interest) upon the Obligated Group Representative and each other Obligated Group Member or upon any of their respective Properties, which are due and payable, have been paid and no claims are being asserted with respect to any past due taxes, assessments, fees or other governmental charges against the Obligated Group Representative or any other Obligated Group Member, except, in each case, as are being contested in good faith by appropriate proceedings for which adequate reserves are being maintained in accordance with GAAP and for which the failure to pay could not reasonably be expected to have a Material Adverse Effect.

*Section 5.23 Swap Agreements.* Neither the Obligated Group Representative nor any other Obligated Group Member is a party to any Swap Agreement (a) which requires the Obligated Group Representative or any other Obligated Group Member to post cash collateral to secure its obligations thereunder or (b) wherein any termination payment thereunder is senior to the payment of the Bonds or the other Obligations.

*Section 5.24 Obligated Group.* Schedule 5.24 attached hereto and made a part hereof, as may be amended by the Obligated Group from time to time in writing to the Purchaser (in accordance with the provisions hereof and of the Master Indenture), sets forth all of the Obligated Group Members comprising the Obligated Group.

*Section 5.25 Anti-Terrorism Laws.*

(a) None of the Obligated Group Representative, any Obligated Group Member, any Affiliate of the foregoing and any Related Party to any of the foregoing is in violation of any Applicable Laws relating to terrorism or money laundering ("*Anti-Terrorism Laws*"), including

Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the "*Executive Order*"), and the Patriot Act.

(b) None of the Obligated Group Representative, any Obligated Group Member, any Affiliate of the foregoing and any Related Party to any of the foregoing is:

(i) a Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(ii) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(iii) a Person with which the Purchaser is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law;

(iv) a Person that commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order; or

(v) a Person that is named as a "specially designated national and blocked person" on the most current list published by the Office of Foreign Asset Control ("*OFAC*") or any list of Persons issued by OFAC pursuant to the Executive Order at its official website, any replacement website or other replacement official publication of such list.

(c) None of the Obligated Group Representative, any Obligated Group Member, any Affiliate of the foregoing and any Related Party to any of the foregoing (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Person described in subsection (b)(ii) above, (ii) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order or (iii) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

*Section 5.26 Bonds and Master Indenture Obligations.* Each Bond has been duly and validly issued under the Bond Indenture and is entitled to the benefits thereof. Each of the Master Bond Note and the Master Purchaser Note has been duly and validly issued under the Master Indenture and is entitled to the benefits thereof.

*Section 5.27 Labor Matters.* There are no strikes, walkouts, lockouts or other material labor disputes or grievances against any Obligated Group Member or, to the knowledge of any Obligated Group Member, threatened against or affecting any Obligated Group Member, and no significant unfair labor practice, charges or grievances are pending against any Obligated Group Member, or to the knowledge of any Obligated Group Member, threatened against any Obligated Group Member before any Governmental Authority which could reasonably be expected to have a Material Adverse Effect.

*Section 5.28 Taxpayer Identification Numbers.* Schedule 5.24 contains the Obligated Group Members' respective U.S. taxpayer identification numbers.

## **ARTICLE VI COVENANTS OF THE OBLIGATED GROUP REPRESENTATIVE**

The Obligated Group Representative covenants and agrees that it will, and will cause each Obligated Group Member to, do the following, until the full and final payment and satisfaction of the Bonds and all other

Obligations, except in any instance in which the Purchaser specially agrees in writing to any nonperformance or noncompliance:

*Section 6.01 Existence, Etc.* Except as permitted by the Master Indenture and **Section 6.25**, the Obligated Group Representative shall, and shall cause each other Obligated Group Member to, (a) maintain its existence pursuant to its articles of incorporation, by-laws or other organizational documents and the laws of its applicable jurisdiction of organization, (b) take all reasonable action to maintain all Permits necessary for the normal conduct of its business, including, without limitation, the maintenance of its status as a provider of acute care services eligible for reimbursement under the Medicare and Medicaid programs, and such other similar federal and state reimbursement or repayment programs unless the failure to maintain any such Permit could not reasonably be expected to result in a Material Adverse Effect and (c) take all necessary action to maintain its existence as an organization described in Section 501(c)(3) of the Code and its exemption from federal income tax under Section 501(a) of the Code or corresponding provisions of future income tax laws.

*Section 6.02 Maintenance of Properties.* The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, (a) maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted; (b) make all necessary repairs thereto and renewals and replacements thereof except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect; and (c) use commercially reasonable efforts to operate and maintain the facilities owned, leased or operated by such Person now or in the future in a manner believed by such Person to be consistent with prevailing industry standards in the locations where the facilities exist from time to time, except to the extent failure to do so could not reasonably be expected to result in a Material Adverse Effect.

*Section 6.03 Compliance with Laws; Taxes and Assessments.* The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, comply with all Applicable Laws (including, without limitation, all Healthcare Laws), except where non-compliance could not reasonably be expected to result in a Material Adverse Effect, such compliance to include, without limitation, paying all taxes, assessments and governmental charges imposed upon it or its Property before the same become delinquent, unless and to the extent that the same are being contested in good faith and by appropriate proceedings and reserves are provided therefor that in the opinion of such Obligated Group Member are adequate.

*Section 6.04 Insurance.* The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, maintain insurance in accordance with the terms of the Master Indenture. The Obligated Group Representative shall upon request of the Purchaser furnish a certificate of an Authorized Representative of the Obligated Group Representative setting forth in summary form the nature and extent of the insurance maintained pursuant to this Section.

*Section 6.05 Reports.* The Obligated Group Representative shall furnish, or shall cause to be furnished, to the Purchaser in form and detail satisfactory to the Purchaser:

(a) *Annual Report.* As soon as available, and in any event within one hundred twenty (120) days after the end of each Fiscal Year, the audited consolidated financial statements of the Obligated Group Representative and its consolidated Affiliates and the related consolidated statements of operations, balance sheets, changes in net assets and cash flow, together with consolidating statements of operations and balance sheets for the Obligated Group, setting forth in each case in comparative form the figures for the previous Fiscal Year, all of which shall be prepared and presented and reported on without qualification by independent certified public accountants in accordance with GAAP consistently applied (except as stated in the notes thereto), and shall fairly present the financial condition of the Obligated Group Representative and its consolidated Affiliates, as at the end of such Fiscal Year, together with (i) the report of the Obligated Group Representative's independent certified public accountants with respect thereto, (ii) a schedule of the unaudited income statement and balance sheet of the Obligated Group, setting forth in each case in comparative form the figures for the previous Fiscal

Year and (iii) a Compliance Certificate signed by an Authorized Representative of the Obligated Group Representative (A) stating that (1) no Event of Default or Default has occurred, or if such Event of Default or Default has occurred, specifying the nature of such Event of Default or Default, the period of its existence, the nature and status thereof and any remedial steps taken or proposed to correct such Event of Default or Default and (2) all such financial statements present fairly the financial position and results of the operations of the Obligated Group, (B) demonstrating compliance with the financial covenants set forth in **Section 6.32** and (C) setting forth, and certifying as to the completeness and accuracy of, the Obligated Group's operational and utilization statistics for such Fiscal Year.

(b) *Unaudited Quarterly Financials.* As soon as available, and in any event within forty-five (45) days after the end of each fiscal quarter of each Fiscal Year, the unaudited consolidated financial statements of the Obligated Group Representative and its consolidated Affiliates, including a balance sheet, and income statement, together with consolidating schedules for the Obligated Group, all as of the end of such quarter and for such quarter and the current Fiscal Year to the end of such quarter, together with, in the case of financial statements to be delivered to the Purchaser for the fiscal quarter ending December 31 of each Fiscal Year, on a semi-annual basis for the semi-annual period commencing July 1 and ending on such December 31, a schedule of consolidated statements of financial position of the Obligated Group, including a balance sheet, and income statement, all as of the end of such quarter and for such semi-annual period and the current Fiscal Year to the end of such semi-annual period, all of which shall be internally prepared and presented on a consistent basis (except as stated in the notes thereto), setting forth in each case in comparative form the figures for the corresponding portion of the previous Fiscal Year, all in reasonable detail and certified, subject to year-end adjustment, by an Authorized Representative of the Obligated Group Representative, together with a Compliance Certificate signed by an Authorized Representative of the Obligated Group Representative (i) stating that (A) no Event of Default or Default has occurred, or if such Event of Default or Default has occurred, specifying the nature of such Event of Default or Default, the period of its existence, the nature and status thereof and any remedial steps taken or proposed to correct such Event of Default or Default and (B) all such financial statements present fairly the financial position and results of the operations of the Obligated Group, (ii) demonstrating compliance with the financial covenants set forth in **Section 6.32**, if such covenants are required to be tested as of the end of such fiscal quarter and (iii) setting forth, and certifying as to the completeness and accuracy of, the Obligated Group Representative's operational and utilization statistics for such quarter and the current Fiscal Year to the end of such quarter, setting forth in each case in comparative form the figures for the corresponding portion of the previous Fiscal Year, all in reasonable detail.

(c) *Management Letters.* Simultaneously with the delivery of the audited financial statements pursuant to paragraph (a) above for each Fiscal Year, copies of the annual management report accompanying such audited financial statements, and within thirty (30) days following receipt by the Obligated Group Representative thereof, any other letter or report submitted to it or to another Obligated Group Member by its accountants which includes an identification of any deficiencies in internal controls deemed to be material weaknesses or which identifies any issues which could reasonably be expected to result in a Material Adverse Effect.

(d) *Bond Trustee Notices.* As soon as available, all notices, certificates, instruments, letters and written commitments in connection with the Bonds provided to the Bond Trustee other than those notices, certificates, instruments, letters and written commitments that relate solely to the routine issuance and payment of the Bonds.

(e) *Notices Relating to the Bond Trustee or Master Trustee.* As promptly as practicable, (i) written notice of any resignation of the Bond Trustee or the Master Trustee immediately upon receiving notice of the same and (ii) in any event not less than thirty (30) days prior to the appointment of (A) a successor or replacement Master Trustee, written notice of the Person to be appointed as successor or replacement Master Trustee, together with the notice address for such Person

or (B) a successor or replacement Bond Trustee, written notice of the Person to be appointed as successor or replacement Bond Trustee, together with the notice address for such Person.

(f) *Notice of Default or Event of Default.* Promptly upon obtaining knowledge of any Default or Event of Default, or notice thereof, a certificate signed by an Authorized Representative of the Obligated Group Representative specifying in reasonable detail the nature and period of existence thereof and what action the Obligated Group has taken or proposes to take with respect thereto.

(g) *Notice of Material Adverse Change.* Promptly upon obtaining knowledge of any event including, but not limited to any of the following, which could reasonably be expected to result in a Material Adverse Effect, a certificate signed by an Authorized Representative of the Obligated Group Representative specifying in reasonable detail the nature and period of existence and what action the Obligated Group has taken or proposes to take with respect thereto: (i) any material labor dispute to which any Obligated Group Member is or may become a party, including any strikes, lockouts or other disputes relating to any of such Person's plants and other facilities, or (ii) the occurrence of any Health Care Reportable Event.

(h) *Litigation.* As promptly as practicable, written notice to the Purchaser of all actions, suits or proceedings pending or threatened against any Obligated Group Member in any court or before any arbitrator of any kind or before any governmental authority which could reasonably be expected to result in a Material Adverse Effect.

(i) *ERISA Events.* As promptly as practicable, written notice to the Purchaser of (i) the occurrence of an ERISA Event which could reasonably be expected to result in a Material Adverse Effect (ii) the increase in any Unfunded Vested Liabilities by an amount which could reasonably be expected to have a Material Adverse Effect; or (iii) the occurrence of any event with respect to any Plan which would result in the incurrence by the Obligated Group Representative, any other Obligated Group Member or any member of their respective Controlled Group of any material liability, fine or penalty, or any material increase in the contingent liability of the Obligated Group Representative, any other Obligated Group Member or any member of their respective Controlled Group with respect to any post-retirement Welfare Plan benefit.

(j) *EMMA Filings.* Copies of all filings made by or on behalf of any Obligated Group Member with EMMA promptly after such filings are made.

(k) *Master Indenture Information.* As soon as available and in any event within the time period required by the Master Indenture, all information, reports and certificates required to be delivered to the Master Trustee under Section 5.11 of the Master Indenture.

(l) *Budgets.* As soon as available and in any event not later than fifteen days after to the beginning of each Fiscal Year, the capital and operating budgets for the Obligated Group Representative and the other Obligated Group Members for such Fiscal Year.

(m) *Other Information.* Such other reports, operating data and statistics (including without limitation utilization statistics) and other information regarding the business affairs, financial condition and/or operations of the Obligated Group as the Purchaser may from time to time reasonably request.

*Section 6.06 Maintenance of Books and Records.* The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, keep proper books of record and account in which full, true and correct entries in accordance with GAAP. All financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with GAAP

applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the financial statements, except as otherwise specifically prescribed herein. Except as provided in the immediately preceding sentence, in preparing any financial data or statements contemplated or referred to in this Agreement, the Obligated Group shall not vary or modify the accounting methods or principles from the accounting standards employed in the preparation of its audited financial statements described in **Section 5.07**.

*Section 6.07 Access to Books and Records.* To the extent permitted by law, the Obligated Group Representative shall, and shall cause each other Obligated Group Member to, permit any Person designated by the Purchaser (at the expense of the Purchaser, unless and until a Default or Event of Default has occurred, at which time such expenses shall be borne by the Obligated Group) to visit any of the offices of such Obligated Group Member to examine the books and financial records (except books and financial records the examination of which by the Purchaser is prohibited by Applicable Law and Restricted Information), including minutes of meetings of any relevant governmental committees or agencies, and make copies thereof or extracts therefrom, and to discuss the affairs, finances and accounts of such Obligated Group Member with their principal officers and independent public accountants, all at such reasonable times and as often as the Purchaser may reasonably request.

*Section 6.08 Incorporation by Reference; Other Agreements.*

(a) The Obligated Group Representative shall, and shall cause each other Obligated Group Member to perform and comply with, abide by, and be restricted by each and every agreement, covenant, obligation and undertaking contained in the Master Indenture and each of the other Related Documents to which it is a party, subject in each case to the cure periods, materiality standards and exceptions set forth in the Related Documents. Each covenant, agreement, obligation and undertaking of the Obligated Group Members set forth in the Master Indenture and each of the other Related Documents to which any Obligated Group Member is a party, as well as related defined terms, exhibits, schedules, annexes and ancillary provisions contained or incorporated by reference therein (collectively, the “*Incorporated Provisions*”), are hereby incorporated by reference herein, with the same effect as if each and every such Incorporated Provision were set forth in this Agreement in its entirety for the benefit of the Purchaser and shall be enforceable by the Purchaser against each Obligated Group Member; provided, however, that the defined term “Indebtedness,” as used in the Incorporated Provisions, shall have the meaning set forth herein. All such Incorporated Provisions shall be in addition to the express covenants contained herein and shall not be limited by the express covenants contained herein, nor shall such Incorporated Provisions be a limitation on the express covenants contained herein. No amendment to any Incorporated Provisions made pursuant to the Related Documents or cessation of the effectiveness of any such Incorporated Provisions shall be effective to amend or cease the effectiveness of such Incorporated Provisions with respect to this Agreement without the written consent of the Purchaser.

(b) Without limiting the generality of clause (a) above (i) the Obligated Group Members shall deliver to the Purchaser all reports, statements, opinions and other documents and information required by the Related Documents to be delivered to any other Person, at the times and in the manner specified therein, whether or not the Purchaser shall make a request therefor, (ii) the Purchaser shall have the same rights under the Related Documents as any other Person to request, examine and receive information, reports, certificates and other documents from the Obligated Group Members and (iii) in each instance under any Related Document, including without limitation the defined terms used therein, in which any action or inaction or any other occurrence, event, document, opinion, writing, condition or thing (A) requires the consent or approval of any Person, the consent or approval, as the case may be, of the Purchaser also shall be required in the same manner and to the same extent such approval or consent, as applicable, is required of such Person, (B) is required to be acceptable or satisfactory to any Person (or words of similar import), such action, inaction, occurrence, event, document, opinion, writing, condition or thing also shall be subject to the condition that it be acceptable or satisfactory to the Purchaser to the same extent as such Person or (C) is subject to a

condition precedent that any report, certificate, notice, instrument, document, request or writing be delivered to any Person, such action, inaction, occurrence, event, document, opinion, writing, condition or thing also shall be subject to the condition precedent that such report, certificate, notice, instrument, document, request or writing be delivered to the Purchaser.

(c) In the event that any Obligated Group Member has previously entered into or shall hereafter enter into or otherwise consent to any agreement or instrument (or any amendment, supplement or modification thereto) (each a "*Relevant Agreement*") under which any Person undertakes to make loans, to refinance or restructure existing Indebtedness or to otherwise extend credit or liquidity or, in either case, the availability thereof, to one or more Obligated Group Members, or pursuant to which one or more Obligated Group Members and a Person agree to a Swap Agreement or other similar arrangement, or pursuant to which one or more Obligated Group Members provides a guaranty of all or any portion of any of the foregoing, which Relevant Agreement (i) provides such Person with a covenant, provision or agreement which is more restrictive, as to more or more Obligated Group Members, or (ii) gives or grants greater rights or remedies to such Person whether as to timing of payment, priority of payment or Lien or otherwise (each, a "*Favored Covenant*") than, in the case of (i), are undertaken by the Obligated Group Members herein or, in the case of (ii), are given or granted to the Purchaser herein, then each such Favored Covenant shall automatically be deemed to be incorporated into this Agreement and the Purchaser shall have the benefits of each such Favored Covenant as if specifically set forth in this Agreement for the duration of this Agreement. Within five days after entering into any Relevant Agreement, the Obligated Group Members shall deliver to the Purchase a true, correct and complete copy thereof and, if required by the Purchaser, the Obligated Group Members shall promptly enter into an amendment to this Agreement to include each Favored Covenant; *provided, however*, that the Purchaser shall maintain the benefits of such Favored Covenant even if the Obligated Group Members fail to provide such Relevant Agreement to the Purchaser. Notwithstanding anything to the contrary contained in this Section, each party hereto agrees that no provision described in this Section shall be deemed incorporated into this Agreement if such incorporation would cause the interest on the Bonds to be includable in the gross income of the owners thereof for federal income tax purposes.

*Section 6.09 Pari Passu.* The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, cause the Lien on and security interest in the Gross Revenues at all times, and the Lien on and security interest in the Mortgaged Property at all times, in each case securing the Master Purchaser Note and the Master Bond Note, to rank *pari passu* in priority of payment and security with the other Master Indenture Obligations at any time Outstanding under the Master Indenture. The Obligated Group Representative shall not permit any collateral to be pledged as security, directly or indirectly, for the payment of any Parity Debt unless such collateral is pledged to the Master Trustee as security for the equal and ratable payment of all Parity Debt, subject only to Permitted Liens.

*Section 6.10 No Impairment.* The Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, take any action, or cause the Bond Trustee or the Master Trustee to take any action, under the Bond Indenture or any other Related Document which would materially adversely affect the rights, interests, remedies or security of the Purchaser under this Agreement or any other Related Document.

*Section 6.11 Application of Bond Proceeds.* The Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, take or omit to take any action, which action or omission will in any way result in the proceeds from the issuance of the Bonds being applied in a manner other than as provided in the Bond Indenture.

*Section 6.12 Bond Trustee; Master Trustee.* The Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, without the prior written consent of the Purchaser, (a) remove the Bond Trustee or (b) except as expressly permitted by and in accordance with the terms of the Master

Indenture, the Master Trustee. The Obligated Group Representative shall at all times maintain a Master Trustee pursuant to the terms of the Master Indenture, in each case that is reasonably acceptable to the Purchaser.

*Section 6.13 Limitation on Additional Indebtedness.* The Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, issue, incur or suffer to exist any additional Indebtedness, unless after the issuance, incurrence or existence of such Indebtedness (a) no Default or Event of Default shall have occurred as a result of the issuance or incurrence of such Indebtedness, (b) the Obligated Group shall be in compliance with the terms of the Master Indenture and (c) the Obligated Group Representative shall have delivered to the Purchaser an Officer's Certificate certifying (i) that the Obligated Group Members are in compliance with the provisions of the Master Indenture and the terms hereof as of the date of incurrence of such Indebtedness and (ii) as to the calculations (if any) required under the Master Indenture.

*Section 6.14 Related Documents.* The Obligated Group Representative shall not, nor shall it permit or any other Obligated Group Member to, amend, supplement or otherwise modify (or permit any of the foregoing), or request or agree to any consent or waiver under, or effect or permit the cancellation, acceleration or termination of, or (except as otherwise permitted under the Related Documents) release or permit the release of any collateral held or pledged under, any of the Related Documents (including the Master Indenture) without the prior written consent of the Purchaser; *provided, however*, that no amendment to any such covenants or defined terms in any Related Documents, including the Master Indenture, shall be effective to amend such covenants and defined terms as incorporated by reference herein without the prior written consent of the Purchaser. Notwithstanding the foregoing, the Obligated Group shall be entitled to enter into one or more supplements to the Master Indenture as permitted by the Master Indenture solely for the purpose of issuing additional Master Indenture Obligations so long as the Obligated Group complies with the provisions of the Master Indenture and the other Related Documents and such supplement to the Master Indenture would not otherwise result in a Material Adverse Effect, a Default or an Event of Default.

*Section 6.15 Liens.* The Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, create, incur or permit to exist any Lien of any kind on any Property of any Obligated Group Member, except for Permitted Liens.

*Section 6.16 Redemptions; Payments.*

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

*Section 6.17 Disclosure to Participants and Transferees.* The Obligated Group Representative, on behalf of the other Obligated Group Members, shall permit the Purchaser to disclose the financial information received by it pursuant to the Related Documents to each actual or prospective Participant or Transferee.

*Section 6.18 Use of Purchaser's Name.* Except as may be required by law (including, but limited to, federal and state securities laws), the Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, use the Purchaser's name in any published materials (other than the Obligated Group Member's staff reports, annual statements, audited financial statements, rating agency presentations) without the prior written consent of the Purchaser.

*Section 6.19 Compliance with ERISA.* Except as would not reasonably be expected to result in a Material Adverse Effect, the Obligated Group Representative shall, and shall cause each other Obligated Group Member and each member of the respective Controlled Group to (a) remain at all times in compliance with all Applicable Laws (including any legally available grace periods) with respect to any Plan, (b) at no time maintain any Plan that has Unfunded Vested Liabilities and (c) maintain each Plan as to which it may have any liability in compliance in all material respects with the applicable provisions of ERISA, the failure to comply with which could subject such Obligated Group Member or a member of its respective Controlled Group to any material tax or penalty.

*Section 6.20 Investments.* The Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, retain or have outstanding any investments (whether through purchase of stock or obligations or otherwise) in, or loans or advances to, any other Person, or acquire all or any substantial part of the assets or business of any other Person, or subordinate any claim or demand it may have to the claim or demand of any other Person; *provided, however*, that the foregoing shall not operate to prevent (a) investments of an Obligated Group Member permitted by its Investment Policy, and (b) loans, investments, acquisitions and advances not prohibited by the terms of the Master Indenture, in any case, so long as the making of any such loans, investments, acquisition and advances (x) would not result in a Default or Event of Default hereunder and (y) could not reasonably be expected to have a Material Adverse Effect.

*Section 6.21 Environmental Laws.* The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, comply with all applicable Environmental Laws and cure any defect (or cause other Persons to cure any such defect) to the extent necessary to bring such real property owned, leased, occupied or operated by such Obligated Group Member back into compliance with Environmental Laws and to comply with any cleanup orders issued by a Governmental Authority having jurisdiction thereover, except where the failure to so comply, individually or in the aggregate, would not have a Material Adverse Effect. The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, at all times use commercially reasonable efforts to render or maintain any real property owned, leased, occupied or operated by such Obligated Group Member safe and fit for its intended uses. The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, also immediately notify the Purchaser of any actual or alleged material failure to so comply with or perform, or any material breach, violation or default under any Environmental Law.

*Section 6.22 Federal Reserve Board Regulations.* The Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, use any portion of the proceeds of the Initial Purchase Price of the Bonds for the purpose of carrying or purchasing any Margin Stock and shall not incur any Indebtedness which is to be reduced, retired or purchased out of such proceeds.

*Section 6.23 Swap Agreements.* The Obligated Group Representative shall not, and shall not permit any other Obligated Group Member to, enter into other otherwise become a party to or obligated, directly or indirectly, with respect to any Swap Agreement (a) which requires the Obligated Group Representative or such other Obligated Group Member(s), as applicable, to post collateral for its obligations thereunder or (b) wherein any payment (including any termination payment) thereunder is senior to the payment of the Bonds or any of the other Obligations.

*Section 6.24 Exempt Status; Accreditation.*

(a) The Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, take any action or omit to take any action that, if taken or omitted, would cause any revocation or adverse modification of any Obligated Group Member's federal income tax-exempt status or which would adversely affect the excludability of interest on the Bonds from the gross income of the owners thereof for purposes of federal income taxation under the Code.

(b) The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, maintain (i) full or provisional accreditation of the hospital facilities owned by such Obligated Group Member by The Joint Commission or other accreditation necessary to conduct operations, (ii) licenses and other approvals from appropriate regulatory authorities to operate its facilities requiring such licensure and approvals and (iii) the status of the hospital facilities as providers of health care services eligible for reimbursement under each Program, so long as participation in such Program is deemed by the Obligated Group Representative or each such Obligated Group Member to be in its best interest.

*Section 6.25 Fundamental Changes.* The Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, merge, dissolve, liquidate, consolidate with or into another Person; or dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person (referred to herein as a "*Fundamental Change*"); *provided, however*, an Obligated Group Member may merge, dissolve, liquidate, consolidate with or into another Person, or dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person (a) to the extent permitted by the Master Indenture and so long as (i) after giving effect to any such Fundamental Change, no Material Adverse Effect, Default or Event of Default shall have occurred and (ii) such Fundamental Change could not reasonably be expected to have a Material Adverse Effect or (b) so long as the Bonds will be redeemed or refunded in full, and all other Obligations will be indefeasibly paid in full, all on or prior to the date of such Fundamental Change. Notwithstanding anything herein to the contrary, the Corporation may not withdraw from the Obligated Group or cease to be the Obligated Group Representative, in either case, without the prior written consent of the Purchaser.

*Section 6.26 Dispositions.*

(a) The Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, release all or a portion of the Subject Parcel from the lien of the Mortgage unless it shall have strictly complied with the provisions of Section 2.7 of the Mortgage and the Master Indenture in connection with such release.

(b) Without limiting the provisions of (a) above or the Mortgage, the Obligated Group shall be permitted to effect a release of all or part of the Subject Parcel from the lien of the

Mortgage in accordance with the provisions of Section 2.7 of the Mortgage only upon satisfaction of and subject to the following additional terms and conditions:

(i) There shall not have occurred and be continuing a Default, Event of Default, "default" or "event of default" (however defined), or event which, with the giving of notice or the passage of time or both, would constitute such a default or event of default, under this Agreement or under any of the other Related Documents.

(ii) The Obligated Group Representative shall have provided the Purchaser with not fewer than ninety (90) days' prior written notice of its intent to release the Subject Parcel from the lien of the Mortgage.

(iii) Any such release shall be in accordance with all Applicable Laws (including, without limitation, zoning, subdivision, parking, building and environmental laws) of all Governmental Authorities having jurisdiction over the Mortgaged Property and/or the use thereof.

(iv) The Obligated Group Representative, at its expense, shall furnish the Purchaser with (A) a certified ALTA survey, satisfactory to the Purchaser, describing the Mortgaged Property after giving effect to the proposed release, or a copy of the recorded subdivision plat for the Subject Parcel, and (B) an endorsement to the title insurance policy referenced in **Section 3.01(d)(vii)** to the effect that the priority of the Master Trustee's lien is not affected by such release.

(v) After giving effect to the proposed release, the Mortgaged Property shall continue to consist of separate tax and zoning lot(s) and no portion of the Mortgaged Property shall be assessed for tax purposes with any land not encumbered by the Mortgage.

(vi) The Obligated Group Representative shall have delivered to the Purchaser each of the documents, certificates, opinions, instruments, items, information and other things required to be delivered to the Master Trustee in connection with such release pursuant to Section 2.7(e) of the Mortgage, without regard to any waiver by the Master Trustee of any of the foregoing.

(vii) Such release shall not result in any cost or expense to the Purchaser whatsoever, and the Obligated Group shall pay all of the Purchaser's costs and expenses incurred in connection with such release, including without limitation, reasonable attorneys' fees, any allocated cost of the Purchaser's in-house counsel, appraisal fees, survey fees, and title fees and charges.

*Section 6.27 Change in Nature of Business.* The Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, engage in any material line of business substantially different from those lines of business conducted by each Obligated Group Member on the date hereof or any business substantially related or incidental thereto unless entering into such new line of business is in compliance with the terms of the Master Indenture and so long as (a) no Default or Event of Default, in either case, shall exist or result from such disposition of Property and (b) entering into such new line of business could not reasonably be expected to have a Material Adverse Effect.

*Section 6.28 Transactions with Affiliates.* The Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, enter into any transaction of any kind with any Affiliate of any Obligated Group Member, other than in accordance with the terms of the Master Indenture and so long as (a) after giving effect to such transaction, no Default or Event of Default shall exist or result from such transaction and (b) such transaction could not reasonably be expected to have a Material Adverse Effect.

*Section 6.29 No Changes in Fiscal Year.* The Obligated Group Representative shall not permit the Obligated Group to change its Fiscal Year from its present basis without providing the Purchaser with at least ninety (90) days' prior written notice thereof.

*Section 6.30 Anti-Terrorism Laws.* The Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, use, and shall not permit any Subsidiaries or Related Parties of the foregoing to use, the proceeds of the Bonds (a) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Terrorism Laws, (b) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, or (c) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

*Section 6.31 Filing of Agreement.* In the event any Obligated Group Member delivers or permits, authorizes or consents to the delivery of this Agreement to any Person for delivery to the Municipal Securities Rulemaking Board, prior to such delivery the Obligated Group Member agrees that it shall redact such information contained herein as may be requested by the Purchaser and which is consistent with MSRB Notice 2011-17 (February 23, 2011). Only such copy of this Agreement reflecting such redacted material shall be delivered to the Municipal Securities Rulemaking Board.

*Section 6.32 Financial Covenants.* The Obligated Group Representative shall cause the Obligated Group to comply with the following:

(a) Debt Service Coverage Ratio.

(i) Each Member covenants and agrees to fix, charge and collect, or cause to be fixed, charged and collected, rates, fees and charges for the use of its facilities and for the services furnished or to be furnished by the Members so that the Debt Service Coverage Ratio of the Obligated Group as a whole at the end of each Fiscal Year is not less than 1.20:1.0.

(ii) Within one hundred twenty (120) days after the end of each Fiscal Year, the Obligated Group Representative shall compute the Debt Service Coverage Ratio for such Fiscal Year and promptly furnish to the Purchaser an Officer's Certificate setting forth the results of such computation. The Obligated Group Representative covenants and agrees that if as of the end of such Fiscal Year the Debt Service Coverage Ratio, as set forth in any such Officer's Certificate, shall have been less than 1.20:1.0, it will promptly employ an Independent Consultant satisfactory to the Purchaser to make recommendations as to a revision of the rates, fees and charges of the Members or the methods of operation of the Members to increase such ratio for subsequent Fiscal Years to the level required or, if in the opinion of the Independent Consultant, the attainment of such level is impracticable, to the highest practicable level. The Obligated Group Representative shall cause copies of the recommendations of the Independent Consultant to be filed with the Purchaser simultaneously with their delivery to the Obligated Group Members. Each Member shall, promptly upon its receipt of such recommendations, subject to applicable requirements or restrictions imposed by law and to a good faith determination by the Governing Body of the Obligated Group Representative or such Member that the implementation of such recommendations would not be in the best interests of such Member, revise its rates, fees and charges or its methods of operation or collections and shall take such other action as shall be in conformity with such recommendations. Notwithstanding the foregoing, the Obligated Group Representative shall not be required to secure such report and recommendations more frequently than once every two years.

(iii) If the Members comply in all material respects with the reasonable recommendations of the Independent Consultant in respect to said rates, fees, charges and methods of operation or collection, the Members will be deemed to have complied with the

covenants described under in this **Section 6.32(a)** for such Fiscal Year notwithstanding that Debt Service Coverage Ratio shall be less than the level required as described in (i) above; and provided that (A) the Members shall not be excused from taking any action or performing any duty required under the Master Indenture and that no other Event of Default shall be waived by the operation of the provisions of this subsection (iii) and (B) in all events the Debt Service Coverage Ratio at the end of any Fiscal Year shall be not less than 1.0:1.0.

(iv) Notwithstanding the foregoing, a Member may permit the rendering of service at, or the use of, its facilities without charge or at reduced charges, at the discretion of the Governing Body of such Member, to the extent necessary for maintaining its tax exempt status or its eligibility for grants, loans, subsidies or payments from the United States of America, any instrumentality thereof, or the State of North Dakota or any instrumentality thereof, or in compliance with any recommendation for free services that may be made by an Independent Consultant; provided that (A) the Members shall not be excused from taking any action or performing any duty required under the Master Indenture and that no other Event of Default shall be waived by the operation of the provisions of this subsection (iv) and (B) in all events the Debt Service Coverage Ratio at the end of any Fiscal Year shall be not less than 1.0:1.0.

(v) Notwithstanding the foregoing, if a report of an Independent Consultant is delivered to the Master Trustee that states that any Government Restriction or Industry Restriction has been imposed which makes it impossible for the Income Available for Debt Service to satisfy the requirement described above, then the required amount of Income Available for Debt Service shall be reduced to the maximum coverage permitted by such Government Restriction or Industry Restriction.

(b) Liquidity.

(i) The Obligated Group shall cause the amount of Unrestricted Cash and Investments at all times to be equal to at least sixty (60) Days of Operating Expenses (the "*Liquidity Requirement*").

(ii) The calculation of the Liquidity Requirement shall be:

(A) performed and certified to the Purchaser (1) semi-annually as of each June 30 and December 31 through and including December 31, 2022 and (2) annually as of June 30, 2023 and each June 30 thereafter; and

(B) based on (1) unaudited annual financial statements and (2) audited annual financial statements, in each case provided to the Purchaser pursuant to **Section 6.05**. The computations based upon the audited financial statements referenced in (2) above for the calculation of the Liquidity Requirement as of any June 30 shall be conclusive absent manifest error.

(c) Indebtedness Ratio.

(i) As of each June 30, commencing June 30, 2017 through and including June 30, 2022, the Obligated Group Representative shall cause the Indebtedness Ratio to be less than 80%.

(ii) As of June 30, 2023 and as of each June 30 thereafter, the Obligated Group Representative shall cause the Indebtedness Ratio to be less than 75%.

(iii) The calculation of the Indebtedness Ratio pursuant to (i) and (ii) above shall be based on (A) unaudited annual financial statements and (B) audited annual financial statements, in each case provided to the Purchaser pursuant to **Section 6.05**. The computations based upon the audited financial statements referenced in (B) above for the calculation of the Indebtedness Ratio as of any June 30 shall be conclusive absent manifest error.

**Section 6.33 Feasibility Study.** Within 30 days of receipt thereof by the Corporation, the Obligated Group Representative shall deliver, or cause to be delivered, to the Purchaser a copy of a feasibility study relating to the new hospital facility and related facilities to be constructed on the Mortgaged Property prepared by Wipfli LLP, which feasibility study shall be in all respects in form and substance satisfactory to the Purchaser in its sole discretion.

## **ARTICLE VII EVENTS OF DEFAULT**

**Section 7.01 Events of Default.** The occurrence of any of the following events (whatever the reason for such event and whether voluntary, involuntary, or effected by operation of Applicable Law) shall be an “Event of Default” hereunder, unless waived in writing by Purchaser:

(a) the Obligated Group Representative, on behalf of the Obligated Group, shall fail to pay any Obligation (including without limitation the principal or Purchase Price of or premium or interest on any Bond) when due (whether by scheduled maturity, required prepayment, redemption or otherwise);

(b) the occurrence of an “event of default” or “default” (however defined) under any Related Document, after the expiration of any applicable grace or cure periods;

(c) any representation or warranty made by or on behalf of the Obligated Group Representative or any other Obligated Group Member in this Agreement (or incorporated herein by reference) or in any other Related Document to which it is a party or in any certificate, document, instrument, opinion or financial or other statement contemplated by or made or delivered pursuant to or in connection with this Agreement or with any other Related Document to which it is a party, shall prove to have been incorrect, untrue, incomplete or misleading in any material respect when made or delivered;

(d) the Obligated Group Representative or any other Obligated Group Member shall default in the due performance or observance of any of the covenants set forth in any of the following Sections: **6.01, 6.05, 6.09 through 6.16, inclusive, and 6.18 through 6.33, inclusive**;

(e) the Obligated Group Representative or any other Obligated Group Member shall default in the due performance or observance of any other term, covenant or agreement contained in this Agreement or any other Related Document and such default shall remain unremedied for a period of thirty (30) days after the occurrence thereof;

(f) any Obligated Group Member or any Affiliate shall (i) have entered involuntarily against it an order for relief under the United States Bankruptcy Code, as amended, (ii) become insolvent or shall not pay, or be unable to pay, or admit in writing its inability to pay, its debts generally as they become due, (iii) make an assignment for the benefit of creditors, (iv) apply for, seek, consent to, or acquiesce in, the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any substantial part of its Property, (v) institute any proceeding seeking to have entered against it an order for relief under the United States Bankruptcy Code, as amended, to adjudicate it insolvent, or seeking dissolution, winding up, liquidation, reorganization, arrangement, marshalling of assets, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency

or reorganization or relief of debtors or fail to file an answer or other pleading denying the material allegations of any such proceeding filed against it, (vi) take any corporate action in furtherance of any matter described in parts (i) through (v) above, or (vii) fail to contest in good faith any appointment or proceeding described in **Section 7.01(g)**;

(g) a custodian, receiver, trustee, examiner, liquidator or similar official shall be appointed for any Obligated Group Member or any Affiliate thereof or any substantial part of their respective Property, or a proceeding described in **Section 7.01(f)(v)** shall be instituted against any such Obligated Group Member and such proceeding continues undischarged or any such proceeding continues undismissed or unstayed for a period of sixty (60) or more days;

(h) (i) any provision of this Agreement or any Related Document related to (A) payment of principal or purchase price of or premium or interest on the Bonds or any other Parity Debt or (B) the validity or enforceability of the pledge or security interest created by the Master Purchaser Note or the Master Bond Note shall at any time for any reason cease to be valid and binding on the Obligated Group as a result of a finding or ruling by a court or a Governmental Authority with competent jurisdiction, or shall be declared, in a judgment by any court of competent jurisdiction, to be null and void, invalid or unenforceable;

(ii) the validity or enforceability of any material provision of this Agreement or any Related Document related to (A) payment of principal or purchase price of or premium or interest on the Bonds or any Parity Debt, or (B) the validity or enforceability of the pledge of or security interest created by the Master Purchaser Note or the Master Bond Note shall be publicly contested by the Obligated Group Representative or any other Obligated Group Member; or

(iii) any other material provision of this Agreement or any other Related Document, other than a provision described in clause (i) above, shall at any time for any reason cease to be valid and binding on the Obligated Group Representative or any other Obligated Group Member as a result of a ruling or finding by a court or a Governmental Authority with competent jurisdiction or shall be declared in a judgment by any court with competent jurisdiction to be null and void, invalid, or unenforceable, or the validity or enforceability thereof shall be publicly contested by the Obligated Group Representative or any other Obligated Group Member;

(i) the Obligated Group Representative or any other Obligated Group Member shall (i) default on the payment of the principal or purchase price of or premium or interest on any Parity Debt including, without limitation, any payments on Swap Agreements which constitute Parity Debt, beyond the period of grace, if any, provided in the instrument or agreement under which such Parity Debt was created or incurred; or (ii) default in the observance or performance of any agreement or condition relating to any Parity Debt or contained in any instrument or agreement evidencing, securing or relating thereto, or any other default, event of default or similar event shall occur or condition exist, the effect of which default, event of default or similar event or condition is to cause or permit (determined without regard to whether any notice is required) any such Parity Debt to become immediately due and payable or otherwise subject to prepayment or redemption as the result of the acceleration, mandatory redemption or mandatory tender of such Parity Debt;

(j) the Obligated Group Representative or any other Obligated Group Member shall (i) default in the observance or performance of any agreement or condition relating to any Indebtedness owing to the Purchaser or any Affiliate of the Purchaser, (ii) default on the payment of any amount owing in respect of any Indebtedness (other than Parity Debt) including, without limitation, any payments on Swap Agreements, aggregating in excess of \$1,000,000, beyond the period of grace, if any, provided in the instrument or agreement under which any Indebtedness (other than Parity Debt)

was created or incurred; or (iii) default in the observance or performance of any agreement or condition relating to any Indebtedness (other than Parity Debt) aggregating in excess of \$1,000,000, or contained in any instrument or agreement evidencing, securing or relating thereto, or any other default, event of default or similar event shall occur or condition exist, the effect of which default, event of default or similar event or condition is to permit (determined without regard to whether any notice is required) any such Indebtedness to become immediately due and payable or otherwise subject to prepayment or redemption as the result of the acceleration, mandatory redemption or mandatory tender of such Indebtedness;

(k) any final judgment or judgments, writ or writs or warrant or warrants of attachment, or any similar process or processes, in an aggregate amount in excess of \$1,000,000 in excess of applicable insurance coverage, exclusive of any self-insurance, shall be entered or filed against any Obligated Group Member or any Affiliate thereof or against any of their respective Property and remain unpaid, unvacated, unbonded or unstayed for a period of thirty (30) days;

(l) any Obligated Group Member or any member of its Controlled Group shall fail to pay when due an amount or amounts aggregating in excess of \$1,000,000 which it shall have become liable to pay to the PBGC or to a Plan under Title IV of ERISA; or notice of intent to terminate a Plan or Plans having aggregate Unfunded Vested Liabilities in excess of \$1,000,000 (collectively, a "Material Plan") shall be filed under Title IV of ERISA by any Obligated Group Member, any plan administrator or any combination of the foregoing; or the PBGC shall institute proceedings under Title IV of ERISA to terminate or to cause a trustee to be appointed to administer any Material Plan or a proceeding shall be instituted by a fiduciary of any Material Plan against the Obligated Group Members or any member of its Controlled Group to enforce Section 515 or 4219(C)(5) of ERISA and such proceeding shall not have been dismissed within 30 days thereafter; or a condition shall exist by reason of which the PBGC would be entitled to obtain a decree adjudicating that any Material Plan must be terminated;

(m) the Debt Service Coverage Ratio as of the end of any Fiscal Year is less than 1.00 to 1.00; or

(n) a Pension-Related Event shall have occurred; *provided, however*, that with respect to any Plan that is a Multiemployer Plan, such event or condition shall not be an Event of Default unless the withdrawal liability or the past due obligation to make contributions of any Obligated Group Member or any member of its Controlled Group to such Plan or the PBGC in connection with such event or condition exceeds \$1,000,000.

**Section 7.02 Consequences of an Event of Default.** If an Event of Default specified in **Section 7.01** shall occur and be continuing, the Purchaser may take one or more of the following actions at any time and from time to time (regardless of whether the actions are taken at the same or different times):

(a) by written notice to the Bond Trustee and the Obligated Group Representative, declare the outstanding amount of the Obligations under this Agreement to be immediately due and payable without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived, and an action therefor shall immediately accrue; *provided, however*, that if any Event of Default described in **Section 7.01(f)** or **Section 7.01(g)** hereof shall occur, the Obligations under this Agreement shall automatically mature and be due and payable on the date of the occurrence of such Event of Default without presentment, demand, protest, notice of intention to accelerate, notice of acceleration or other notice of any kind to the Obligated Group Representative or any other Person, all of which are hereby expressly waived;

(b) deliver a written notice to the Bond Trustee and the Obligated Group Representative that an Event of Default has occurred and is continuing and direct the Bond Trustee to



cause an acceleration of the Bonds or take such other remedial action as is provided for in the Bond Indenture;

(c) either personally or by attorney or agent without bringing any action or proceeding, or by a receiver to be appointed by a court in any appropriate action or proceeding, take whatever action at law or in equity may appear necessary or desirable to collect the amounts due and payable under the Related Documents or to enforce performance or observance of any obligation, agreement or covenant of the Obligated Group Representative or any other Obligated Group Member under the Related Documents, whether for specific performance of any agreement or covenant of the Obligated Group Representative or any other Obligated Group Member or in aid of the execution of any power granted to the Purchaser in the Related Documents;

(d) cure any Default, Event of Default or event of nonperformance hereunder or under any Related Document; *provided, however*, that the Purchaser shall have no obligation to effect such a cure; and

(e) exercise, or cause to be exercised, any and all remedies as it may have under the Related Documents and as otherwise available at law and at equity.

*Section 7.03 Remedies Cumulative; Solely for the Benefit of Purchaser.* To the extent permitted by, and subject to the mandatory requirements of, Applicable Law, each and every right, power and remedy herein specifically given to the Purchaser in the Related Documents shall be cumulative, concurrent and nonexclusive and shall be in addition to every other right, power and remedy herein specifically given or now or hereafter existing at law, in equity or by statute, and each and every right, power and remedy (whether specifically herein given or otherwise existing) may be exercised from time to time and as often and in such order as may be deemed expedient by the Purchaser, and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy.

The rights and remedies of the Purchaser specified herein are for the sole and exclusive benefit, use and protection of the Purchaser, and the Purchaser is entitled, but shall have no duty or obligation to the Obligated Group Members, the Bond Trustee or any other Person or otherwise, to exercise or to refrain from exercising any right or remedy reserved to the Purchaser hereunder or under any of the other Related Documents.

*Section 7.04 Waivers or Omissions.* No delay or omission by the Purchaser in the exercise of any right, remedy or power or in the pursuit of any remedy shall impair any such right remedy or power or be construed to be a waiver of any default on the part of the Purchaser or to be acquiescence therein. No express or implied waiver by the Purchaser of any Event of Default shall in any way be a waiver of any future or subsequent Event of Default.

*Section 7.05 Discontinuance of Proceedings.* In case the Purchaser shall proceed to invoke any right, remedy or recourse permitted hereunder or under the Related Documents and shall thereafter elect to discontinue or abandon the same for any reason, the Purchaser shall have the unqualified right so to do and, in such event, the Obligated Group Representative, the other Obligated Group Members and the Purchaser shall be restored to their former positions with respect to the Obligations, the Related Documents and otherwise, and the rights, remedies, recourse and powers of the Purchaser hereunder shall continue as if the same had never been invoked.

## **ARTICLE VIII INDEMNIFICATION**

*Section 8.01 Indemnification.* In addition to any and all other rights of reimbursement, indemnification, subrogation and other similar rights pursuant to the Related Documents or under law or equity,

the Obligated Group Representative hereby covenants and agrees to defend, indemnify and hold harmless, and to cause each of the other Obligated Group Members to defend, indemnify and hold harmless, the Purchaser and each other Bondholder and their respective Affiliates and, in each case, the Related Parties thereof (each, an "Indemnatee") from and against any and all claims, causes of action, judgments, fines, penalties, damages, losses, liabilities and expenses whatsoever (including reasonable attorneys' fees) which may be incurred by an Indemnatee or which may be claimed against an Indemnatee by any Person whatsoever (collectively, the "Liabilities") by reason of or directly or indirectly in connection with any of the transactions contemplated hereby including (a) the execution, delivery or performance or transfer of, or payment or failure to pay under, any Related Document; (b) the issuance, offering, purchase, sale, remarketing or resale of the Bonds; (c) the use of the proceeds of the Bonds; (d) the untruth or inaccuracy of any warranty or representation made by the Obligated Group Representative or any other Obligated Group Member in any Related Document or in any certificate furnished thereunder or the breach or nonperformance by the Obligated Group Representative or any other Obligated Group Member of any covenant contained in any Related Document or any other Default or Event of Default under any of the Related Documents or (e) the use or occupancy of the facilities in which any Obligated Group Member shall have any right, title or interest by any Obligated Group Member or any other Person, including liabilities resulting from or relating to any accident, injury or death of any Person or noncompliance with any Environmental Laws; *provided, however*, that the Obligated Group Members shall not be required to indemnify an Indemnatee for any claims, damages, losses, liabilities, costs or expenses to the extent, but only to the extent, directly caused by the willful misconduct or gross negligence of such Indemnatee as determined in a final, non-appealable determination by a court of competent jurisdiction. If any proceeding shall be brought or threatened against an Indemnatee, as a condition of indemnity hereunder such Indemnatee shall promptly notify the Obligated Group Representative in writing (but failure to give such notice shall not alter the rights of indemnity hereunder) and the Obligated Group Representative shall assume the defense thereof, including the employment of counsel satisfactory to such Indemnatee and the payment of all reasonable costs of litigation. No Member will enter into any settlement without the written consent of the Purchaser. Notwithstanding the preceding sentence, each Indemnatee shall have the right to employ its own counsel and to determine its own defense of such action in any such case, but the fees and expenses of such counsel shall be at the expense of such Indemnatee unless (i) the employment of such counsel shall have been authorized in writing by any Obligated Group Member, (ii) the Obligated Group Representative, after due notice of the action, shall not have employed counsel satisfactory to such Indemnatee to have charge of such defense, or (iii) the Indemnatee shall have concluded in its sole discretion that there exists or may exist a potential conflict of interest between any Obligated Group Member and the Indemnatee in the conduct of the defense of such action, in any of which events the fees and expenses of counsel for such Indemnatee shall be borne by the Obligated Group Representative and the other Obligated Group Members. Nothing under this **Section 8.01** is intended to limit the payment of the Obligations.

*Section 8.02 Survival.* The obligations of the Obligated Group Representative under this **Article VIII** shall survive the payment of the Bonds and the termination of this Agreement.

## **ARTICLE IX MISCELLANEOUS**

*Section 9.01 Patriot Act Notice.* The Purchaser hereby notifies the Obligated Group Representative and each other Obligated Group Member that pursuant to the requirements of the Patriot Act it is required to obtain, verify and record information that identifies the Obligated Group Members, which information includes the name and address of the Obligated Group Members and other information that will allow the Purchaser to identify the Obligated Group Members in accordance with the Patriot Act. Each Obligated Group Member hereby agrees that it shall promptly provide such information upon request by the Purchaser.

*Section 9.02 Further Assurances.* From time to time upon the request of either party hereto, the other shall promptly and duly execute, acknowledge and deliver any and all such further instruments and documents as the requesting party may in its reasonable discretion deem necessary or desirable to confirm this Agreement, and the other Related Documents, to carry out the purpose and intent hereof and thereof or to enable

the requesting party to enforce any of its rights hereunder or thereunder. At any time, and from time to time, upon request by the Purchaser, the Obligated Group Representative will, at the Obligated Group's expense, correct any defect, error or omission which may be discovered in the form or content of any of the Related Documents. Upon any failure by the Obligated Group Representative to do so, the Purchaser may make, execute and record any and all such instruments, certificates and other documents for and in the name of the Obligated Group Representative or such other Obligated Group Member, all at the sole expense of the Obligated Group Representative, and the Obligated Group Representative and each other Obligated Group Member hereby appoints the Purchaser the agent and attorney-in-fact of each such Obligated Group Member to do so, this appointment being coupled with an interest and being irrevocable. In addition, at any time, and from time to time, upon request by the Purchaser, the Obligated Group Representative will, at the Obligated Group's expense, provide any and all further instruments, certificates and other documents as may, in the opinion of the Purchaser, be necessary or desirable in order to verify any Obligated Group Member's identity and background in a manner satisfactory to the Purchaser.

*Section 9.03 Amendments and Waivers; Enforcement.* The Purchaser and the Obligated Group Representative may from time to time enter into agreements amending, modifying or supplementing this Agreement or the other Related Documents or changing the rights of the Purchaser or the Obligated Group Members hereunder or thereunder, and the Purchaser may from time to time grant waivers or consents to a departure from the due performance of the obligations of the Obligated Group Representative and the other Obligated Group Members hereunder or thereunder. Any such agreement, waiver or consent must be in writing and shall be effective only to the extent specifically set forth in such writing. In the case of any such waiver or consent relating to any provision hereof, any Default or Event of Default so waived or consented to shall be deemed to be cured and not continuing, but no such waiver or consent shall extend to any other or subsequent Default or Event of Default or impair any right consequent thereto.

*Section 9.04 No Implied Waiver; Cumulative Remedies.* No course of dealing and no delay or failure of the Purchaser in exercising any right, power or privilege under this Agreement or the other Related Documents shall affect any other or future exercise thereof or exercise of any right, power or privilege; nor shall any single or partial exercise of any such right, power or privilege or any abandonment or discontinuance of steps to enforce such a right, power or privilege preclude any further exercise thereof or of any other right, power or privilege. The rights and remedies of the Purchaser under this Agreement are cumulative and not exclusive of any rights or remedies which the Purchaser would otherwise have under any Related Document, at law or in equity.

*Section 9.05 Notices.* All notices, requests, demands, directions and other communications (collectively "notices") under the provisions of this Agreement shall be in writing (including facsimile communication), unless otherwise expressly permitted hereunder, and shall be sent by first-class mail or overnight delivery and shall be deemed received as follows: (a) if by first class mail, five (5) days after mailing; (b) if by overnight delivery, on the next Business Day; (c) if by telephone, when given to a person who confirms such receipt; and (d) if by facsimile, when confirmation of receipt is obtained. All notices shall be sent to the applicable party at the following address or in accordance with the last unrevoked written direction from such party to the other parties hereto:

The Issuer:

County of Ward, North Dakota

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

The Obligated Group  
Representative (or any other  
Obligated Group Member):

Trinity Health System  
[REDACTED]

With a copy to:

Trinity Health System  
[REDACTED]

The Purchaser:

[REDACTED]

The Bond Trustee:

As provided in the Bond Indenture

The Master Trustee:

As provided in the Master Indenture

The Purchaser may rely on any notice (including telephone communication) purportedly made by or on behalf of the other, and shall have no duty to verify the identity or authority of the Person giving such notice, unless such actions or omissions would amount to gross negligence or intentional misconduct.

*Section 9.06 Right of Setoff.*

(a) Upon the occurrence of an Event of Default, a Bondholder may, at any time and from time to time, without notice to the Obligated Group Representative, any other Obligated Group Member or any other Person (any such notice being expressly waived), set off and appropriate and apply against and on account of any Obligations under this Agreement, without regard to whether or not such Bondholder shall have made any demand therefor, and although such Obligations may be contingent or unmatured, any and all deposits (general or special, including but not limited to deposits made pursuant to this Agreement and Indebtedness evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts, such as restricted donor accounts) and any other Indebtedness at any time held or owing by such Bondholder to or for the credit or the account of any or all of the Obligated Group Members. The Obligated Group authorizes the Purchaser to exercise the set-off rights set forth herein for the benefit of the Master Trustee for the benefit of the holders of Master Indenture Obligations under the Master Indenture and, following such set-off, the Purchaser is authorized and, to the extent permitted by law, required to deliver the proceeds realized from the exercise of such set-off right to the Master Trustee. Amounts realized by the Purchaser upon exercise of the set-off rights set forth herein shall be held and applied on a parity basis for the benefit of the holders of the Master Indenture Obligations.

(b) Each Bondholder agrees promptly to notify the Obligated Group Representative after any such set-off and application referred to in subsection (a) above, *provided, however*, that the failure to give such notice shall not affect the validity of such set-off and application. Subject to the provisions of subsection (a) above, the rights of a Bondholder under this Section are in

addition to other rights and remedies (including, without limitation, other rights of set-off) which such Bondholder may have.

*Section 9.07 No Third-Party Rights.* Nothing in this Agreement, whether express or implied, shall be construed to give to any Person other than the parties hereto and the Bondholders any legal or equitable right, remedy or claim under or in respect of this Agreement, which is intended for the sole and exclusive benefit of the parties hereto.

*Section 9.08 Severability.* The provisions of this Agreement are intended to be severable. If any provision of this Agreement shall be held invalid or unenforceable in whole or in part in any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without in any manner affecting the validity or enforceability thereof in any other jurisdiction or the remaining provisions hereof in any jurisdiction.

*Section 9.09 Governing Law; Consent to Jurisdiction and Venue; Waiver of Jury Trial.*

(a) This Agreement shall be governed by, and construed in accordance with, the laws of the State of North Dakota without giving effect to conflicts of laws provisions.

(b) EACH PARTY HERETO CONSENTS TO AND SUBMITS TO IN PERSONAM JURISDICTION AND VENUE IN THE STATE OF NORTH DAKOTA AND IN THE FEDERAL DISTRICT COURTS WHICH ARE LOCATED IN THE STATE OF NORTH DAKOTA. EACH PARTY ASSERTS THAT IT HAS PURPOSEFULLY AVAILED ITSELF OF THE BENEFITS OF THE LAWS OF THE STATE OF NORTH DAKOTA AND WAIVES ANY OBJECTION TO IN PERSONAM JURISDICTION ON THE GROUNDS OF MINIMUM CONTACTS, WAIVES ANY OBJECTION TO VENUE, AND WAIVES ANY PLEA OF FORUM NON CONVENIENS. THIS CONSENT TO AND SUBMISSION TO JURISDICTION IS WITH REGARD TO ANY ACTION RELATED TO THIS AGREEMENT. REGARDLESS OF WHETHER THE PARTY'S ACTIONS TOOK PLACE IN THE STATE OF NORTH DAKOTA OR ELSEWHERE IN THE UNITED STATES, THIS SUBMISSION TO JURISDICTION IS NONEXCLUSIVE, AND DOES NOT PRECLUDE EITHER PARTY FROM OBTAINING JURISDICTION OVER THE OTHER IN ANY COURT OTHERWISE HAVING JURISDICTION. THE IMMEDIATELY PRECEDING SENTENCE DOES NOT CHANGE THE EXCLUSIVITY OF VENUE SET FORTH IN THIS PARAGRAPH.

(c) TO THE EXTENT PERMITTED BY APPLICABLE LAWS, EACH OF THE PARTIES HERETO HEREBY WAIVES ITS RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT, THE RELATED DOCUMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS.

(d) The covenants and waivers made pursuant to this **Section 9.09** shall be irrevocable and unmodifiable, whether in writing or orally, and shall be applicable to any subsequent amendments, renewals, supplements or modifications of this Agreement. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

*Section 9.10 Prior Understandings.* This Agreement and the other Related Documents supersede all other prior understandings and agreements, whether written or oral, among the parties hereto relating to the transactions provided for herein and therein.

*Section 9.11 Duration.* All representations and warranties of the Obligated Group Representative contained herein or made in connection herewith shall survive the making of and shall not be waived by the execution and delivery of this Agreement or the other Related Documents. All covenants and agreements of the Obligated Group Representative contained herein shall continue in full force and effect from and after the date hereof until the Obligations have been fully discharged.

*Section 9.12 Counterparts.* This Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute but one and the same instrument.

*Section 9.13 Successors and Assigns.*

(a) Generally. This Agreement is a continuing obligation and shall be binding upon each Obligated Group Member, and its successors, transferees and assigns and shall inure to the benefit of the Purchaser and each Transferee and their respective successors, transferees and assigns. None of the Obligated Group Members may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Purchaser. Each of the Purchaser and each Transferee may, in its sole discretion and in accordance with Applicable Law, from time to time assign, sell or transfer in whole or in part, this Agreement, its interest in the Bonds and the other Related Documents in accordance with the provisions of subsection (c) below. The Purchaser and each Transferee may at any time and from time to time pledge or assign a certain security interest in accordance with the provisions of subsection (d) below and enter into participation agreements in accordance with the provisions of subsection (e) below.

(b) Designation of Purchaser. Bremer shall be the Purchaser hereunder until such time as it is not the Majority Holder. Upon notification of a new Majority Holder to the Obligated Group Representative, such new Majority Holder shall thereupon constitute the Purchaser and succeed to and become vested with all of the rights, powers, privileges and responsibilities of the Purchaser, and Bremer or any other Person being replaced as the Purchaser automatically shall be discharged from its duties and obligations as the Purchaser hereunder.

(c) Sales and Transfers. Without limitation of the foregoing generally, the Purchaser may at any time sell or otherwise transfer to one or more transferees, which shall be Qualified Buyers, all or a portion of the Bond and the other Related Documents in accordance with the Bond Indenture and this Agreement (each, a "*Transferee*"). From and after the date of such sale or transfer, unless such sale or transfer shall have resulted in a new Majority Holder, the Person theretofore constituting the Purchaser shall continue to have all of the rights of the Purchaser hereunder and under the Related Documents as if no such transfer or sale had occurred; *provided, however*, that (i) no such sale or transfer shall in any way affect the obligations of the Purchaser hereunder, (ii) the Obligated Group shall be required to deal only with the Purchaser, as Majority Holder, with respect to any matters under this Agreement, the Bonds and the Related Documents, (iii) as a condition to such transfer, the Transferee shall have executed and delivered a purchaser letter in form and substance satisfactory to the Purchaser and (iv) after giving effect to such transfer, the aggregate principal amount of the Bonds held by the transferor (if less than all of the Bonds held by such transferor are being transferred) and the Transferee shall not be less than the lesser of \$5,000,000 and the outstanding principal amount of the Bonds.

(d) Certain Pledges. The Purchaser may at any time pledge or grant a security interest in all or any portion of its rights under this Agreement, the Bond and the other Related Documents to secure obligations of the Purchaser; *provided, however*, that no such pledge or assignment shall release the Purchaser from any of its obligations hereunder or substitute any such pledgee or assignee for the Purchaser as a party hereto.

(e) Participations. Without limitation of the foregoing generally, the Purchaser may at any time grant participations in all or a portion of the Purchaser's interest in this Agreement, the Bond and the other Related Documents to one or more other Participants, and (except as provided in the next sentence) such Participants shall be entitled to the benefits of the this Agreement and the Related Documents to the same extent as if they were a direct party to this Agreement. From and after the date of such participation, unless there is a new Majority Holder, the Person theretofore constituting the

Purchaser shall continue to have all of the rights of the Purchaser hereunder and under the Related Documents as if no participation had occurred; *provided, however*, that (i) no such participation shall in any way affect the obligations of the Purchaser hereunder and (ii) the Obligated Group shall be required to deal only with the Purchaser, as Majority Holder, with respect to any matters under this Agreement, the Bond and the Related Documents.

*Section 9.14 Headings.* Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

*Section 9.15 No Fiduciary Relationship.* Each Obligated Group Member acknowledges and agrees that in connection with all aspects of the transactions contemplated by this Agreement and the Related Documents (including in connection with any amendment, waiver or other modification of this Agreement or of any Related Document): (a)(i) any arranging, structuring and other services regarding this Agreement and the Related Documents provided by the Purchaser or any Affiliate of the Purchaser are arm's length commercial transactions between the Obligated Group Representative and the other Obligated Group Members on the one hand, and the Purchaser and any Affiliate of the Purchaser on the other hand, (ii) each Obligated Group Member has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) each Obligated Group Member is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated by this Agreement and the Related Documents; (b)(i) the Purchaser and each Affiliate of the Purchaser is and has been acting solely as a principal and has not been, is not, and will not be acting as an advisor, agent or fiduciary for any Obligated Group Member or any other Person and (ii) neither the Purchaser nor any Affiliate of the Purchaser has any obligation to any Obligated Group Member with respect to the transactions contemplated by this Agreement and the Related Documents, except those obligations expressly set forth herein; and (c) the Purchaser and each Affiliate of the Purchaser may be engaged in a broad range of transactions that involve interests that differ from those of the Obligated Group Members, and neither the Purchaser nor any Affiliate of the Purchaser has any obligation to disclose any of such interests to any Obligated Group Member. To the fullest extent permitted by Applicable Laws, each Obligated Group Member hereby waives and releases any claims that it may have against the Purchaser and each Affiliate of the Purchaser with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of the transactions contemplated by this Agreement and the Related Documents.

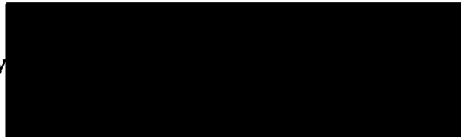
*Section 9.16 Electronic Signatures.* The parties agree that the electronic signature of a party to this Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement. The parties agree that any electronically signed document (including this Agreement) shall be deemed (a) to be "written" or "in writing," (b) to have been signed and (c) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Such paper copies or "printouts," if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule. For purposes hereof, "electronic signature" means a manually-signed original signature that is then transmitted by electronic means; "transmitted by electronic means" means sent in the form of a facsimile or sent via the internet as a "pdf" (portable document format) or other replicating image attached to an e-mail message; and, "electronically signed document" means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered under seal as of the day and year first above written.

TRINITY HEALTH, a North Dakota nonprofit corporation, as  
Obligated Group Representative, on behalf of itself and the  
other Obligated Group Members

By



.....(SEAL)

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE.]



[SIGNATURES CONTINUED FROM THE PRIOR PAGE.]

BREMER BANK, N.A.

\_\_\_\_\_

A large black rectangular redaction box covers the signature area. To the left of the box, the letter 'F' is visible. A horizontal line extends from the right side of the redaction box.

**EXHIBIT A**

**FORM OF COMPLIANCE CERTIFICATE**

This Compliance Certificate (this "*Certificate*") is furnished to [PURCHASER] (the "*Purchaser*") pursuant to that certain Continuing Covenant Agreement dated as of September 1, 2017 (as amended, supplemented or otherwise modified from time to time, the "*Agreement*"), between TRINITY HEALTH, a North Dakota nonprofit corporation (the "*Corporation*" and, in its capacity as Obligated Group Representative on behalf of itself and the hereinafter defined Obligated Group Members, the "*Obligated Group Representative*") on behalf of itself and each Obligated Group Member, and the Purchaser, relating to the County of Ward, North Dakota Hospital Facility Revenue Refunding Bonds (Trinity Obligated Group), Series 2017A-1. Unless otherwise defined herein, the terms used in this Certificate shall have the respective meanings assigned thereto in the Agreement.

THE UNDERSIGNED HEREBY CERTIFIES THAT:

1. I am the duly elected Chief [Financial / Executive] Officer of the Obligated Group Representative;
2. I have reviewed the terms of the Agreement and I have made, or have caused to be made under my supervision, a detailed review of the transactions and conditions of the Obligated Group during the accounting period covered by the attached financial statements;
3. The examinations described in paragraph 2 did not disclose, and I have no knowledge of, the existence of any condition or the occurrence of any event which constitutes a Default or Event of Default during or at the end of the accounting period covered by the attached financial statements or as of the date of this Certificate, except as set forth below;
4. The financial statements required by **Section 6.05** of the Agreement and being furnished to you concurrently with this certificate fairly represent the consolidated financial condition of the Obligated Group in accordance with GAAP as of the dates and for the periods covered thereby;
5. The operating and utilization data and statistics required by **Section 6.05** of the Agreement are enclosed herewith and are complete and accurate.
6. Attached are true and accurate calculations demonstrating compliance with the financial covenant(s) set forth in **Section 6.32** of the Agreement for the periods specified in such attachment; and

Described below are the exceptions, if any, to paragraph 3 by listing, in detail, the nature of the condition or event, the period during which it has existed and the action which the Obligated Group has taken, is taking, or proposes to take with respect to each such condition or event:

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The foregoing certifications and the financial statements delivered with this Certificate in support hereof, are made and delivered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

TRINITY HEALTH, a North Dakota nonprofit corporation, as  
Obligated Group Representative, on behalf of itself and  
the other Obligated Group Members

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTACHMENT TO COMPLIANCE CERTIFICATE**

**COMPLIANCE CALCULATIONS FOR CONTINUING COVENANT AGREEMENT DATED AS OF  
SEPTEMBER 1, 2017**

Calculations as of \_\_\_\_\_, 20\_\_

**[INSERT/ATTACH COMPLIANCE CALCULATIONS]**

The foregoing certifications, together with the computations set forth in the Attachment hereto and the financial statements delivered with this Certificate in support hereof, are made and delivered this \_\_ day of \_\_\_\_\_, 20\_\_.

TRINITY HEALTH, a North Dakota nonprofit corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SCHEDULE 5.07**

**FINANCIAL DISCLOSURES**

None.

**SCHEDULE 5.24**

**OBLIGATED GROUP MEMBERS**

<u>Obligated Group Member</u>	<u>Tax Identification Number</u>
Trinity Health	[REDACTED]
Trinity Homes	[REDACTED]
Trinity Hospitals	[REDACTED]
Trinity Kenmare Hospital	[REDACTED]