

LOAN AND TRUST AGREEMENT

Among

RHODE ISLAND ECONOMIC DEVELOPMENT CORPORATION

And

38 Studios, LLC

And

The Bank of New York Mellon Trust Company, N. A., as Trustee

Dated as of November 1, 2010

\$75,000,000

**Rhode Island Economic Development Corporation
Job Creation Guaranty Program
Taxable Revenue Bonds
(38 Studios, LLC Project), Series 2010**

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THIS LOAN AND TRUST AGREEMENT ("Agreement") made and dated as of the 1st day of November, 2010 by and between Rhode Island Economic Development Corporation (the "Corporation" or the "Issuer"), a public corporation, governmental agency and public instrumentality of the State of Rhode Island, and 38 Studios, LLC, a Delaware limited liability company (the "Obligor"), and The Bank of New York Mellon Trust Company, N. A. (the "Trustee"), a national banking association organized under the laws of the United States of America, with its office located in Providence, Rhode Island as Trustee.

This Agreement provides for the following transactions:

- (a) the Issuer's issuance of the Bonds;
- (b) the Issuer's Loan of the proceeds of the Bonds to the Obligor to finance the EDC Project;
- (c) the Obligor's repayment of the Loan from the Issuer through payment to the Trustee of all amounts necessary to pay the Bonds issued by the Issuer;
- (d) the Issuer's assignment to the Trustee in trust for the benefit and security of the Bondowners of the Issuer's rights under this Agreement and the revenues to be received from the Obligor hereunder except as otherwise provided below with respect to the Loan to the Obligor hereunder, including repayment of the Loan to be received from the Obligor; and
- (e) the State's appropriation of funds in the amounts necessary to pay the Bonds as a result of Obligor's default on its obligation to repay the Loan.

In consideration of the mutual promises contained in this Agreement, the rights conferred and the obligations assumed hereby, and other good and valuable consideration, the receipt of which is hereby acknowledged, each of the Obligor, the Issuer and the Trustee agree, assign, covenant, grant, pledge, promise, represent and warrant as set forth herein for their own benefit and for the benefit of the Bondowners, provided that any financial obligation of the Issuer created by or arising out of this Agreement shall not be a general obligation of the Issuer nor a debt or pledge of the faith and credit of the State, but shall be payable solely from the revenues and funds pledged for its payment in accordance with this Agreement.

WITNESSETH:

WHEREAS, Chapter 64 of Title 42 of the General Laws of the State of Rhode Island and Providence Plantations 1956, as amended (the "Act"), declares, in part, that there exists in the State of Rhode Island a condition of substantial and persistent unemployment and underemployment which causes hardship to many individuals and

families, wastes vital human resources, increases the public assistance burdens of the state, impairs the security of family life, contributes to crime and delinquency, prevents many youths from continuing their educations, impedes the economic and physical development of municipalities and adversely affects the welfare and prosperity of the state; that many existing industrial, manufacturing, recreational and commercial facilities in the state are obsolete and inefficient, and dilapidated; that many of these facilities are underutilized or in the process of being vacated, creating additional unemployment; that technological advances and the provision of modern and efficient industrial, manufacturing, recreational and commercial facilities in other states will speed the obsolescence and abandonment of existing facilities causing serious injuries to the economy of the state; and

WHEREAS, in furtherance of these goals, it is the policy of the state to retain existing industries and to induce, encourage and attract new industries through the acquisition, construction, reconstruction and rehabilitation of industrial, manufacturing, recreational, and commercial facilities, as well as transportation, residential, environmental, utility, public service, institutional and civic and community facilities, and to develop sites for such facilities; and

WHEREAS, it is declared to be the policy of the State to promote a vigorous and growing economy, to prevent economic stagnation, and to encourage the creation of new job opportunities in order to ameliorate the hazards of unemployment and underemployment, reduce the level of public assistance, increase revenues to the State and its municipalities, and to achieve a stable diversified economy; and

WHEREAS, the Act provides that the term "project" as used therein shall mean the acquisition, ownership, operation, construction, reconstruction, rehabilitation, improvement, development, sale, lease or other disposition of, or the provision of financing for any real or personal property (by whomever owned) or any interest therein including without limiting the generality of the foregoing, any port facility, recreational facility, industrial facility, airport facility, pollution control facility, utility facility, solid waste disposal facility, civic facility, residential facility, water supply facility or any other facility, any combination of two (2) or more of the foregoing or any other activity undertaken by the Corporation; and

WHEREAS, the Act provides that the Corporation shall have the power to purchase, take, receive, lease or otherwise acquire, own, hold, improve, use and otherwise deal in and with, real or personal property, or any interest therein, wherever situated; and

WHEREAS, the Act provides that the Corporation shall have the power to sell, mortgage, lease, exchange, transfer or otherwise dispose of or encumber any project, (or in the case of a sale, to accept a purchase money mortgage in connection therewith) or to grant options for any such purposes with respect to any real or personal

property or interest therein, all of the foregoing for such consideration as the Corporation shall determine; and

WHEREAS, in accordance with its resolutions adopted June 14, 2010 and July 26, 2010, and in furtherance of the purposes of the Act, the Job Creation Guaranty Program Act, as hereafter defined, and this Agreement, the Corporation has authorized the issuance of its Job Creation Guaranty Program Taxable Revenue Bonds (38 Studios, LLC Project), Series 2010 (the "2010 Series Bonds") in the aggregate principal amount of \$75,000,000 pursuant to the Act and this Loan and Trust Agreement; and

WHEREAS, the Bonds, shall be special obligations of the Corporation, payable solely out of the revenues or other receipts, funds, property or moneys of the Corporation pledged therefor; and

WHEREAS, it has been determined that the issuance, sale and delivery of the Bonds, as hereinafter provided, is needed to finance the EDC Project (as hereinafter defined), including necessary expenses incidental thereto; and

WHEREAS, PURSUANT TO Chapter 026 and Chapter 029 of the Public Laws of 2010 of the State of Rhode Island (also known as H8158, as amended and S2923, as amended) (the "Job Creation Guaranty Program Act"), the Corporation is empowered and authorized pursuant to Chapter 18 of Title 35 of the General Laws of Rhode Island to create the Corporation's Job Creation Guaranty Program and pursuant thereto to issue bonds, and to guaranty debt service thereon in an amount at any time not to exceed in principal amount One Hundred Twenty-Five Million Dollars (\$125,000,000); and

WHEREAS, the 2010 Series Bonds are the first issue of Bonds issued under the Job Creation Guaranty Program Act and the principal amount of the 2010 Series Bonds does not exceed the limit set forth by the Job Creation Guaranty Program Act; and

WHEREAS, such Bonds and the Trustee's Certificate of authentication to be endorsed thereon are to be in substantially the following form, with appropriate variations, omissions and insertions permitted or required by this Loan and Trust Agreement, to wit:

THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC") OR A TRANSFEREE OR ASSIGNEE OF DTC OF THIS BOND MAY NOT RELY UPON THE PRINCIPAL AMOUNT INDICATED HEREON AS THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND TO BE PAID. THE PRINCIPAL AMOUNT OUTSTANDING AND TO BE PAID ON THIS BOND SHALL FOR ALL PURPOSES BE THE AMOUNT INDICATED ON THE BOOKS OF THE TRUSTEE.

UNLESS THIS BOND IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF DTC TO THE CORPORATION OR THE TRUSTEE FOR REGISTRATION OR TRANSFER, EXCHANGE OR PAYMENT, AND ANY BOND ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

THIS BOND HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER CHAPTER 11 OF TITLE 7 OF THE GENERAL LAWS OF RHODE ISLAND, 1956, REENACTMENT OF 1999 NOR HAVE THE BONDS BEEN REGISTERED OR QUALIFIED UNDER THE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES AND THE LOAN AND TRUST AGREEMENT HEREINAFTER REFERENCED HAS NOT BEEN QUALIFIED UNDER THE TRUST INDENTURE ACT OF 1939 (THE "1939 ACT") AND MAY NOT BE OFFERED FOR SALE, SOLD, ASSIGNED, TRANSFERRED OR PLEDGED IN ANY JURISDICTION IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933 OR QUALIFICATION UNDER THE 1939 ACT OR OTHERWISE IN ACCORDANCE WITH APPLICABLE LAW SUCH THAT REGISTRATION AND QUALIFICATION IS NOT REQUIRED AND THAT THE OFFERING FOR SALE, SALE, ASSIGNMENT, TRANSFER OR PLEDGE OF THIS BOND WILL NOT VIOLATE ANY SECURITIES LAW OF ANY STATE OF THE UNITED STATES OF AMERICA OR OF THE UNITED STATES OF AMERICA. QUALIFICATION OF THE LOAN AND TRUST AGREEMENT UNDER THE 1939 ACT MAY REQUIRE THE AMENDMENT THEREOF. THE RHODE ISLAND ECONOMIC DEVELOPMENT CORPORATION SHALL NOT BE OBLIGATED TO PAY THE PRINCIPAL, INTEREST OR PREMIUM, IF ANY, DUE UNDER THIS BOND EXCEPT TO THE EXTENT OF CERTAIN ASSETS, FUNDS AND REVENUES PLEDGED THEREFOR UNDER THE LOAN AND TRUST AGREEMENT DATED AS OF NOVEMBER 1, 2010 BY AND AMONG THE CORPORATION (AS HEREINAFTER DEFINED), THE OBLIGOR (AS HEREINAFTER DEFINED) AND THE TRUSTEE (AS HEREINAFTER DEFINED) (THE "AGREEMENT"), AND NEITHER THE FAITH AND CREDIT NOR THE TAXING OR TAKING POWER OF THE STATE OF RHODE ISLAND OR ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO THE REPAYMENT OF ANY AMOUNTS DUE UNDER THIS BOND

(FORM OF REGISTERED BOND)

No. R-

THE RHODE ISLAND ECONOMIC
DEVELOPMENT CORPORATION

JOB CREATION GUARANTY PROGRAM
TAXABLE REVENUE BOND (38 STUDIOS, LLC PROJECT), SERIES 2010

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: Dollars (\$)

CUSIP:

INTEREST RATE:

INTEREST PAYMENT DATES: November 1 and May 1

DATED DATE:

MATURITY DATE:

ORIGINATION DATE OF ISSUANCE:

TERM [SERIAL BOND] BOND MATURING NOVEMBER 1, []

\$

The Rhode Island Economic Development Corporation, a public corporation, governmental agency and public instrumentality of the State of Rhode Island (the "Corporation"), for value received, promises to pay, subject to the limitations hereinafter provided, to _____ or registered assigns, the principal sum of Dollars (\$ _____) together with interest on said principal sum at the rate of _____ percent (%) per annum, such principal sum and interest to be paid as follows; (i) commencing on the first day of May, 2011, an amount consisting of interest only, in arrears, from November 2, 2010 to and including May 1, 2011 and to continue to pay interest only, in arrears, on the first day of November and May thereafter with the final payment of interest only, as aforesaid, due on May 1, 2013 and (ii) thereafter commencing on the first day of November, 2013 and continuing annually on the first day of each November thereafter the payment of principal in accordance with the sinking fund schedule hereinafter set forth and in May and November of each year, to pay sums consisting of interest due hereunder, until the Corporation's obligation with respect to the payment of such sum of principal and interest shall be discharged as provided in the Agreement hereinafter mentioned. This Bond as to principal, interest and Redemption Price (as hereinafter defined) when due, will be payable at the principal office of The Bank of New York Mellon Trust Company, N.A., Providence, Rhode Island (the "Trustee") or its successor as Paying Agent in any coin or currency of the United States of America which on the respective dates of payment thereof, is legal tender for the payment of public and private debts.

This Bond is one of an authorized issue of bonds designated as Job Creation Guaranty Program Taxable Revenue Bonds (38 Studios, LLC Project), Series 2010 (the "Bonds") and issued in the aggregate principal amount of \$75,000,000 for the purpose of financing for 38 Studios, LLC (the "Obligor") (i) the relocation of Obligor's corporate headquarters and principal place of business to the State of Rhode Island (the "State") and for the establishment by the Obligor in the State and operation thereof of a video gaming studio in the City of Providence in the State including, but not limited to the development of assets associated with role playing video gaming and massively multiplayer games, including the development of specific products to be used for such purposes and (ii) funding of the greatest amount of one year's debt service equal to principal and interest on the Bonds maturing during any fiscal year of the Corporation in accordance with the sinking fund schedule included below (the "EDC Project"). This Bond is secured by a Loan and Trust Agreement dated as of November 1, 2010 by and among the Trustee, the Corporation and the Obligor (the "Agreement") as well as the Security and Pledge Agreement from Obligor dated as of November 1, 2010 granting a security interest to the Corporation in various assets of the Obligor as stated therein together with other Security Documents defined in the Agreement. The Bonds are all issued pursuant to and in compliance with the Constitution and laws of the State of Rhode Island, including particularly Chapter 64 of Title 42 of the General Laws of the State of Rhode Island and Providence Plantations as amended, and resolutions adopted June 14, 2010 and July 26, 2010 by the Corporation, and under and pursuant to, and equally and ratably secured by and entitled to the protection of, the Agreement. Reference is hereby made to the Agreement for a description of the property pledged and assigned, the provisions among others, with respect to the nature and extent of the security, the rights, duties and obligations of the Corporation, the Trustee and the registered owner of this Bond and terms upon which the Bonds are issued and secured.

This Bond is transferable, as provided in the Agreement, only upon the books of the Corporation kept for that purpose at the office of the Trustee by the registered owner or his duly authorized attorney upon surrender of this Bond together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered owner or his duly authorized attorney and thereupon a new registered Bond or Bonds, of the same maturity and in the same aggregate principal amount, shall be issued to the transferee in exchange therefor, as provided in the Agreement. The Corporation, the Trustee and any paying agent may deem and treat the person in whose name this Bond is registered or to whom this Bond is transferred as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal, or Redemption Price (being the principal amount of this Bond plus the applicable premium, if any, payable upon redemption of this Bond) of and interest due thereon and for all other purposes. The Bonds are issuable only in denominations of \$100,000.00 and in increments of \$5,000.00 in excess thereof.

As provided in the Agreement, certain additional bonds may be issued for the purpose of refunding in whole or in part the Bonds, as defined in the Agreement, and

such additional bonds are and will be equally and ratably secured by the pledge and covenants made therein. Issuance of additional bonds used to refund the Bonds in whole or in part will not require consent of the holders of two-thirds of the outstanding bonds.

Optional Redemption. The Bonds shall be subject to redemption prior to maturity at the option of the Corporation at any time up to and including November 1, 2020, that the Bonds are Outstanding upon at least forty-five (45) days advance written notice from the Corporation to the Trustee of such redemption in accordance with the provisions of this Agreement (to the maximum extent permitted by applicable law, the Corporation and the Bondholders by written consent may waive or abbreviate the forty-five (45) day notice requirement provided, however, that the thirty (30) day advance notice requirement to Bondholders for redemption shall not be waived or be abbreviated, such Bonds to be selected by the Trustee by lot at any time at the Redemption Price, in each case with Eligible Funds (provided that the portion of the Redemption Price constituting premium need not be Eligible Funds) equal to the greater of:

- (i) the issue price of the Bonds (but not less than 100% of the principal amount) of such Bonds to be redeemed; or
- (ii) the sum of the present value of the remaining scheduled payments of principal and interest to the maturity date of such Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the date on which such Bonds are to be redeemed, discounted to the date on which such Bonds are to be redeemed on a semi-annual basis, assuming 360-day year consisting of twelve 30-day months, at the Treasury Rate plus thirty-five (35) basis points, in each case, accrued interest on such Bonds to be redeemed to the redemption date.

Mandatory Sinking Fund Redemption. The Bonds shall be subject to mandatory sinking fund redemption through sinking fund installments by lot or in any customary manner of selection on November 1 of each year, commencing November 1, 2013 at a redemption price equal to 100% of the principal amount thereof together with accrued interest to the redemption date thereof in the principal amounts shown below:

<u>Year</u>	<u>Amount</u>
2013	\$ 7,440,000
2014	\$ 7,885,000
2015*	\$ 8,360,000
2017	\$ 9,455,000
2018	\$10,190,000
2019	\$10,980,000

2020**

\$11,830,000

* Maturity —

** Final Maturity

(A 2016 Serial Bond matures and is payable in 2016 in the amount of \$8,860,000).

Extraordinary Redemption. The 2010 Series Bonds are subject to mandatory redemption at the option of the Corporation, in part, to the extent of any proceeds of the 2010 Series Bonds remaining on deposit and unexpended in the Project Fund after the elapse of thirty-six (36) months following the Date of Issuance of the 2010 Series Bonds. The foregoing redemption must take place within ninety (90) days of the elapse of the foregoing thirty-six (36) month period. The 2010 Series A Bonds to be redeemed shall be selected by lot in the customary manner and shall be redeemed at a redemption price equal to the principal amount of the 2010 Series Bonds to be redeemed plus accrued interest thereon to the redemption date.

In the event any Bond is called for redemption as aforesaid, notice thereof identifying by number and amount of the Bonds to be redeemed will be given by the Trustee by mailing a copy of the redemption notice by registered or certified mail at least thirty (30) days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books. Notice having been given in the manner provided in the Agreement, the Series 2010 Bonds or portions thereof called for redemption shall become due and payable on the redemption date so designated at the Redemption Price plus accrued and unpaid interest to the redemption date, upon presentation and surrender of such Series 2010 A Bonds (other than a Book Entry bond) to the Trustee at its Providence, Rhode Island corporate trust office. If on the redemption date moneys for the redemption of Series 2010 A Bonds of like maturity to be redeemed, together with interest thereon to the redemption date, shall be held by the Trustee and Paying Agent so as to be available for payment of the Redemption Price on such date, and if notice of redemption shall have been mailed as aforesaid, then interest on the Series 2010 A Bonds or portions thereof so called for redemption shall cease to accrue from and after the redemption date and such Series 2010 A Bond shall no longer be considered to be Outstanding under the Agreement. Failure to give any such notice by mailing, or any defect therein, shall not affect the validity of any proceeding for the redemption of Bonds in which published notice has been given in accordance with the Agreement or of any proceeding for the redemption

of any Bond with respect to which no such failure has occurred. All Bonds so called for redemption will cease to bear interest after the specified redemption date provided funds for their redemption are on deposit at the place of payment at that time. So long as this Bond is held pursuant to the Book-Entry-Only System of the Depository Trust Company ("DTC"), this Bond shall, in any event, also be subject to the rules of the DTC with respect to notice and redemption.

This Bond is issued pursuant to and in full compliance with the Constitution and laws of the State of Rhode Island. This Bond is a special obligation of the Corporation, payable solely out of the revenues or other receipts, funds or moneys of the Corporation pledged under the Agreement for its payment and except as provided for therein, the Corporation shall not otherwise have any of its other assets, monies or revenues subjected to any pecuniary charge for the repayment of this Bond.

Neither the State of Rhode Island nor any municipality thereof shall be obligated to pay the principal of the Bonds, the premium, if any, the Redemption Price or the interest thereon. Neither the faith and credit nor the taxing or taxing power of the State of Rhode Island, any political subdivision thereof or any municipality thereof, is pledged to the payment of the principal of the Bonds, the premium, if any, the Redemption Price or the interest thereon. The Bonds do not now and shall never constitute a debt or liability of the State of Rhode Island or any municipality thereof or bonds issued or guaranteed by them within the meaning of any constitutional or statutory limitation.

Pursuant to the Agreement, the rights of the Corporation under the Agreement to receive certain Loan payments have been assigned to the Trustee to secure the payment of principal, premium, if any, the Redemption Price and interest on the Bonds, under the Agreement. No guarantee is made by the Corporation or any other party that the Corporation's rights to receive certain Loan payments provided by the Agreement and pledged under the Agreement will be sufficient to make all payments due under the Bonds.

The holder of this Bond shall have no rights to enforce the provisions of the Agreement or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Agreement, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Agreement. In certain events, on the conditions, in the manner and with the effect set forth in the Agreement, the principal of all Bonds issued thereunder and then outstanding, and Redemption Price together with interest accrued thereon, may become or may be declared due and payable before the stated maturity thereof.

The Agreement permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Corporation

and the rights of the holders of the Bonds at any time by the Corporation with the consent of the holders of not less than two-thirds in aggregate principal amount of the Bonds at the time Outstanding, as defined in the Agreement. Any such consent or waiver by the holder of this Bond shall be conclusive and binding upon such holder and upon all future holders of this Bond and of any Bond issued upon the transfer or exchange of this Bond whether or not notation of such consent or waiver is made upon this Bond or any Bond issued upon the transfer or exchange of this Bond. The Agreement also contains provisions permitting the Trustee to waive certain past defaults under the Agreement and their consequences.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Agreement and the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law.

Neither the members nor officers of the Corporation nor the State of Rhode Island nor any person executing this Bond shall be liable personally or be subject to any personal liability or accountability by reason of the issuance hereof.

The Bonds are special obligations of the Corporation payable from amounts in funds created under the Agreement. Other than Loan Payments and amounts provided by the Obligor under the Agreement, the Bonds are solely payable from amounts in the Capital Reserve Fund, as defined in the Agreement, to make such payments. The Capital Reserve Fund is, pursuant to the Agreement, initially funded with certain proceeds from the sale of the Bonds in an amount equal to the Minimum Capital Reserve Fund Requirement, as defined in the Agreement. Thereafter, the Capital Reserve Fund may, pursuant to the Agreement, be funded with amounts appropriated by the Rhode Island General Assembly (the "Assembly") subject to its discretion. The Assembly will not be obligated to make appropriation for these funds. So long as Obligor is not in default of its obligations under the Agreement, its rights thereunder will not be affected by a failure to pay any amounts due hereunder by the Corporation.

Assured Guaranty Municipal Corp. (formerly known as Financial Security Assurance Inc.) ("AGM"), New York, New York, has delivered its municipal bond insurance policy (the "Policy") with respect to the scheduled payments due of principal of and interest on this Bond to The Bank of New York Mellon Trust Company, N.A., One Financial Plaza, Suite 1435, Providence, Rhode Island, or its successor, as paying agent for the Bonds (the "Paying Agent"). Said Policy is on file and available for inspection at the principal office of the Paying Agent and a copy thereof may be obtained from AGM or the Paying Agent. All payments required to be made under the Policy shall be made in accordance with the provisions thereof. The owner of this Bond acknowledges and consents to the subrogation rights of AGM as more fully set forth in the Policy.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Agreement until the certificate of authentication hereon shall have been signed by the Trustee.

THIS BOND HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, OR UNDER CHAPTER 11 OF TITLE 7 OF THE GENERAL LAWS OF RHODE ISLAND, 1956, REENACTMENT OF 1999 AND MAY NOT BE OFFERED FOR SALE, SOLD, ASSIGNED, TRANSFERRED OR PLEDGED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933 OR OTHERWISE IN ACCORDANCE WITH APPLICABLE LAW SUCH THAT REGISTRATION IS NOT REQUIRED AND THAT THE OFFERING FOR SALE, THE SALE, ASSIGNMENT, TRANSFER OR PLEDGE OF THIS BOND WILL NOT VIOLATE ANY SECURITIES LAW OF ANY STATE OF THE UNITED STATES OF AMERICA OR OF THE UNITED STATES OF AMERICA.

IN WITNESS WHEREOF, the Rhode Island Economic Development Corporation has caused this Bond to be executed in its name by the manual or facsimile signature of its Executive Director and its corporate seal or a facsimile thereof to be hereunto impressed or imprinted hereon and attested by the manual or facsimile signature of its Secretary, all as of the 2nd day of November, 2010.

RHODE ISLAND ECONOMIC
DEVELOPMENT CORPORATION

By _____
Executive Director

ATTEST:

Secretary

(SEAL)

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds of the issue described in the within mentioned Agreement.

The Bank of New York Mellon Trust
Company, N.A., as
Trustee

By _____
Authorized Officer

ASSIGNMENT

FOR VALUED RECEIVED the undersigned sells, assigns and transfers unto _____ the within Bond of RHODE ISLAND ECONOMIC DEVELOPMENT CORPORATION, and does hereby irrevocably constitute and appoint _____ Attorney to transfer the said Bond on the books of the within-named Corporation with full power of substitution in the premises.

Dated:

Note: Signature must correspond with
the name as written on the face of the
Bond without alteration, enlargement or
change.

Signature Guaranteed:

Participant in a recognized
guarantee Medallion Program
(or other signature guarantor
acceptable to the Trustee)

WHEREAS, all things necessary to make the Bonds, when authenticated by the Trustee and issued as in this Agreement provided, the valid, binding and legal obligations of the Corporation according to the import thereof, and to constitute this Agreement a valid assignment and pledge of the amounts pledged to the payment of the principal of, Redemption Price and interest on the Bonds and a valid assignment of the rights of the Corporation to receive payments under this Agreement, have been done and performed, and the creation, execution and delivery of this Agreement, and the creation, execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized.

NOW, THEREFORE, THIS LOAN AND TRUST AGREEMENT WITNESSETH:

GRANTING CLAUSES

That the Corporation in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Bonds by the holders and owners thereof, and of the sum of One Dollar, lawful money of the United States of America, to it duly paid by the Trustee at or before the execution and delivery of these presents, and for other good and valuable consideration, the receipt of which is hereby acknowledged, and in order to secure the payment of the principal of, Redemption Price and interest on the Bonds according to their tenor and effect and the performance and observance by the Corporation of all of the covenants expressed or implied herein and in the Bonds, does hereby grant, bargain, sell, pledge and assign unto, and grant a security interest to The Bank of New York Mellon Trust Company, N.A., of Providence, Rhode Island, as Trustee, and unto its respective successors in trust, and to their respective assigns, forever, for the securing of the performance of the obligations of the Corporation hereinafter set forth, the following:

GRANTING CLAUSE FIRST

The right of the Corporation to receive Loan Payments under this Agreement and amounts pertaining to Trustee, Paying Agent and Bond Registrar fees and expenses under Section 8.04 of this Agreement and, after and during the continuation of any default under this Agreement, to bring actions and proceedings thereunder to collect Loan Payments or for the enforcement of the Corporation's right to receive payments in respect of the Loan Payments, and to do any and all things which the Corporation is or may become entitled to do under this Agreement with respect to the foregoing, including the exercise of those rights and remedies set forth in the Security Documents between the Corporation and the Obligor, as same may be amended after the date hereof, the right to receive proceeds from the disposition of property realized under the Security Documents and the rights of the Corporation to Gross Receipts.

GRANTING CLAUSE SECOND

All funds, moneys and securities from time to time held by the Trustee under the terms of this Agreement and any and all other real or personal property of every name and nature from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred as and for additional security hereunder by the Corporation or by the Obligor or by anyone in their behalf, or with their written consent to Trustee which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

GRANTING CLAUSE THIRD

All rights of the Corporation to payments under this Agreement with respect to all amounts under Section 8.04 of this Agreement to the extent and only to the extent related to Trustee, Paying Agent and Bond Registrar fees and expenses.

GRANTING CLAUSE FOURTH

All rights of the Corporation with respect to property and amounts received under and pursuant to the Security Documents.

The property and interests specified in Granting Clauses First through Fourth is hereinafter referred to as the "Trust Estate".

TO HAVE AND TO HOLD all and singular such Trust Estate, whether now owned or hereafter acquired, unto Trustee and its respective successors in said Trust and assigns forever to its and their only proper use and behoof but:

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of all present and future holders and owners of the Bonds, from time to time, issued and to be issued under and secured by this Agreement without privilege, priority or distinction as to the lien or otherwise of any of the Bonds over any of the other Bonds except as set forth herein;

PROVIDED, HOWEVER, that if the Corporation, its successors or assigns, shall well and truly pay, or cause to be paid, the principal of, Redemption Price, and interest on, the Bonds due or to become due thereon, at the times and in the manner mentioned in the Bonds according to the true intent and meaning thereof, and shall cause the payments to be made on the Bonds as required under Article V hereof, or shall provide, as permitted hereby, for the payment thereof by depositing with the Trustee the entire amount due or to become due thereon, and shall well and truly keep, perform and observe all of the covenants and conditions pursuant to the terms of this Agreement to be kept, performed and observed by it, and shall pay or cause to be paid to the Trustee all amounts due or to become due to it in accordance with the terms and provisions hereof, then upon the final payment or deposit with the Trustee as aforesaid

thereof this Agreement and the rights hereby granted shall cease, determine and be void; otherwise this Agreement to be and remain in full force and effect.

THIS AGREEMENT FURTHER WITNESSETH, and it is expressly declared that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and all said property, rights and interests, including, without limitation, the rentals and other amounts hereby assigned and pledged are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Corporation has agreed and covenanted, and does hereby agree and covenant with the Trustee and with the respective holders and owners of the Bonds as follows:

ARTICLE I

DEFINITIONS AND CONSTRUCTION

SECTION 1.01 Definitions and Construction (1.) For the purposes of this Agreement, except as such words may otherwise be defined herein, all words and phrases defined in this Agreement shall have the respective meanings and be construed herein and, in addition, the following words and phrases shall have the following meanings:

2010 Series Bonds:

"2010 Series Bonds" means the Bonds issued pursuant to the authority of Section 2.02 of this Agreement.

Account Receivable:

"Account Receivable" means and includes any and all accounts, contract rights, notes, drafts, acceptances and all forms of obligations or receivables now or hereafter owed or belonging to Obligor for inventory or other goods sold by it or for services rendered by it in the ordinary course of business of Obligor, all guarantees or other security therefor, all right, title and interest of Obligor in the inventory or other goods which gave rise thereto, including, but not limited to, the right of stoppage in transit, and all rights of Obligor earned or yet to be earned under contracts to sell inventory or other goods or render services, and all proceeds thereof.

Additional Bonds:

"Additional Bonds" shall mean one or more series of Additional Bonds, other than the 2010 Series Bonds, authorized and issued pursuant to this Agreement.

Affiliates:

"Affiliates" means singly and collectively any Person that directly or indirectly, through one or more intermediaries, controls is controlled by, or is under common Control with another Person.

Agreement:

"Agreement" shall mean this Agreement as from time to time amended or supplemented by Supplemental Agreements in accordance with Article IX hereof.

Annual Appropriation Amount:

"Annual Appropriation Amount" shall mean, as of any particular date of computation, an amount of money, equal to the greatest of the respective amounts, for the current or any future fiscal year of the Corporation, of annual debt service on the Bonds, such annual debt service for any fiscal year of the Corporation being the amount of money equal to the sum of (i) the interest due and payable during such fiscal year on all the Bonds outstanding on the date of computation, plus (ii) the principal amount of all such Bonds outstanding on said date of computation that is due or matures or is subject to mandatory sinking fund payments (in accordance with the amortization schedule attached to the Bonds) during such fiscal year.

Annual Guaranty Fee:

"Annual Guaranty Fee" shall mean the Annual Guaranty Fee as defined in Section 2.06A(b)(ii) hereof.

Applicable Laws:

"Applicable Laws" means all present and future statutes, rules and regulations promulgated under statutes and interpretation of statutes, rules, regulations, decisions, decrees, policies, ordinances, directives, instructions, notices and orders of any Governmental Authority having jurisdiction over Obligor or the Corporation, its or their business or its or their properties.

Authorized Representative:

"Authorized Representative" or "Authorized Officer" shall mean (a) in the case of the Corporation, the Chairman, Vice-Chairman, Executive Director or Secretary of the Corporation, or any officer or employee of the Corporation authorized to perform specific acts or duties by resolution duly adopted by the members of the Corporation, and (b) in the case of the Obligor, its President/Chief Executive Officer or Secretary or Treasurer and any other person duly authorized by its Board of Directors to act as an authorized representative for the purposes of this Agreement.

Bond:

"Bond" or "Bonds" shall mean any bond or bonds, as the case may be, issued, authenticated and delivered pursuant to this Agreement, which consists of the 2010 Series Bonds and any Additional Bonds.

Bond Registrar:

"Bond Registrar" shall mean The Bank of New York Mellon Trust Company, N. A.

Bondholder:

"Bondholder", "Holder of Bonds" or "Holder" shall mean the registered owner of any registered Bond.

Borrowed Money:

"Borrowed Money" means any obligation to repay money, including but not limited to any indebtedness evidenced by promissory notes, bonds, debentures, guaranties or similar obligations, the Loans and any indebtedness under any obligation under a conditional sale or other title retention agreement, the net aggregate rentals under any Capitalized Lease Obligation or any lease that is the substantial equivalent of the financing of the property so leased and any reimbursement obligation for any standby letter of credit.

Capital Reserve Fund:

"Capital Reserve Fund" shall mean the trust fund created and established as the Rhode Island Economic Development Corporation, 38 Studios, LLC Project Capital Reserve Fund by Section 5.04 hereof.

Capitalized Interest Amount:

"Capitalized Interest Amount" is a dollar amount equal to the amount required to pay those interest payments due on the 2010 Series Bonds for the interest payments commencing May 1, 2011 through November 1, 2012. The Capital Interest Amount is equal to Ten Million Six Hundred Four Thousand Seventy-six and 63/100 Dollars (\$10,604,076.63).

Capitalized Lease Obligation:

"Capitalized Lease Obligation" means all lease obligations that have been or should be, in accordance with GAAP, capitalized on the books of the lessee.

Cash Equivalent Investments:

"Cash Equivalent Investments" shall mean any investment in (i) direct obligations of the United States or any agency, authority or instrumentality thereof, or obligations guaranteed by the United States or any agency, authority or instrumentality thereof, whether or not supported by the full faith and credit of, a right to borrow from or the ability to be purchased by the United States; (ii) commercial paper rated in the highest grade by a nationally recognized statistical rating agency or which, if not rated, is issued or guaranteed by an issuer with outstanding long-term debt rated A or better by any nationally recognized statistical rating agency; (iii) demand and time deposits with, and certificates of deposit and bankers acceptances issued by, any office of the Trustee or any other bank or trust company which is organized under the laws of the United States or any state thereof and has capital, surplus and undivided profits aggregating at least \$500,000,000, the outstanding long-term debt of which or of the holding company of which it is a subsidiary is rated A or better by any nationally recognized statistical rating agency; (iv) any short-term note which has a rating of SP-2 or better by Standard & Poor's Rating Agency; (v) any municipal bond or other governmental obligation (including without limitation any industrial revenue bond or project note) which is rated A or better by Standard & Poor's Rating Agency; (vi) any other obligation of any issuer, the outstanding long-term debt of which is rated A or better by Standard & Poor's Rating Agency; (vii) any repurchase agreement with any financial institution described in clause (iii) above, relating to any of the foregoing instruments and fully collateralized by such instruments; and (viii) any money market mutual funds having a rating in the highest investment category granted by Standard & Poor's Rating Agency or Moody's Investor Service.

Code:

"Code" means the United States Internal Revenue Code and applicable regulations promulgated thereunder, as amended from time to time.

Collateral:

"Collateral" means the Trust Estate and the Gross Proceeds and proceeds thereof.

Commitment Fee:

"Commitment Fee" means the Commitment Fee specified as such in Section 2.06A(b)(ii) hereof.

Commonly Controlled Entity:

"Commonly Controlled Entity" means a Person, whether or not incorporated, that is under common control with Obligor within the meaning of Section 414(b) or (c) of the Code.

Control:

"Control" including the terms "controlling", "controlled by" and "under common control with" means the possession, directly or indirectly of the power to vote ten percent (10%) or more of the Equity Interests having ordinary voting power for the election of directors or other managers of the Person in question or cause the direction of the management and policies, whether through ownership of Equity Interests, by contract or otherwise.

Corporation:

"Corporation" shall mean the Rhode Island Economic Development Corporation, a public corporation, governmental agency and public instrumentality of the State of Rhode Island duly organized and existing under the laws of the State of Rhode Island, and any body, board, corporation, agency or other political subdivision or instrumentality of the State which shall hereafter succeed to the powers, duties, and functions thereof.

Costs of Issuance:

"Costs of Issuance" shall mean financial, legal, bond counsel, accounting, rating agency and printing fees, bond insurance premiums, charges and expenses, including legal and placement agent fees with respect to the 2010 Series Bonds, and all other such fees, charges and expenses approved by the Corporation, and incurred in connection with the authorization, sale, issuance and delivery of the Bonds, including, without limitation, the fees and expenses of the Corporation (including reasonable legal fees), the Trustee and the Paying Agent properly incurred under this Agreement that may become due and payable during the period of existence of the EDC Project.

Date of Issuance of Bonds:

"Date of Issuance of Bonds" means November 2, 2010.

Deferred Fee:

"Deferred Fee" means the Deferred Fee specified as such in Section 2.06A(b)(iv) hereof.

EDC Project:

"EDC Project" means (i) the relocation of the Obligor's corporate headquarters and primary place of business to the State and (ii) for the establishment by Obligor in the State and the operation thereof of a video gaming studio in the City of Providence in the State including, but not limited to, costs and expenses related to the development of assets, associated with role playing video gaming and massively multiplayer games, including the development of specific products for such purposes.

EDC Project Costs:

"EDC Project Costs" means the costs and expenses of the EDC Project including, but not limited to, Costs of Issuance.

Eligible Funds:

"Eligible Funds" means the moneys which are (a) continuously on deposit with the Trustee in trust for the benefit of the Bondholders in a separate and segregated account in which only Eligible Funds are held and (b) (i) proceeds of the Bonds received contemporaneously with the issuance of the Bonds, or (ii) payments made by the Corporation, or received by the Trustee pursuant to this Agreement (including payments in respect of the Loan) if at the time of deposit of such payments and for a period of at least 91 days thereafter no Event of Bankruptcy shall have occurred with respect to the Corporation or the Obligor unless such Event of Bankruptcy shall have been dismissed and such dismissal shall be final and not subject to appeal, or (iii) income derived from the investment of the foregoing; provided that such proceeds shall not be deemed to be Eligible Funds if an injunction, restraining order, stay or similar court action is in effect preventing the payment of such proceeds to the Bondholders. The Trustee shall maintain records of Eligible Funds held by it.

Equity Interests:

"Equity Interests" means the capital stock, partnership interests, membership interests or other applicable equity interests of a Person.

Event of Bankruptcy:

"Event of Bankruptcy" means the filing of a petition in bankruptcy under the United States Bankruptcy Code or any other commencement of a proceeding under any other applicable law as now or hereafter in effect, State or any other state or federal or receivership law concerning the insolvency, reorganization or bankruptcy by the Obligor or the Corporation as debtor or against the Obligor or the Corporation as debtor; provided, however, that an Event of Bankruptcy with respect to the Obligor shall only occur after the passage of sixty (60) days without the discharge or dismissal of the proceedings commencing the Event of Bankruptcy.

Event of Default:

"Event of Default" means an event of default as defined in Section 7.01 hereof.

Excess Equity Balance Available for Dividend or Distribution to Equity Holders:

"Excess Equity Balance Available for Dividend or Distribution to Equity Holders" means as defined in Section 6.02A(p).

Excess Operating Income:

"Excess Operating Income" means Excess Operating Income as defined in Section 2.06A(b)(iv) hereof.

Full Time Jobs:

"Full Time Jobs" means "Full Time Jobs with benefits" as defined in Rhode Island General Laws 42-64-20(d)(2).

GAAP:

"GAAP" means generally accepted accounting principles, consistently applied, in effect from time to time in the United States of America.

Government Obligations:

"Government Obligations" means obligations issued or obligations the principal of, and interest on which are fully guaranteed by the United States and which are permitted as investments under Section 5.06(a.) hereof.

Governmental Approvals:

"Governmental Approvals" shall mean all required Federal, State and local development permits and approvals, and other permits and approvals necessary for development of the Project.

Governmental Authorities:

"Governmental Authorities" means the United States of America, the State, the City of Providence, Rhode Island and any political subdivision of any thereof, and any agency, department, commission, board, court or instrumentality of any thereof.

Governmental Requirements:

"Governmental Requirements" means any and all present and future laws, rules, regulations, orders, ordinances, statutes, codes, executive orders and requirements of all Governmental Authorities applicable to the Project.

Gross Receipts:

"Gross Receipts" means all receipts, revenues, income and other moneys received by or on behalf of Obligor, including, but without limiting the generality of the foregoing, revenues derived from operations by the Obligor and from all other projects of the Obligor and all rights to receive the same whether in the form of accounts, accounts receivable, payment intangibles, contract rights or other rights, and the proceeds of such rights, whether now existing or hereafter coming into existence and whether now owned or held or hereafter acquired by the Obligor.

Guarantor:

"Guarantor" means jointly and severally, 38 Studios Baltimore, LLC a Delaware limited liability company, Mercury Project, LLC, a Delaware limited liability company and any other Subsidiary or Affiliates of Obligor existing as of the date hereof.

Indebtedness:

"Indebtedness" means, for any Person, without duplication, (i) all indebtedness or other obligations of said Person for Borrowed Money or for the deferred purchase price of property or services, (ii) all indebtedness or other obligations of any other Person ("Other Person") for Borrowed Money or for the deferred purchase price of property or services, the payment or collection of which said Person has guaranteed (except by reason of endorsement of negotiable instruments for collection in the ordinary course of business) or in respect of which said Person is liable, contingently or otherwise, including without limitation, liable by way of agreement to purchase or lease, to provide funds for payment, to supply funds to purchase, sell or lease property or services primarily to assure a creditor of such Other Person against loss or otherwise to invest in or make a loan to the Other Person, or otherwise to assure a creditor of such Other Person against loss, (iii) all indebtedness or other obligations of any Person for Borrowed Money or for the deferred purchase price of property or services secured by (or for which the holder of such indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien upon or in any property owned by said Person, whether or not said Person has assumed or become liable for the payment of such indebtedness or obligations, (iv) Capitalized Lease Obligations of said Person and (v) all other liabilities or obligations of said Person which would, in accordance with GAAP, be classified as liabilities of such a Person including, but not limited to, trade payables incurred in the ordinary course of business.

Insurance Policy:

"Insurance Policy" means the municipal bond insurance policy issued by the Insurer guaranteeing the scheduled payment of principle of and interest on the Bonds when due.

Insurer:

"Insurer" means Assured Guaranty Municipal Corp. (formerly known as Financial Security Assurance, Inc.), a New York stock insurance company, or any successor thereto or assignee thereof.

Intangible Property:

"Intangible Property" means all Permits, trademarks, trade names, patents, technical and trade secrets, copyrights and trade names, and other intangible property owned or possessed by Obligor on the date of this Agreement or in the future.

Interest Payment Date:

"Interest Payment Date" shall mean May 1 and November 1 of each year that the Bonds or any portion thereof are Outstanding.

Job Creation Guaranty Program Act:

"Job Creation Guaranty Program Act" shall have the meaning given it in the seventh "WHEREAS" paragraph of the preamble of this Agreement.

Lien:

"Lien" means any, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other) or other security agreement or arrangement of any kind or nature whatsoever amounting, in substance, to a lien (including without limitation any conditional sale or other title retention agreement and any Capitalized Lease Obligation having substantially the same economic effect as any of the foregoing) or the filing of any financing statement under the applicable Uniform Commercial Code or comparable law of any jurisdiction in respect of any of the foregoing.

Loan:

"Loan" means the Loan as defined in Section 2.01A hereof.

Loan Payments:

"Loan Payments" means any and all payments received with respect to or due in connection with the Loan.

Minimum Capital Reserve Fund Requirement:

"Minimum Capital Reserve Fund Requirement" shall mean, as of any particular date of computation, an amount of money, equal to the greatest of the respective amounts, for the current or any future fiscal year of the Corporation, of annual debt service on the Bonds, such annual debt service for any fiscal year of the Corporation being the amount of money equal to the sum of (i) the interest payable during such fiscal year on all the Bonds outstanding on the date of computation, plus (ii) the principal amount of all such Bonds outstanding on said date of computation that mature or are subject to mandatory sinking fund payments (in accordance with an amortization schedule attached to the Bonds) during such fiscal year. The Minimum Capital Reserve Fund Requirement is equal to Twelve Million Seven Hundred Forty-Nine Thousand Nine Hundred Twelve and 50/100 Dollars (\$12,749,912.50).

Minimum Equity Requirement:

"Minimum Equity Requirement" means the "Minimum Equity Requirement" as defined in Section 6.02A(p).

Multiemployer Plan:

"Multi-employer Plan" means a multiemployer plan as defined in Title IV of ERISA.

Obligor:

"Obligor" shall mean 38 Studios, LLC, a limited liability company organized under the laws of Delaware authorized to do business in the State, and its successors and assigns.

Obligor Default:

"Obligor Default" shall have the meaning assigned to it in Section 7.13 of this Agreement.

Outstanding:

"Outstanding", when used with reference to a Bond or Bonds, as of any particular date, shall mean all Bonds which have been authenticated and delivered hereunder, excluding: (i) Bonds which have been exchanged or replaced, or delivered

to the Paying Agent for credit against a principal payment; (ii) Bonds cancelled by the Trustee because of payment or redemption at or prior to maturity; (iii) Bonds which have become due and for the payment of which moneys have been duly provided; and (iv) Bonds for which there have been irrevocably set aside sufficient funds, or Government Obligations or Cash Equivalent Investments bearing interest at such rates and with such maturities as will provide sufficient funds without reinvestment, to pay the principal of, Redemption Price, if any, and interest rate on such Bonds; provided however, that if any such Bonds are to be redeemed prior to maturity, all action necessary to redeem such Bonds shall have been taken and notice of such redemption shall have been duly mailed in accordance with this Agreement or irrevocable instructions so to mail shall have been given to the Trustee; and provided further, however, that no Bond shall cease to be Outstanding pursuant to clause (iv) hereof unless such funds or funds invested in obligations shall constitute Eligible Funds.

Paying Agent:

"Paying Agent" shall mean any paying agent for the Bonds (and may include the Trustee, as hereinafter defined), and its successor or successors and any other corporation which may at any time be substituted in its place in accordance herewith.

PBGC:

"PBGC" means the Pension Benefit Guarantee Corporation established pursuant to subtitle A of Title 4 of ERISA.

Permits:

"Permits" means any and all permits, licenses, registrations and approvals material to carrying out Obligor's or any Subsidiary's businesses as presently or hereafter conducted and as required by Applicable Law of any Governmental Authority having jurisdiction over Obligor or any Subsidiary.

Person:

"Person" means any person or entity including, but not limited to, any individual, corporation, partnership, limited liability company, joint venture, trust, trustee (in such capacity) or unincorporated organization, or a government or any agency or political subdivision thereof.

Plan:

"Plan" means an employee benefit plan or other plan maintained for employees of Obligor or any Commonly Controlled Entity and covered by Title IV of ERISA.

Program Account:

"Program Account" shall mean that Account defined as such in Section 5.04(b) hereof.

Project Copernicus:

"Project Copernicus" means a massively multiplayer on-line video game (commonly referred to as an "MMO" or an "MMOG") currently being developed by the Obligor.

Project Fund:

"Project Fund" shall mean the trust fund created and established by Section 4.04 hereof.

Record Date:

"Record Date" shall mean the date which is fifteen (15) days prior to any date on which any interest payment is due on the Bonds if such day is a day on which the Trustee is open to conduct its business or, if not, then the next such business day.

Redemption Price:

"Redemption Price" shall mean, with respect to any Bond, the unpaid principal amount thereof plus the applicable premium, if any, calculated pursuant to Section 2.02(c) hereof, payable upon redemption thereof pursuant to such Bond or this Agreement.

Reportable Event:

"Reportable Event" shall have the meaning assigned to that term in Title IV of ERISA.

Security Documents:

"Security Documents" means (i) a Security and Pledge Agreement of even date herewith by and between Obligor and the Corporation granting security interest in all assets of Obligor, tangible and intangible; (ii) a Continuing and Unconditional Guaranty of 38 Studios Baltimore, LLC of even date secured by a Guaranty Security and Pledge Agreement of even date granting a security interest in all assets of 38 Studios Baltimore, LLC to secure the Guaranty; (iii) a Continuing and Unconditional Guaranty of Mercury Project, LLC secured by a Guaranty Security and Pledge Agreement of even date herewith by and between Mercury Project, LLC and the Corporation; (iv) an Assignment of Guaranties and Security Agreements executed by the Corporation in

favor of the Trustee and (v) those Patent Security Agreements and Copyright Mortgages referenced in the foregoing documents and all documents, instruments, licenses, UCC-1 Financing Agreements and other papers, documents and instruments executed and delivered in connection with the foregoing or to secure repayment of the Loan and payment of the Loan Payments.

Single Employer Plan:

"Single Employer Plan" means any Plan that is not a Multiemployer Plan.

Sinking Fund:

"Sinking Fund" shall mean the trust fund created and established by Section 5.01 hereof.

State:

"State" shall mean the State of Rhode Island and Providence Plantations.

Subsidiary(ies):

"Subsidiary(ies)" means any Person, if any, of which more than fifty percent (50%) of the outstanding Equity Interests having ordinary voting power to elect a majority of the board of directors or other managers of such Person (irrespective of whether or not at the time Equity Interests of any other class or classes of such Person shall or might have voting power upon the occurrence of any contingency) is at the time directly or indirectly owned by Obligor or its Equity Owners or by Obligor, its Equity Owners and/or one or more Subsidiaries or the management of which Person is under control of Obligor, its Equity Owners and/or any other Subsidiary, directly or indirectly through one or more other Persons.

Supplemental Agreement:

"Supplemental Agreement" shall mean any agreement supplemental hereto or amendatory hereof, adopted by the Corporation in accordance with Article IX.

Treasury Rate:

"Treasury Rate" means, with respect to any redemption date for a particular Bond, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity (as compiled and published in the Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two (2) Business Days, but not more than forty-five (45) calendar days, prior to the redemption date (excluding inflation indexed securities) (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to

the period from the redemption date to the maturity date of the Bonds to be redeemed, provided, however, that if the period from the redemption date to such maturity date is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used.

Trust Estate:

"Trust Estate" shall mean the Trust Estate as defined in the sentence following Granting Clause Fourth hereof.

Trustee:

"Trustee" shall mean The Bank of New York Mellon Trust Company, N.A., and its successor or successors hereafter appointed in the manner provided in the Agreement.

In this Agreement, unless the context otherwise requires:

- (a) The terms "hereby", "hereof", "hereto", "herein", "thereunder" and any similar terms refer to this Agreement; the term "hereafter" shall mean after the date of this Agreement, and the term "heretofore" shall mean before the date of this Agreement.
- (b) Words of the masculine gender shall mean and include correlative words of the female and neuter gender and words importing the singular number shall mean and include the plural number and vice versa.
- (c) Words importing persons shall include firms, limited liability companies, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons.
- (d) Any headings preceding the texts of the several Articles and Sections of this Agreement and any table of contents or marginal notes appended to copies hereof shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.
- (e) All approvals, consents and acceptances required to be given or made by any person or party hereto shall not be withheld unreasonably.
- (f) All notices to be given hereunder shall be given in writing within the time periods prescribed for herein or otherwise within a reasonable time, and, except for default under sub-paragraph (a) or (b) of paragraph (1) of Section 7.01 hereof, no event or failure to comply with any provision hereof shall be deemed to be or shall constitute an event of default unless reasonable notice of the existence of such event or failure shall have been given to the Corporation and reasonable opportunity to cure such default or failure shall have been given.

ARTICLE II A

LOAN OF BOND PROCEEDS; THE ASSIGNMENT, PLEDGE AND GRANT OF SECURITY INTERESTS

SECTION 2.01A **Loan of Bond Proceeds.** The Issuer shall issue the Bonds pursuant to the Act and the Job Creation Guaranty Program Act in the amount, in the form and with the terms provided herein, and shall loan to the Obligor such amounts to finance the EDC Project as hereinafter provided (the "Loan"). The Obligor agrees to repay the Loan in the amounts and at the times necessary to pay principal of, premium, if any, and interest on the Bonds by making the payments required under Section 2.06A hereof.

SECTION 2.02A **Assignment and Pledge of the Issuer.** The Issuer, for consideration paid as hereinabove acknowledged, hereby irrevocably assigns and pledges to the Trustee in trust for the security of the Bondholders upon the terms hereof all the Issuer's right, title and interest (i) in respect of the Loan and all payments thereon, (ii) in all moneys and securities held by the Trustee for deposit in, or deposited in, the Project Fund, the Sinking Fund, the Capitalized Interest Fund and the Capital Reserve Fund and investment earnings thereon, (iii) the Trust Estate, and (iv) in any collateral security for, and all proceeds of, any of the foregoing. The Trustee shall hold (1) all the rights, title and interest received under this section and (2) all revenues exclusive of funds to which the Trustee is entitled in its own right as fees, reimbursement, indemnity or otherwise received from the Obligor or derived from the exercise of the Issuer's powers hereunder (which shall include all payments under Subsection 2.06A(a) in trust for the security of the Bondholders in accordance with the provisions hereof).

SECTION 2.03A **Further Assurances.** The Issuer shall from time to time execute and Obligor and the Trustee shall from time to time execute, deliver and record and file such instruments as the Trustee may reasonably require to confirm, perfect or maintain the security created hereby and the assignment and pledge of rights hereunder.

SECTION 2.04A **Pledge of Gross Receipts. Grant of Security Interest and Security Agreement.** As security for the payments to be made hereunder, the Obligor is hereby pledging and granting a security interest in the Trust Estate and in all Gross Receipts to the Issuer and the Trustee. The Obligor does hereby agree that the security interest granted by it to the Issuer may be and hereby is assigned by the Issuer to the Trustee. It is the intention of the parties hereto that this instrument shall constitute a security agreement within the meaning of the UCC and with respect to the Trust Estate and the Gross Receipts and proceeds thereof (the "Collateral"), and that a

security interest shall attach thereto for the benefit of the Trustee to secure the obligations secured hereunder, and all other sums and charges which may become due hereunder or thereunder. The Obligor hereby authorizes the Issuer or the Trustee to file financing and continuation statements with respect to the Collateral without the signature of the Obligor whenever lawful. Absent a default by the Obligor with respect to the covenants in this Agreement or the existence of an Event of Default, Obligor shall not be required to deposit Gross Receipts into any "lock box" account and shall be permitted to use such Gross Receipts in the ordinary course of business.

SECTION 2.05A Defeasance. When there are in the Sinking Fund, the Capitalized Interest Fund and the Capital Reserve Fund sufficient funds, or noncallable and non-prepayable Government Obligations in such principal amounts, bearing interest at such rates and with such maturities as will provide, without reinvestment, sufficient funds to pay the principal of, premium, if any, and interest on the Bonds in full as and when such amounts become due, and when all the rights hereunder of the Issuer (including the right to receive payments under Section 2.06A(b) and of the Trustee and their respective directors, officers, employees and agents have been paid or provided for to the satisfaction of the Issuer and the Trustee including but not limited to, the payment of all Loan Payments, required under the Agreement and when the Trustee has received written evidence from the applicable rating agencies that no reduction or withdrawal of the rating of the Bonds shall occur as a result of the defeasance to occur as set forth in (1), (2) and (3) following, then (1) the Bondholders will cease to be entitled to any right, benefit or security under this Agreement except the right to receive payment of the funds deposited and held for payment and other rights set forth below or which rights by their nature cannot be satisfied prior to or simultaneously with termination of the lien hereof, (2) the security interests created by this Agreement (except in such funds and investments) shall terminate, and (3) the Issuer and the Trustee shall execute and deliver such instruments as may be necessary to discharge the lien and security interest created hereunder. Upon such defeasance, the funds and investments required to pay or redeem the Bonds in full shall be irrevocably set aside for that purpose. The Trustee shall cause to be mailed to all Bondholders in the manner herein specified for redemption of Bonds within fifteen (15) days of the conditions of this section being met a notice stating that such conditions have been met and that the lien of this Agreement has been discharged, and, if the Bonds are to be redeemed prior to maturity, specifying the date of redemption and the redemption price. Any funds or property held by the Trustee for payment of the Bonds under this section and not required for such payment shall (unless there is an Event of Default hereunder, in which case they shall be applied as provided in Section 7.04, after satisfaction of all the rights of the Issuer and the Trustee and their respective directors, officers, employees and agents (as certified in writing by the Issuer and the Trustee, respectively), and upon such indemnification, if any, as the Issuer or the Trustee may reasonably require, be distributed as provided in Section 5.10. If Bonds are not presented for final payment when due and moneys are available in the hands of the Trustee therefor, the Trustee shall, without liability for interest thereon, continue to

hold the moneys held for that purpose subject to the escheat laws of the State, and interest shall cease to accrue on the principal amount represented thereby.

Notwithstanding the foregoing, those provisions relating to the maturity of the Bonds, interest payments and dates thereof, and the Trustee's remedies with respect thereto, and provisions relating to exchange, transfer and registration of Bonds, replacement and cancellation of Bonds, the holding of moneys in trust and the duties of the Trustee in connection with all of the foregoing, the payment by the Obligor of the fees, expenses and indemnities of the Trustee and the Issuer and their respective directors, officers, employees and agents, shall remain in full force and effect and shall be binding upon the Trustee, the Issuer, the Obligor and the Bondholders notwithstanding the release and discharge of this Agreement until the Bonds have been actually paid in full. Anything to the contrary in this Section 2.05A notwithstanding, defeasance hereunder shall not be effective unless and until the Corporation shall have received from an independent verification agent a verification report satisfactory to the Corporation verifying that the Government Obligations in the Capitalized Interest Fund, the Capital Reserve Fund and the Sinking Fund are sufficient for defeasance hereunder. The Corporation may, in its sole discretion, waive the requirement of a verification agent. Subject to the foregoing, upon defeasance hereof, any funds held by the Trustee or Paying Agent which have been pledged to the Trustee for the benefit of the Bondholders pursuant to this Agreement and not required for payment or redemption of the Bonds in full or for the payment of amounts due the Trustee or the Corporation hereunder shall be transferred in accordance with Section 5.10 of this Agreement.

SECTION 2.06A Payments by the Obligor.

(a) Payments of Debt Service by the Obligor.

(i) The Obligor shall make Loan Payments to the Trustee for deposit in the Principal and Interest Account of the Sinking Fund as defined in this Agreement so that there will be available in immediately available funds no later than 12:00 Noon time thirty (30) days prior to each November 1 and May 1 the amount necessary to pay the interest, principal and redemption premium, if any, due or coming due on the Bonds. In order to effectuate the intent and purposes of the prior sentence, the Obligor shall, commencing November 1, 2012 and, on the first day of each month thereafter, pay to the Trustee a Loan Payment equal to one sixth (1/6) of the interest due on the Bonds for the next succeeding Interest Payment Date (May 1 and November 1 of each year) and, commencing November 1, 2013, one twelfth (1/12) of the sinking fund installment due on the Bonds for the next succeeding November 1 when the next sinking fund installment payment shall be due.

(ii) At any time when any principal payment of the Bonds is overdue, the Obligor shall also have a continuing obligation to pay to the Trustee for deposit in the Sinking Fund an amount equal to interest on the overdue principal but the

installment payments required under this section shall not otherwise bear interest. Redemption premiums shall not bear interest.

(iii) In any event the Loan Payments shall be sufficient to pay the total principal of, premium, if any, and interest on the Bonds as and when due. If at any time when said payments are due the balance in the Sinking Fund available for said purpose is insufficient to make such Loan Payments, the Obligor will forthwith pay to the Trustee (in immediately available funds) any such deficiency. The Obligor shall not be required to make any Loan Payment to the extent its application would result in an excess in the Sinking Fund over the amounts necessary to meet its obligations when due and payable plus any additional amounts then required to be maintained in the Sinking Fund.

(b) Additional Payments by the Obligor.

(i) The Obligor shall pay the Corporation on demand for reimbursement of any and all costs, expenses and liabilities reasonably paid or incurred by the Corporation, including reasonable fees of counsel and disbursements thereof, in satisfaction of any obligations of the Obligor not performed by the Obligor as required hereunder.

(ii) The Obligor shall pay the Corporation on the Date of Issuance of the Bonds the Corporation's Commitment Fee of \$375,000 (one half of one percent of the principal amount of the 2010 Bonds). On each May 1 and on the same date of each year thereafter, the Obligor shall pay the Annual Guaranty Fee of the Corporation equal to one and one-half of one percent (1.50%) per annum of the average amount of Outstanding Bonds for the applicable period in arrears (deducting therefrom any amount in the Prepayment Account) for so long as the Bonds are Outstanding. The Annual Guaranty Fee may be pro-rated for any period constituting less than one full year.

(iii) The Obligor shall pay the Corporation on demand for reimbursement or prepayment of any and all costs, expenses and liabilities paid or incurred or to be paid or incurred by the Corporation including, but not limited to, any amounts due from the Issuer to the Insurer pursuant to the provisions of Article X of this Agreement, or any of its directors, officers, employees or agents, including reasonable fees of counsel and disbursements thereof, and requested by the Obligor or required by this Agreement or required by the Act with respect to the Bonds or the Project.

(iv) The Obligor shall pay the Corporation on each June 30 a Deferred Fee as follows:

Starting in 2014, based upon the Obligor's audited GAAP financial statements of the prior year (2013), the Obligor shall pay annually to the Corporation on June 30 of each year, a deferred fee equal to twenty-five (25%) of its Excess Operating

Income up to an amount not to exceed \$5.0 million per year until an aggregate Deferred Fee amount of \$15,250,000 has been paid. If the \$15,250,000 aggregate deferred fee has not been achieved by the year ending 2017, the aggregate Deferred Fee shall be increased to \$18,800,000. In the event the Deferred Fee has not been paid in full when the bonds become due in full, then the unpaid balance of the Deferred Fee shall be due when the bonds become due regardless of the company's Excess Operating Income. "Excess Operating Income" shall be the fiscal year operating income of the Obligor as contained in its audited GAAP financial statements less the fiscal year's Operating Income for the same year contained in the Obligor's six year financial projection furnished to the Corporation which shall be that financial projection previously furnished by Obligor to the Corporation and certified as authentic by a writing between the Corporation and the Obligor of even date with the Date of Issuance. For purposes of calculating Excess Operating Income for any year after 2015, the Operating Income figure for 2015 shall be deemed to be the same figure for fiscal years 2016, 2017, 2018, 2019 and 2020.

(v) The Obligor shall pay the Trustee on demand for reimbursement or prepayment of any and all fees, costs, expenses and liabilities paid or incurred or to be paid or incurred by the Trustee, including reasonable fees of counsel and disbursements thereof, in the performance of its duties hereunder.

ARTICLE II

AUTHORIZATION, TERMS AND ISSUANCE OF BONDS

SECTION 2.01 Authorization for Agreement and Bonds. (1). This Agreement is made and entered into by virtue of and pursuant to the provisions of the Act and the Job Creation Guaranty Program Act. The Corporation has ascertained and hereby determines and declares that the execution and delivery of this Agreement is necessary to carry out the powers and duties expressly provided by the Act and the Job Creation Guaranty Program Act, that each and every act, matter, thing or course of conduct as to which provision is made herein is necessary or convenient in order to carry out and effectuate the purposes of the Corporation in accordance with the Act and the Job Creation Guaranty Program Act and to carry out powers expressly given thereby, and that each and every covenant or agreement herein contained and made is necessary, useful or convenient in order to better secure the Bonds and are contracts or agreements necessary, useful or convenient to carry out and effectuate its corporate purposes under the Act and the Job Creation Guaranty Program Act.

(2). The 2010 Series Bonds are hereby authorized to be issued subject to the terms and conditions established herein. The total principal amount of Bonds which may be authenticated and delivered hereunder is not limited except as is or may hereafter be provided in this Agreement. No Bonds may be authenticated and delivered except in accordance with this Article. All Bonds shall be entitled to the

benefit of the continuing pledge and lien created by this Agreement to secure the full and final payment of the principal, or Redemption Price, if any, thereof and the interest thereon.

(3). The Bonds shall be special obligations of the Corporation, payable solely out of the revenues or other receipts, funds or moneys pledged therefor pursuant to this Agreement.

Neither the State nor any municipality thereof shall be obligated to pay the principal or Redemption Price of or the interest on the Bonds, and neither the faith and credit nor the taxing power of the State or any such municipality is pledged to pay such principal, Redemption Price or the premium, if any, or interest. The Bonds and the interest coupons appertaining thereto, if any, shall never constitute a debt or liability of the State or any such municipality or bonds issued or guaranteed by the State or any municipality within the meaning of any constitutional or statutory limitation.

SECTION 2.02 Issuance of the 2010 Series Bonds. (a). There shall be issued under and secured by this Agreement a series of Bonds to be designated "Job Creation Guaranty Program Taxable Revenue Bonds (38 Studios, LLC Project), Series 2010" in the aggregate principal amount of \$75,000,000. The 2010 Series Bonds shall be issuable in registered form, shall be dated as of November 2, 2010, shall bear interest from November 2, 2010 at the rate of Six and 00/100 percent (6.00%) per annum as to the 2015 Term Bond, at the rate of Six and 75/100 percent (6.75%), as to the 2016 Serial Bond and at the rate of Seven and 75/100 percent (7.75%) as to the 2020 Term Bond, payable semiannually on November 1 and May 1 in each year, commencing May 1, 2011, in the years indicated and provided for in the form of the Bond in the granting clauses of this Agreement.

(b). The principal and Redemption Price, if any, of and interest on the 2010 Series Bonds, as they respectively become due, shall be payable at the principal office of The Bank of New York Mellon Trust Company, N.A., Providence, Rhode Island or other office designated by the Trustee.

(c). The 2010 Series Bonds shall be subject to redemption prior to maturity at the option of the Corporation at any time that an Event of Default has occurred or otherwise upon the mutual agreement of the Corporation and the Obligor up to and including November 1, 2020, that the Bonds are Outstanding upon at least forty-five (45) days advance written notice from the Corporation to the Trustee of such redemption in accordance with the provisions of this Agreement (to the maximum extent permitted by applicable law, the Corporation and the Trustee by written consent may waive or abbreviate the forty-five (45) day notice requirement provided, however, that the thirty (30) day advance notice requirement to Bondholders for redemption in Article III shall not be waived or be abbreviated, such Bonds to be selected by the

Trustee by lot at any time at the Redemption Price, in each case with Eligible Funds (provided that the portion of the Redemption Price constituting premium need not be Eligible Funds) equal to the greater of:

- (i) the issue price of the Bonds (but not less than 100% of the principal amount) of such Bonds to be redeemed; or
- (ii) the sum of the present value of the remaining scheduled payments of principal and interest to the maturity date of such Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the date on which such Bonds are to be redeemed, discounted to the date on which such Bonds are to be redeemed on a semi-annual basis, assuming a 360-day year consisting of twelve 30-day months, at the Treasury Rate plus thirty-five (35) basis points, in each case, accrued interest on such Bonds to be redeemed to the redemption date.

(d) The 2015 Term Bonds shall be subject to mandatory sinking fund redemption through sinking fund installments by lot or in any customary manner of selection on November 1 of each year, commencing November 1, 2013 at a redemption price equal to 100% of the principal amount thereof together with accrued interest to the redemption date thereof in the principal amounts shown below:

<u>Year</u>	<u>Amount</u>
2013	\$ 7,440,000
2014	\$ 7,885,000
2015*	\$ 8,360,000

The 2020 Term Bonds shall be subject to mandatory sinking fund redemption through sinking fund installments by lot or in any customary manner of selection on November 1 of each year, commencing November 1, 2017 at a redemption price equal to 100% of the principal amount thereof together with accrued interest to the redemption date thereof in the principal amount shown below.

2017	\$ 9,455,000
2018	\$10,190,000
2019	\$10,980,000
2020**	\$11,830,000

* Maturity

** Final Maturity

(A 2016 Serial Bond matures and is payable in 2016 in the amount of \$8,860,000).

(e) The 2010 Series Bonds are subject to mandatory redemption, in part, to the extent any proceeds of the 2010 Series Bonds remaining on deposit and unexpended in the Project fund after the elapse of thirty-six (36) months following the Date of Issuance of the 2010 Series Bonds. The foregoing redemption must take place within ninety (90) days of the elapse of the foregoing thirty-six (36) month period. The 2010 Series A Bonds to be redeemed shall be selected by lot in the customary manner and shall be redeemed at a redemption price equal to the principal amount of the 2010 Series Bonds to be redeemed plus accrued interest thereon to the redemption date.

(f) The 2010 Series Bonds shall be numbered from one upward in such order as the Trustee shall determine in each case with the letter "R" preceding the number.

(g) All computations relating to calculation of interest on principal or Redemption Price for the 2010 Series Bonds shall be made on the basis of a year consisting of 360 days and a month consisting of thirty (30) days.

SECTION 2.03 [RESERVED]

SECTION 2.04 Delivery of Bonds. The Bonds shall be executed in the form and manner set forth herein and shall be deposited with the Trustee and thereupon shall be authenticated by the Trustee. Upon payment to the Trustee of the proceeds of sale of such Bonds, such Bonds shall be delivered by the Trustee to or upon the order of the purchasers thereof, but only upon receipt by the Trustee of:

1. A copy, duly certified by the Executive Director or Secretary of the Corporation, of the resolution adopted by the Corporation authorizing the issuance of such Bonds and, the execution and delivery of this Agreement;
2. An original executed counterpart of this Agreement, and any supplement or amendment thereof;
3. A request and authorization to the Trustee on behalf of the Corporation and signed by the Executive Director of the Corporation to authenticate and deliver such Bonds to the purchasers therein identified upon payment to the Trustee, but for the account of the Corporation, of a sum specified in such request and authorization plus accrued interest thereon to the date of delivery. The proceeds of such payment shall be paid over to the Trustee and, in the case of the 2010 Series Bonds, be deposited in the Sinking Fund pursuant to Article IV hereof and in the case of any Additional Bonds in the fund or funds authorized in the proceedings or resolution of the Corporation authorizing the issuance of such Additional Bonds;

4. A written opinion by an attorney or firm of attorneys of recognized national standing on the subject of municipal bonds, to the effect that the issuance of such Bonds and the execution thereof have been duly authorized and that all conditions precedent to the delivery thereof have been fulfilled and that the interest paid on the Bonds is exempt from taxation by the State to the extent permitted by the Act.

SECTION 2.05 Form; Denominations; Numbers; Medium of Payment. (1) The 2010 Series Bonds will be issued in fully registered form numbered R-1 upwards as two (2) term bonds each maturing November 1, 2015 and November 1, 2020 respectively, and a serial bond maturing November 1, 2016, and issued in minimum denominations of \$100,000.00 and increments in excess thereof of \$5,000.00 not exceeding in the aggregate the principal amount of Bonds of the same series, maturity and interest rate of the Bond for which the denomination is to be specified. Any Additional Bonds will be issued in duly registered form in such denominations as may be set forth in the Supplemental Agreement authorizing such Additional Bonds. Subject to the provisions of subsection (2) hereof the Bonds shall be in substantially the form set forth in the recitals to this Agreement, with such variations, omissions and insertions as are permitted or required by this Agreement.

(2) Each Bond shall contain on the face thereof a statement to the effect that neither the State nor any municipality thereof shall be obligated to pay the same nor the interest thereon and that neither the faith and credit nor the taxing or taking power of the State or any municipality thereof is pledged to the payment of the principal thereof or the interest or premium, if any, thereon. The Bonds may in addition contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of this Agreement as may be necessary or desirable to comply with custom or otherwise as may be determined by the Corporation prior to the delivery thereof.

(3) The principal and Redemption Price, if any, and interest on the Bonds shall be payable in any coin or currency of the United States of America which, on the respective dates of payment thereof, is legal tender for the payment of public and private debts.

(4) Subject to the provisions hereof, the Bonds shall be dated, shall mature in such years and such amounts, shall be numbered, shall bear interest at such rate or rates per annum, shall be subject to redemption on such terms and conditions and shall be payable as to principal, interest, and Redemption Price at such place or places as shall be specified, in the case of the 2010 Series Bonds, in this Agreement and, in the case of a series of Additional Bonds, in the resolution or proceedings of the Corporation authorizing the issuance of such series of Additional Bonds. No 2010 Series Bonds, or Bonds of the same series of Additional Bonds, maturing in any particular year shall bear interest at other than a single rate per annum.

SECTION 2.06 Execution of Bonds. The Bonds shall be executed on behalf of the Corporation by the manual or facsimile signature of the Chairman, Vice Chairman or Executive Director of the Corporation, and the seal of the Corporation shall be affixed thereto or imprinted thereon attested by the manual or facsimile signature of the Executive Director or Secretary of the Corporation. Any facsimile signatures shall have the same force and effect as if the appropriate officers had personally signed each of said Bonds. In case one or any of the officers who shall have signed or attested the Bonds or whose reproduced facsimile signature appears thereon shall die or cease to be such officer or officers before the Bonds so signed and attested shall have been actually issued and delivered, the Bonds may be issued and delivered as though the person who signed or attested or whose reproduced facsimile signature appears on the Bonds had not died or ceased to be such officer.

SECTION 2.07 Authentication. Only such Bonds as shall have endorsed thereon a certificate of authentication duly executed by the Trustee shall be entitled to any right or benefit under the Agreement. No Bond shall be valid or obligatory for any purpose unless and until such certificate of authentication on such Bond shall have been duly executed by the Trustee, and such certificate of the Trustee upon any such Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under the Agreement. The Trustee's certificate of authentication on any Bond shall be deemed to have been duly executed if signed by an authorized signature of the Trustee, but it shall not be necessary that the same officer sign the certificate of authentication on all the Bonds.

SECTION 2.08 Ownership; Interchangeability. The Corporation and the Trustee may deem and treat the person in whose name any registered Bond shall be registered upon the books of the Corporation as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price, if any, of and interest on such Bond and for all other purposes, and such payments so made to any such registered owner as of the Record Date or upon this order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Corporation nor the Trustee shall be affected by any notice to the contrary.

Each registered Bond shall be transferable only upon the books of the Corporation, which shall be kept for the purpose at the principal office of the Trustee, by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered owner or his duly authorized attorney. The Bonds are transferrable subject to the restrictions contained in the form of Bond with respect to certain securities law registration and applicable law requirements. Upon the transfer of any such registered Bond the Corporation shall issue in the name of the transferee a new registered Bond of the same aggregate principal amount and maturity as the surrendered Bond.

In all cases in which the privilege of exchanging Bonds or transferring registered Bonds is exercised, the Corporation shall execute and the Trustee shall authenticate and deliver the Bonds in accordance with the provisions of this Agreement.

The Corporation and the Trustee may charge any Bondholder for the privilege of exchanging Bonds or transferring registered Bonds, in an amount sufficient to reimburse the Corporation and the Trustee for any tax, fee, expenses or governmental charge or expense required to be paid with respect thereto which charge or charges shall be paid by the person requesting such registration or transfer; provided, however, that such registration or transfer fee shall be reasonable in amount and the Corporation shall not charge any Bondholder an amount in excess of expenses incurred by it by reason of such registration or transfer.

SECTION 2.09 Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Corporation shall execute, and thereupon the Trustee shall authenticate and deliver, a new Bond of like maturity and principal amount as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond upon surrender and cancellation of such mutilated Bond or in lieu of and substitution for the Bond destroyed, stolen or lost, upon filing with the Trustee of evidence satisfactory to it that such Bond has been destroyed, stolen or lost and proof of ownership thereof, and upon furnishing the Corporation and the Trustee with indemnity satisfactory to them and complying with such other reasonable regulations as the Trustee may prescribe and paying such expenses as they may incur. All Bonds so surrendered to the Trustee shall be canceled by it. Any such substitute Bond issued in exchange for other Bonds may be issued in typewritten form.

SECTION 2.10 Additional Bonds. (1) So long as (i) this Agreement is in effect and (ii) the amount on deposit in the Capital Reserve Fund (prior to the issuance of such Additional Bonds) is not less than the Minimum Capital Reserve Fund Requirement (prior to issuing such Additional Bonds), the Corporation may, in its sole discretion, but without any obligation to do so, except to the extent otherwise specifically set forth herein, issue one or more series of Additional Bonds which may be issued by the Corporation and authenticated and delivered upon original issuance for the purposes of refunding the Series 2010 Bonds. Such Additional Bonds shall be payable from the Trust Estate including, but not limited to, Gross Receipts, revenues and the Loan Payments and other property derived or to be derived by the Corporation under this Agreement or from the funds established under this Agreement or other disposition of the EDC Project.

(2) The Additional Bonds of each such series shall be deposited with the Trustee and thereupon shall be authenticated by the Trustee. Upon payment to the Trustee of the proceeds of sale of Additional Bonds, they shall be delivered by the

Trustee to or upon the order of the purchasers thereof in accordance with the provisions of Section 2.04 hereof.

(3) Each Series of Additional Bonds issued pursuant to this Section shall be equally and ratably secured under this Agreement with the 2010 Series Bonds and all other series of Additional Bonds, if any, issued pursuant to this Section, without preference, priority or distinction of any Bonds over any other thereof except as otherwise set forth herein.

(4) Notwithstanding anything herein to the contrary, no Additional Bonds shall be issued unless this Agreement is in effect.

(5) In no event shall the maturity date of such Additional Bonds extend beyond November of 2030.

ARTICLE III

REDEMPTION OF BONDS

SECTION 3.01 Privilege of Redemption and Redemption Price. The Bonds shall be redeemable, upon published notice as provided in this Article, at such times, at such Redemption Prices and upon such terms in addition to and consistent with the terms contained in this Article as shall be specified in Section 2.02 hereof.

SECTION 3.02 Selection of Bonds to be Redeemed. In the event of redemption of less than all the Outstanding Bonds of the same series and maturity, the particular Bonds or portions thereof to be redeemed shall be selected by the Trustee by lot or in any customary manner of selection as determined by the Trustee in authorized denominations.

SECTION 3.03 Notice of Redemption. When redemption is required by the Agreement, following notice given by the Corporation to the Trustee pursuant to Section 2.02(3) of this Agreement, the Trustee shall give notice of such redemption in the name of the Corporation, specifying the amounts (installments, if applicable) of the Bonds to be redeemed, the redemption date and the place or places where amounts due upon such redemption will be payable and, if less than all of the Bonds of any maturity are to be redeemed, the numbers of such Bonds or portions thereof so to be redeemed. Such notice shall further state that on such date there shall become due and payable upon each Bond or portion thereof to be redeemed the Redemption Price thereof together with interest accrued to the redemption date, and that from and after such date interest thereon shall cease to accrue and be payable. The Trustee in the name and on behalf of the Corporation shall publish notice by sending a copy of each such notice to the registered owner of each Bond selected for redemption by certified mail, postage prepaid, addressed to him at his last known address as it appears upon the Bond register not later than thirty (30) days prior to the date fixed for redemption.

SECTION 3.04 **Payment of Redeemed Bonds.** Notice having been given in the manner provided in Section 3.03, the Bonds or portions thereof so called for redemption shall become due and payable on the redemption dates so designated at the Redemption Price, plus interest accrued and unpaid to the redemption date. If, on the redemption date, Eligible Funds for the redemption of all the Bonds or portions thereof to be redeemed (provided the portion of the Redemption Price constituting premium need not be Eligible Funds), together with interest to the redemption date, shall be held by the Paying Agent so as to be available therefor on said date and if notice of redemption shall have been given as aforesaid, then, from and after the redemption date, interest on the Bonds or portions thereof so called for redemption shall cease to accrue and become payable. If said moneys shall not be so available on the redemption date, such Bonds shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

Payment of the Redemption Price and interest shall be made to or upon the order of the registered owner, but in each case only upon surrender of the Bonds.

SECTION 3.05 **[RESERVED]**

SECTION 3.06 **Cancellation of Redeemed Bonds.** All Bonds redeemed in full under the provisions of this Article shall forthwith be canceled and destroyed by the Trustee and a certificate of destruction furnished to the Corporation and no Bonds shall be executed, authenticated or issued hereunder in exchange or substitution thereof.

SECTION 3.07 **[RESERVED]**

ARTICLE IV

CUSTODY AND APPLICATION OF PROCEEDS OF BONDS

SECTION 4.01 **[RESERVED]**

SECTION 4.02 **Capitalized Interest Fund.** There is hereby created and established with the Trustee a special trust fund to be designated "The Rhode Island Economic Development Corporation, 38 Studios, LLC, Capitalized Interest Fund." From proceeds of sale and delivery of the Bonds there shall be deposited in the Capitalized Interest Fund, the Capitalized Interest Amount.

SECTION 4.03 **Application of the Capitalized Interest Fund.** The Trustee shall apply the amounts in the Capitalized Interest fund to the amounts necessary to pay interest on the Bonds for those Interest Payment Dates commencing May 1, 2011 through and including November 1, 2012.

SECTION 4.04 Project Fund. There is hereby created and established with the Trustee a special trust fund to be designated "The Rhode Island Economic Development Corporation, 38 Studios, LLC Project Fund". The balance of the proceeds of the Bonds remaining, after the deposits required by Section 4.01, 4.02 and Section 5.04 hereof have been made, shall be deposited in the Project Fund.

SECTION 4.05 Application of Project Fund. (a) The Trustee shall, consistent with the requirements of this Agreement, apply the amounts in the Project Fund to the amounts necessary to pay for the EDC Project Costs excluding therefrom investment earnings transferred pursuant to Section 5.06 hereof.

(b) The Trustee is hereby authorized and directed to issue its checks for each disbursement from the Project Fund to the Obligor upon a requisition in the form of Exhibit A hereof to the Trustee and signed by an Authorized Officer of the Obligor and the Corporation. The Corporation shall review such requisition and provided such requisition complies with this Agreement, an Authorized Officer of the Corporation shall sign same and forward it to the Trustee for payment within seven (7) business days of receipt of such requisition by the Corporation. The execution and delivery of such requisitions to the Trustee shall not be unreasonably withheld, conditioned or delayed. Such requisitions must comply with this Agreement and subsections (i) through (vi) below.

In making any such payment from the Project Fund the Trustee may rely on such requisitions and proof delivered to it and the Trustee shall be relieved of all liability with respect to making such payments in accordance with the foregoing. The requisition shall be in the form of Exhibit A hereof and shall be signed by the parties for which signatures are indicated as required thereon.

The requisitions shall be paid in accordance with the following schedule and are further subject to the following requirements and conditions precedent:

- (i) upon the delivery and the Date of Issuance of the Bonds: \$10,939,759 and after the date when Obligor or a letter of credit bank selected by Obligor presents reasonable documentary evidence to the Corporation that the \$2,060,241 letter of credit required in connection with Obligor's execution of that Lease dated as of September 20, 2010 is to be issued subject only to the funding of a deposit account at such letter of credit bank securing such letter of credit, an additional \$2,060,241 which may, in the discretion of the Corporation, be directly disbursed to an account at such letter of credit bank;
- (ii) upon the public announcement by the Obligor of a relocation date to Rhode Island, estimated to be by January 31, 2011: \$9,400,000 (subject to the delivery of such announcement in a writing to the Corporation in form and substance reasonably satisfactory to the Corporation);

- (iii) upon the relocation of Obligor's headquarters and the current project Copernicus studio to Rhode Island, and the creation of at least 80 Full Time Jobs in Rhode Island with an average annual wage not less than \$67,500 per year, estimated to be by May 15, 2011 (such relocation date being subject to (i) Date of Issuance of the Bonds and closing by November 2, 2010); (ii) the relocation of the Obligor's headquarters and studio to Rhode Island occurring within six months of the closing and Date of Issuance of the Bonds (the Obligor may extend such relocation by three periods of 30 days each due to delays in landlord's completion of the Obligor's new offices, with each such extension subject to the written administrative approval of the RIEDC, which approval shall not be unreasonably withheld or delayed); \$17,200,000;
- (iv) upon the creation by the Obligor of an additional 45 Full Time Jobs in Rhode Island with an average annual wage not less than \$67,500 per year estimated to be by November 2, 2011: \$4,200,000 (subject to three periods by 30 days each in (iii) above);
- (v) upon the entry by the Obligor into a satisfactory distribution agreement for its Project Copernicus estimated to be by November 30, 2011: \$4,100,000; and
- (vi) upon the creation by the Obligor of at least an additional 125 Full Time Jobs in Rhode Island with an average annual wage of not less than \$67,500 per year estimated to be by January 31, 2012: the balance of the net proceeds.

Evidence of the creation of Full Time Jobs with an average annual wage of not less than \$67,500 per year shall be presumed upon the filing of a Certificate of the Chief Financial Officer of the Obligor and the Chairperson of the Obligor's Audit Committee in form and substance reasonably satisfactory to the Corporation, that such Full Time Jobs with such average annual wage are established on the Obligor's State Payroll. The foregoing presumption may be rebutted by an audit of such payroll figures as provided for in 6.01A(e) of this Agreement.

SECTION 4.06 [RESERVED]

SECTION 4.07 Investment of Project Fund. (a.) Investments of amounts in the Project Fund shall be made in accordance with Section 5.06 hereof and mature in such amounts and not later than such times as may be necessary to provide funds when needed to make payments from such Fund and shall be made by the Trustee only at the written request of an Authorized Representative of both of the Corporation and the Obligor. Net income or gain received and collected from such investments shall be credited to the Principal and Interest Account pursuant to Section 5.06 hereof.

(b.) Prior to each Loan payment date under this Agreement, the Trustee shall notify the Corporation and the Obligor of the amount of net investment income or gain received and collected in the Project Fund subsequent to the last such Loan payment and the amount then available in the Project Fund.

ARTICLE V

REVENUE AND FUNDS

SECTION 5.01 Creation of Sinking Fund. The Corporation hereby creates and establishes with the Trustee a special trust fund to be designated "The Rhode Island Economic Development Corporation, 38 Studios, LLC Project Sinking Fund". The Trustee shall establish three separate accounts within the Sinking Fund to be respectively designated "Principal and Interest Account", "Redemption Account" and the "Prepayment Account".

SECTION 5.02 Payments into Sinking Fund. The Trustee shall promptly deposit the following receipts in the Sinking Fund:

(a) [RESERVED]

(b) Loan Payments received by the Trustee pursuant to this Agreement, which shall be credited to the Principal and Interest Account and disbursed, in the manner set forth in this Agreement, together with amounts available in the Principal and Interest Account, to pay (i) the interest due on the Outstanding Bonds on the Interest Payment Date next succeeding such Loan Payment and (ii) the principal, if any, of the Outstanding Bonds due (otherwise than by call for redemption) on such Interest Payment Date.

(c) Amounts consisting of prepayment of Loan Payments payable under this Agreement, which amounts shall be credited to the Prepayment Account.

(d) Net income or gain received and collected from investments of amounts in the Principal and Interest Account of the Sinking Fund, the Project Fund, the Capitalized Interest Fund and the Capital Reserve Fund shall be credited to the Principal and Interest Account pursuant to Section 5.06.

(e) Amounts required to be paid to the Sinking Fund for payment of principal and interest due on the Bonds which shall be credited to the Principal and Interest Account.

(f) Excess amounts in the Capital Reserve Fund which may be deposited from time to time in the Sinking Fund pursuant to Section 5.05, which shall be credited to the Principal and Interest Account; and

(g) All other receipts when and if required by this Agreement to be paid into the Sinking Fund, which shall be credited (except as provided in Section 7.04) to the Redemption Account.

SECTION 5.03 Application of Sinking Fund. (a.) There shall be paid from the Principal and Interest Account in the Sinking Fund to the Paying Agent not later than one business day prior to each interest payment date for the Bonds the amounts required for the payment of the principal and interest due on the Bonds on such date. Such amounts shall be applied by the Paying Agent to the payment of said principal and interest when due.

SECTION 5.04 Creation of Capital Reserve Fund. (a.) The Corporation hereby creates and establishes a special trust fund to be designated "Rhode Island Economic Development Corporation, 38 Studios, LLC Project Capital Reserve Fund" which shall be held by the Trustee pursuant to the terms of this Agreement. From the proceeds of the sale and delivery of the Bonds there shall be deposited in the Capital Reserve Fund an amount equal to the Minimum Capital Reserve Fund Requirement. In addition, there shall be deposited into the Capital Reserve Fund any amount appropriated for the Capital Reserve Fund for the Bonds by the General Assembly of the State pursuant to Section 5.04(b) and pursuant to the Certificate of the Executive Director of the Corporation made and delivered pursuant to subparagraph (b.) of Section 5.04. If funds in the Sinking Fund are ever insufficient to pay the principal of, Redemption Price, if any, and interest on the Bonds when due, funds sufficient therefor shall be transferred by the Trustee to the Sinking Fund from the Capital Reserve Fund. At maturity, the balance of the Capital Reserve Fund will be used to pay the final sinking fund installments due to the Bondholders of the 2010 Bonds.

(b.) The Executive Director of the Corporation (the "Executive Director") shall annually, on or before December 1st of each year beginning in 2010, make and deliver to the Governor of the State a certificate (the "Certificate") stating the sum, if any, required to restore the Capital Reserve Fund to the Minimum Capital Reserve Fund Requirement first taking into account available monies, if any, then on deposit in a reserve fund established by the Corporation pursuant to the Job Creation Guaranty Program Act, pursuant to which no less than fifty percent (50%) of program receipts of the Corporation including guaranty fees and other amounts are to be credited (the "Program Account"). No later than December 1, 2010 and no later than December 1 of each year thereafter, so long as any Bonds are Outstanding, the Executive Director shall deliver to the Governor of the State the Certificate stating the sum, if any, required to restore the Capital Reserve Fund first taking into account available monies, if any, then on deposit in the Program Account to the Minimum Capital Reserve Fund Requirement based upon the amount then on deposit in the Capital Reserve Fund

(which the Trustee shall verify to the Corporation as of December 1 of each year) as of such December 1. In determining the value of any investments held in the Capital Reserve Fund, the Trustee shall disregard any value in excess of the par value of any investment. The Corporation shall furnish the Trustee with a copy of such Certificate as soon as practicable. Should the Obligor fail to make additional Loan Payments subsequent to the Executive Director's delivery of the Certificate on each December 1, the Executive Director shall update by an amended Certificate delivered to the Governor and the Budget Office on the 15th day of each month thereafter, the additional sum needed to restore the Capital Reserve Fund, such updates to be delivered through the next succeeding June 30. In the event any Loan Payments required to be made by the Obligor are not received by the Trustee subsequent to November 1 of each year, the Executive Director shall deliver a Certificate to the Governor asking the Governor to request that the General Assembly make a supplemental budget appropriation for the full amount of the May 1 payment next due.

(c.) [Reserved]

(d.) If it is determined by the Trustee on any interest payment date that the funds as of such date then on deposit in the Capital Reserve Fund exceed the Minimum Capital Reserve Fund Requirement (disregarding the value of any investments in the Capital Reserve Fund in excess of par value) the Trustee may, after receiving written approval of the Corporation to do so, credit to the Principal and Interest Account in accordance with Section 5.02(f) all or any portion of the amount of money then on deposit in the Capital Reserve Fund which is determined to be in excess of the Minimum Capital Reserve Fund Requirement. Notwithstanding the provisions of Rhode Island General Law 42-64-18, as amended from time to time, the Corporation shall not transfer funds from the Capital Reserve Fund to other funds or accounts of the Corporation excepting only to funds established under and pursuant to this Agreement.

(e.) On November 30 of each year, commencing November 30, 2011, in the event the funds in the Principal and Interest Account of the Sinking Fund are then less than the amount necessary to pay the full amount of the scheduled principal and interest payments due on the 2010 Series Bonds on the next succeeding May 1, all remaining funds in the Capital Reserve Fund shall be transferred by the Trustee from the Capital Reserve Fund to the Principal and Interest Account of the Sinking Fund.

(f.) The Certificate shall be in substantially the form of Exhibits B hereof.

(g.) On or before October 20 and March 20 of each year, the Executive Director of the Corporation shall by written notice inform the Budget Office of the Department of Administration of the State of the net amounts, if any, sought to be paid from the State (such amount to be certified to the Executive Director by the Trustee under this Agreement before October 20 and March 20 on each year) consistent with the certifications made under (b.) of this Section 5.04 to the Capital Reserve Fund taking into account (i) the amounts, if any, available in the Principal and Interest

Account of the Sinking Fund for the payment of principal and interest due on the Bonds for each applicable principal and interest payment date (which information shall be furnished to the Executive Director by the Trustee before October 20 and March 20 of each year), (ii) the amounts then existing in the Capital Reserve Fund and (iii) available monies, if any, then on deposit in the Program Account. The foregoing notice shall further indicate that the payment sought by the State must be made to the Trustee no later than October 27 or April 26, as applicable (or if such dates are not business days on which the Trustee is open to conduct business, the business day of the Trustee preceding such day) preceding each principal and interest payment date on the Bonds.

Should the Obligor fail, for any reason, to pay as and when required, any Loan Payment or other payment due under this Agreement, the Trustee shall immediately notify the Executive Director of such fact and the Executive Director shall, no later than nine (9) days preceding each principal and interest payment date on the Bonds or as soon thereafter as practical, amend the notice to the Budget Office referenced above by amending the dollar amounts sought from the State in the prior notice to reflect the additional funds required as a result of non-payment of Obligor.

SECTION 5.05 Deposits Sufficient to Retire Bonds. If at any time the aggregate of the amounts then on deposit in the Sinking Fund, the Capitalized Interest Fund and the Capital Reserve Fund is sufficient to pay when due the principal of and interest and Redemption Price, as applicable, on the Bonds remaining outstanding and amounts due the Corporation and the Trustee under this Agreement, including, but not limited to amounts paid pursuant to Section 2.05A hereof, the Trustee shall notify the Corporation that no additional or further payments need be made under this Agreement, and the Trustee shall apply the moneys then in the Sinking Fund, the Capitalized Interest Fund and the Capital Reserve Fund to the payment of the principal of and interest and Redemption Price, as applicable, on the Bonds as they mature and to the payment of the amounts, if any, payable to itself as Trustee and payable to the Corporation. Notwithstanding the foregoing, the Corporation may, in its sole discretion, direct the Trustee, in writing, to transfer the foregoing amounts to the Redemption Account of the Sinking Fund, before or after the Trustee's deposit of such funds in the Principal and Interest Account of the Sinking Fund pursuant to Section 5.02(f) of this Agreement, subject only to the requirement that the Corporation prior to or upon such direction to the Trustee shall have called the Bonds for redemption in accordance with the provisions of this Agreement and the funds to be transferred shall constitute Eligible Funds as of the date the Bonds are to be redeemed.

SECTION 5.06 Investment of Project Fund, Sinking Fund and Capital Reserve Fund (a.) Amounts in the Project Fund, the Sinking Fund, the Capitalized Interest Fund and the Capital Reserve Fund may, if and to the extent then permitted by law, be invested at the direction of the Corporation in (i) bonds, treasury notes and other evidences of indebtedness of, and those unconditionally guaranteed as to the payment of principal and interest by, the State of Rhode Island or the United States of America, (ii) bonds and notes of the Federal National Mortgage Association, (iii) bonds and notes of Federal Home Loan Banks, (iv) certificates of deposit and time deposits

and any other investments, to the extent then permitted by law for the Trustee, of its trust funds provided that any such certificates and investments be fully secured by obligations mentioned in (i) through (iv) or (v) Cash Equivalent Investments. The Trustee may make any and all such investments through its own offices only upon the Corporation providing written direction to the Trustee to make such investments. The Trustee shall not be responsible for any losses on investments made in compliance with written direction from the Corporation. Amounts in the Sinking Fund may not be invested in investments having a maturity date later than one day before the debt service payment date for which such amounts are being held.

(b.) Net income or gain received and collected from investments of amounts in the Sinking Fund, the Project Fund, the Capitalized Interest Fund and the Capital Reserve Fund (but only to the extent that the amount in the Capital Reserve Fund is not reduced below the amount of the Minimum Capital Reserve Fund Requirement) shall first be applied by the Trustee to the reasonable fees and expenses then due and payable to the Trustee, Paying Agent and Bond Registrar as a consequence of the carrying out of its obligations under this Agreement and the balance, if any, to be credited to the Principal and Interest Account in accordance with Section 5.02(c).

(c.) Prior to the due date of each Loan Payment under this Agreement, the Trustee shall notify the Corporation and the Obligor of the amount of such net investment income or gain from investments of amounts in the Sinking Fund and Capital Reserve Fund received and collected subsequent to the last Loan Payment less any of the Trustee's, Paying Agent's or Bond Registrar's fees and expenses specified in Section 8.06 and the amount then available in the Principal and Interest Account.

SECTION 5.07 [RESERVED]

SECTION 5.08 Cancellation of Bonds. All Bonds paid or redeemed and all Bonds surrendered for cancellation shall forthwith be canceled by the Trustee. All such Bonds so canceled may be destroyed by the Trustee in such manner as it shall determine and an appropriate certificate with respect to such destruction shall be issued to the Obligor by the Trustee and an executed counterpart of each such certificate shall be filed with the Corporation.

SECTION 5.09 Non-presentment of Bonds. In the event any Bonds shall not be presented for payment when the principal thereof becomes due, either at maturity, or at the date fixed for redemption thereof, or otherwise, if funds sufficient to pay any such Bond shall have been made available to the Trustee for the benefit of the holder or holders thereof, all liability of the Corporation to the holder thereof for the payment of such Bond, as the case may be, shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of the Trustee to pay such funds to the person or persons entitled thereto.

SECTION 5.10 Repayment to the Corporation from the Sinking Fund, the Capitalized Interest Fund, the Project Fund and the Capital Reserve Fund. Any amounts remaining in the Sinking Fund, the Capital Reserve Fund, the Capitalized Interest Fund and the Project Fund after payment in full of the Bonds, the fees, charges and expenses of the Trustee, Paying Agent and Bond Registrar and all other amounts required to be paid hereunder and under this Agreement (including any money Obligor may owe to the Corporation or the Trustee pursuant to Section 2.06A(b) of this Agreement or any amounts required to be paid by Issuer pursuant to Section 10.14 of this Agreement) shall be paid to the Corporation to the extent such amounts are directly traceable to amounts appropriated and paid by the State, or to the Obligor to the extent such payments are directly traceable to amounts paid to the Trustee by Obligor. In the case of investment earnings remaining in any of the foregoing funds, such amounts shall be paid as set forth in the prior sentence to the extent such investment earnings are directly traceable to amounts paid by either of the Obligor or Corporation. In the event the foregoing amounts are not directly traceable by the Trustee to the Corporation or the Obligor, such amounts shall be equally divided between the Corporation and the Obligor. The Trustee's determination of the foregoing shall be deemed conclusive and Trustee shall have no liability to any party based on any prior determination. The Trustee may also interplead any such funds in the Superior Court of the State of Rhode Island.

ARTICLE VI A

PARTICULAR COVENANTS OF THE OBLIGOR

Section 6.01A. Affirmative Covenants of Obligor Other than Reporting Requirements. From the date hereof and thereafter for so long as any portion of the Loan is outstanding, or Obligor is indebted to the Corporation under this Agreement or any of the Security Documents, Obligor will (unless the Corporation shall otherwise consent in writing):

(a) **Payment of Taxes, etc.** Pay and discharge all taxes and assessments and governmental charges or levies imposed upon it or upon its income or profits, or upon any properties belonging to it, prior to the date on which penalties attach thereto, and all lawful claims for the same which, if unpaid, might become a Lien upon any of its properties, provided that (unless and until foreclosure, restraint, sale or any similar proceeding shall have been commenced) Obligor shall not be required to pay any such tax, assessment, charge, levy or claim which is being contested in good faith and by proper proceedings and for which proper reserve acceptable to the Corporation or other provision acceptable to the Corporation has been made in accordance with GAAP.

(b) **Maintenance and Insurance of Properties.** Do or cause to be done all things necessary to preserve, renew, and keep in full force and effect its rights and Permits and comply with all Applicable Laws; at all times maintain, preserve, and protect all property

(real, personal, tangible or intangible or otherwise) used in the conduct of its business and keep its properties and all of its fixtures and equipment and other personal property in good repair, working order and condition, and in accordance with the Security Documents, and from time to time make, or cause to be made, all needful and proper repairs, renewals, replacements, betterments, and improvements thereto, so that in its reasonable judgment, its business may be carried on advantageously; and at all times maintain adequate insurance coverage of its properties including, but not limited to, its fixtures and equipment and other personal property with financially sound and reputable insurance companies against all risks, including fire and other risks insured against by extended coverage (in the full insurable value of its properties subject to commercially reasonable deductibles and co-insurance requirements) and maintain liability and such other insurance as is customarily maintained on properties of the type owned or leased by it in reasonable amounts.

(c) Preservation of Existence, etc. Preserve and maintain in full force and effect its limited liability company existence and that of its subsidiaries and Affiliates, rights, franchises and privileges in the jurisdiction of its organization, and preserve and maintain all Intangible Property that is necessary or, in its reasonable business judgment, desirable in view of its business and operations or the ownership of its properties provided, however, that Obligor or Obligor and one or more of its Affiliates and/or Subsidiaries may convert its organizational structure to a Subchapter C corporation under the Code and also create a wholly-owned subsidiary organized under the laws of the State subject, in each case, however, to the written consent of the Corporation which written consent shall not be unreasonably conditioned, delayed or withheld and further subject to the execution by Obligor of such instruments, documents and papers as the Corporation may, in its discretion, require to preserve the Corporation's rights and maintain the Obligor's obligations under this Agreement and instruments, documents and papers executed in connection therewith including, but not limited to, with respect to the Security Documents.

(d) Compliance with Laws, etc. Comply in all material respects with all Applicable Laws.

(e) Inspections of Records and Properties. Permit, during normal business hours upon at least forty-eight (48) hours advance notice, the Corporation or any agents or representatives of the Corporation, to (i) examine and make copies of and abstracts from its records and books of account or those of any Subsidiary, (ii) visit its properties or those of any Subsidiary and (iii) discuss the affairs, finances and accounts of Obligor or any Subsidiary with any of their officers or employees and/or any independent certified public accountant of Obligor or any Subsidiary. Without limiting the generality of the foregoing, the Corporation may, at its option, conduct audits and field examination reviews on the books and records of Obligor with the cost of all such examinations and related expenses to be borne by Obligor, provided, however, that in the absence of the occurrence of an event of default, such audits and field examination reviews shall not occur more than once per fiscal year of the State.

(f) **Keeping of Records and Books of Account.** Keep adequate records and books of account, in which complete entries reflecting all financial transactions will be made in accordance with GAAP and with applicable requirements of any Governmental Authority.

(g) **Notice with Respect to Proceedings.** Give prompt written notice to the Corporation of any proceedings instituted by any Person against any one or more of Obligor and Guarantor with any Governmental Authority, which, if adversely determined, could have a material adverse effect upon Obligor's business, operations, properties, assets or condition, financial or otherwise.

(h) **Accounting System.** Maintain a standard system of accounting in accordance with GAAP and in accordance with the requirements of any Governmental Authority, if applicable.

(i) **Other Documents, etc.** Pay, perform and fulfill all of its obligations and covenants under each of the Security Documents and any other material document, instrument or agreement to which it is a party in accordance with their respective terms, giving effect to any grace periods therein specified unless such payment, performance or fulfillment would not be permitted hereunder; provided, that with respect to documents, instruments and agreements other than documents with or in favor of the Corporation, so long as Obligor is diligently contesting in good faith any alleged failure to pay, perform and fulfill such obligations and covenants by proper proceedings and has made any proper reserve or other provision in accordance with GAAP on account thereof and such alleged failure has not resulted in any material adverse effect on Obligor or any Subsidiary or on the Corporation's interests under this Agreement or the Security Documents, Obligor shall not be deemed in violation of this §5.01(i).

(j) **Purpose.** Use the proceeds of the Bonds solely for the EDC Project and Costs of Issuance.

(k) **Additional Assurances.** From time to time hereafter, execute and deliver or cause to be executed and delivered, such certificates and documents and take all such actions as the Corporation shall reasonably request for the purpose of implementing or effectuating the provisions of this Agreement and the Security Documents, and upon the exercise by the Corporation of any power, right, privilege or remedy pursuant to the Loan Documents which requires any consent, approval, registration, qualification or authorization of any Governmental Authority, exercise and deliver all applications, certifications, instruments and other documents and papers that the Corporation may be so required to obtain, including execution and filing of UCC-1 financing statements in any state or jurisdiction in which Obligor may obtain or own property or equipment or machinery subsequent to the date of this Agreement.

(l) **Third Party Monitoring.** Fully cooperate with the implementation of a third party monitoring, reporting and response process regarding the development schedule and

budget for Project Copernicus to assure that the Obligor's development of Project Copernicus remains on time and on budget. The third party monitor will be IBM and the process will generally consist of those provisions set forth in a Monitoring Agreement dated the Date of Issuance by and between Obligor and the Corporation.

(m) Full Time Jobs Requirement. Obligor and/or a wholly-owned Subsidiary of Obligor organized under the laws of the State (as permitted by Section 6.01A(c) hereof) will provide the following number of Full Time Jobs in Rhode Island within the following time periods:

- (i) 125 Full Time Jobs in the State with an average annual wage of not less than \$67,500 per year within twelve (12) months of the bond closing (hereinafter and for each of the periods referenced in (ii) and (iii) below, the "Jobs Period");
- (ii) an additional 175 Full Time Jobs in the State with an average annual wage of not less than \$67,500 per year within twenty-four (24) months of the Date of Issuance of the Bonds;
- (iii) an additional 150 Full Time Jobs in the State with an average annual wage of not less than \$67,500 per year within thirty-six (36) months of the Date of Issuance of the Bonds;
- (iv) Should Obligor fail to meet any Full Time Jobs requirement in (i) through (iii) above, it shall pay annually to the RIEDC an amount equal to \$7,500 per year for each Full Time Job with an average annual wage of at least \$67,500 not so added until such shortfall is cured, with payments commencing March 31, 2012 for the Jobs Period ending in calendar year 2011 and annually for each Jobs Period ending thereafter in which the goals of (i), (ii) and (iii) above are not achieved on each March 31 thereafter so long as the Bonds are outstanding, for the preceding Jobs Period in each calendar year.
- (v) Obligor will provide, commencing January 31 of each year commencing January 31, 2012 (for the Jobs Period occurring in the prior calendar year), written certification stating whether or not the Obligor has met the requirements of (i), (ii) and (iii) above setting forth the total number of Full Time Jobs with an average annual wage of not less than \$67,500 per year provided for the applicable Jobs Period in each calendar year and shall also include a certification of the calculations of the "Minimum Equity Requirement" and the "Excess Equity Balance Available for Dividend Distribution to Equity Holder" referenced in Section 6.02A(p) as well as "Excess Operating Income" referenced in Section 2.06A(b)(ii) which shall be provided by June 30 of each year for the preceding year. The foregoing

calculations shall be performed by the Obligor and such calculations shall be certified by independent certified public accountants selected by Obligor and reasonably acceptable to the Issuer subject to agreed upon procedures reasonably acceptable to the Issuer. The Issuer may, once per year, retain its own independent certified public accountants to audit the foregoing calculations and certification at the sole cost and expense of the Obligor and the Obligor and Obligor's Affiliates agree to fully cooperate in any such audit. In connection with any such audit, records of the Rhode Island Division of Taxation and the Rhode Island Department of Labor and Training shall be deemed to be relevant, probative and entitled to a presumption of accuracy. Obligor and Obligor's Affiliates hereby waive any confidentiality rights, with respect to the Corporation only and not with respect to the State's public record laws, it or they may have under State and/or federal law with respect to any information in the possession and/or control of the Rhode Island Division of Taxation and/or the Rhode Island Department of Labor and Training and hereby agree that the Corporation's auditors shall be permitted to obtain any and all such information from the Rhode Island Division of Taxation and/or the Rhode Island Department of Labor and Training, including but not limited to such data as the Corporation's auditors deem necessary or desirable to audit and/or confirm Obligor's certifications hereunder. Obligor and its Affiliates agree to execute such documents as may be required by the Rhode Island Division of Taxation and/or the Rhode Island Department of Labor and Training to evidence Obligor's waiver of confidentiality, with respect to the Corporation only and not with respect to the State's public record laws. The reporting requirements of this Section 6.01A(m) shall survive payment in full, redemption or defeasance of the Bonds prior to November 1, 2020 and shall be in effect through January 31, 2021.

(n) Obligor will develop internship programs for students at design and educational institutions in the State pursuant to programs and policies to be agreed upon with such institutions.

(o) Relocation. Relocate and maintain for a period of at least ten (10) years from the Date of Issuance of the Bonds, the corporate headquarters and principal place of business of the Obligor to the State within six (6) months of the Date of Issuance and closing of the Bonds subject to an extension of said six (6) month period for those periods of thirty (30) days each due to delay in landlord's completion of the Obligor's new offices in the State, with each such extension being subject to the written, administrative approval of Issuer which approval shall not be unreasonably withheld, conditioned or delayed and upon relocating the Obligor to Rhode Island, the Obligor shall not relocate the Obligor or any substantial portion of its operations outside of Rhode Island (it being agreed that such a relocation would be an event of default) in which case the Obligor's obligations with respect

to this Agreement, the then remaining Loan Payments and the Bonds would become immediately due and payable, including without limitation any balances due to the Bonds, any costs and expenses of the Issuer incurred with respect to the Bonds that have not already been reimbursed or paid for, and an acceleration of the job penalty fees owed to the Issuer pursuant to paragraph (m)(iv) above for the balance of the term of the Bonds provided, however, that Obligor may without incurring an event of default (i) optionally redeem the Bonds as provided for in Section 2.02(c) or (ii) defease the Bonds as provided for in Section 2.05A and in the event of a redemption or defeasance as set forth in (i) or (ii), Obligor takes the following additional actions:

- (a) immediately upon such redemption or defeasance pay in full all sums due the Corporation pursuant to Section 2.06A(b) (i) and (iii);
- (b) immediately upon such redemption or defeasance pay in full the Annual Guaranty Fees required by Section 2.06A(b)(ii) which Obligor would have been obligated to pay had the Bonds not been redeemed or defeased but were left outstanding until November 1, 2020;
- (c) immediately upon such redemption or defeasance pay in full all of the remaining and unpaid Deferred Fee of \$15,250,000 or, in the event of a redemption or defeasance after 2017, \$18,800,000 as required under Section 2.06A(b)(iv);
- (d) immediately upon such redemption or defeasance pay in full to the Trustee all amounts set forth in Section 2.06A(V); and
- (e) immediately upon such redemption or defeasance pay an amount equal to those payments set forth in Section 6.01A(m)(iv) of \$7,500 for each remaining Jobs Period or portion thereof from the date of such redemption or defeasance until November 1, 2020 for which Full Time Jobs with an average annual wage of not less than \$67,500 are not maintained.

This Section 6.01(A)(o) shall, notwithstanding anything else contained in this Agreement, survive the payment of the Loan or the payment of indebtedness due under this Agreement or the Security Agreements.

(p) **Execution and Delivery to Corporation of Valid Lease.** At least eight (8) days prior to the execution of a Bond Purchase Agreement for the sale of the Bonds, execute and deliver a certified as authentic copy of Obligor's lease of office space in the State sufficient to house at least the number of employees contemplated to be employed by Obligor in the State as set forth in this Agreement satisfactory to the Corporation in its sole discretion having a term or an original term and sufficient renewal terms extending to at least November 1, 2020, reflecting the payment and delivery of a reasonable and

customary deposit for the relocation transaction contemplated by this Agreement (e.g. collateral assignment capability to the Corporation, and other customary terms).

(q) **Reasonable Best Efforts.** Use reasonable best efforts to maximize Obligor's utilization of vendors located in Rhode Island; cooperate with the State of Rhode Island and the Corporation in its economic development efforts with respect to video game, digital media and interactive media industry development in Rhode Island and the creation of employment in related industries in Rhode Island.

Section 6.02A. Negative Covenants of Obligor. From the date hereof and thereafter for so long as any portion of the Bonds are Outstanding or Obligor is indebted to the Corporation under this Agreement or with respect to the Loan Obligor will not, and will not cause or permit any Guarantor or Subsidiary or Affiliate to (without the prior written consent of the Corporation):

(a) **Liens, etc.** Create, incur, assume or suffer to exist any Lien of any nature, upon or with respect to any of its properties, now owned or hereafter acquired, or assign as collateral or otherwise convey as collateral, any right to receive income, except that the foregoing restrictions shall not apply to any Liens:

- (i) for taxes, assessments or governmental charges or levies on property if the same shall not at the time be delinquent or thereafter can be paid without penalty or interest, or (if foreclosure, distraint, sale or other similar proceedings shall not have been commenced) are being diligently contested in good faith by appropriate proceedings and for which proper cash reserve acceptable to the Corporation has been made;
- (ii) imposed by law, such as carriers', warehousemen's and mechanic's Liens, banker's setoff rights and other similar Liens arising in the ordinary course of business for sums not yet due or being diligently contested in good faith by appropriate proceedings and for which proper cash reserve acceptable to the Corporation has been made;
- (iii) arising in the ordinary course of business out of pledges or deposits under worker's compensation laws, unemployment insurance, old age pensions, or other social security or retirement benefits, or similar legislation;
- (iv) those existing as of the date hereof in favor of City National Bank with respect to the financing of that project known as "Mercury"; and
- (v) those existing as of the date hereof as shown on UCC-11 reports of the Secretary of State of Delaware with respect to the Obligor; and

- (vi) those now or hereafter granted pursuant to the Security Documents or otherwise now or hereafter granted to the Corporation as collateral for the Loan and obligations under Obligor's other obligations arising in connection with or under this Agreement.
- (b) Assumptions, Guaranties, etc., of Indebtedness of Other Persons. Assume, guarantee, endorse or otherwise become directly or contingently liable in connection with any obligation or indebtedness of any other Person, except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business.
- (c) Dissolution, etc. Dissolve, liquidate, wind up, merge or consolidate with another Person or sell, assign, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or a substantial part of its assets (whether now owned or hereafter acquired), or any of its or their interests in real property.
- (d) Change in Nature of Business. Make any material change in the nature of its business.
- (e) Ownership and Management. Cause or permit any change in its executive management without prior to implementing any such change, notifying the Corporation of such change, if practicable, or otherwise, within forty-eight hours thereafter furnishing written notice thereof to the Corporation and promptly replacing the executive manager and furnishing the Corporation with a copy of the resolution upon which such action was based prior to implementing such action, if practicable, or otherwise within forty-eight hours after adopting such resolution and as soon as practicable thereafter furnishing to the Corporation a copy of the minutes of the meeting at which such action was taken.
- (f) Sale and Leaseback. Enter into any sale and leaseback arrangement with any Person.
- (g) Sale of Accounts, etc. Sell, assign, discount or dispose in any way of any Accounts Receivable, promissory notes or trade acceptances held by Obligor with or without recourse.
- (h) Indebtedness. Incur, create, become or be liable directly or indirectly in any manner with respect to or permit to exist any indebtedness except:
 - (i) Indebtedness under this Agreement or any of the Loan Documents or other Indebtedness to the Corporation;
 - (ii) Indebtedness with respect to trade obligations and other normal accruals in the ordinary course of business not yet due and payable in accordance with customary trade terms or which Obligor is diligently contesting in good faith the amount or validity thereof by appropriate proceedings and then only to

the extent Obligor has set aside on its books adequate cash reserves acceptable to the Corporation therefor; and

(iii) Indebtedness with respect to equipment leases secured solely by the equipment financed and purchase-money financings secured solely by the property financed.

(i) Other Agreements. Amend any of the terms or conditions of any agreement, document, note or other instrument evidencing, securing or relating to Indebtedness permitted hereunder, unless such amendment would not have a material adverse effect on Obligor or its ability to comply with its obligations under this Agreement and the other Security Documents.

(j) Prepayment of Other Indebtedness. Make any prepayment of any principal of or interest on, or any prepayment, redemption, defeasance, sinking fund payment, other repayment of principal or deposit with respect to any Indebtedness permitted hereunder, except any repayment that (i) is made during such time as no event of default shall exist; (ii) does not cause any event of default; (iii) does not have a material adverse effect on Obligor's ability to comply with its obligations under this Agreement and the other Security Documents; and (iv) is only made with proceeds of additional equity infusion into Obligor (not Bond proceeds) or Excess Operating Income generated by Obligor.

(k) Investments in or to Other Persons. Take or commit to make any investment in or to any other Person other than (i) advances to employees for reasonable and usual business expenses, (ii) investments in accounts, contract rights and chattel paper (as defined in the Uniform Commercial Code of the State) and notes receivable, arising or acquired in the ordinary course of business, and (iii) investments by Subsidiaries in Obligor.

(l) Change of Fiscal Year. Change its fiscal year, which fiscal year ends December 31st of each year without the prior written consent of the Corporation which consent shall not be unreasonably withheld, conditioned or delayed.

(m) Subordination of Claims. Subordinate or permit to be subordinated any present or future claim against or obligation of another Person, except as ordered in a bankruptcy or similar creditors' remedy proceeding of such other Person.

(n) Compliance. With respect to Obligor and each Commonly Controlled Entity, (i) terminate, or cease to have an obligation to contribute to, any Multiemployer Plan so as to result in any material liability of Obligor or any Commonly Controlled Entity to PBGC or to any Multiemployer Plan, (ii) engage in any "prohibited transaction" (as defined in Section 4975 of the Code) involving any Plan that would result in a material liability of Obligor or any Commonly Controlled Entity for an excise tax or civil penalty in connection therewith, (iii) incur or suffer to exist any material "accumulated funding deficiency" (as defined in Section 302 of ERISA and Sections 412 and/or 418 of the Code) of any Obligor or any Commonly Controlled Entity, whether or not waived, involving any Single Employer Plan,

(iv) incur or suffer to exist any Reportable Event or the appointment of a trustee or institution of proceedings for appointment of a trustee for any Single Employer Plan if, in the case of a Reportable Event, same continues unremedied for ten (10) days after notice of such Reportable Event pursuant to Section 4043(a), (c) or (d) of ERISA is given, if in the reasonable opinion of the Corporation any of the foregoing is likely to result in a material liability of Obligor or any Commonly Controlled Entity, (v) allow or suffer to exist any event or condition, which presents a material risk of incurring a material liability of Obligor or any Commonly Controlled Entity to PBGC by reason of termination of any such Plan, or (vi) cause or permit any Plan maintained by Obligor and/or any Commonly Controlled Entity to be out of compliance with ERISA and/or Title X of the Consolidated Omnibus Budget Reconciliation Act of 1986, as amended. For purposes of this Section 5.02(P) "material liability" shall be deemed to mean any liability of Fifty Thousand and 00/100 Dollars (\$50,000.00) or more in the aggregate.

(o) Change of Name, Etc. Change its name, state of organization or principal place of business to other than the State of Rhode Island.

(p) Distributions. Make dividend payments, member distributions or other distributions to members or equity holders, except for distributions to cover income taxes or to cover the cost of repurchasing equity interests of members under a right of first refusal (provided that any repurchases of equity interests under any right of first refusal shall: (1) be made only from Excess Operating Income; (2) be made only after Deferred Fees owed to the Corporation are paid; (3) not exceed \$2,000,000 in the aggregate during the term of the bonds for equity holders other than Mr. Schilling or his family; and (4) the company shall not redeem or purchase any of Mr. Schilling's or his immediate family's equity or ownership interest in the company whether held in trust for any of the foregoing or otherwise), after satisfying a Minimum Equity Requirement, as defined in the next sentence. The dollar amount of the "Minimum Equity Requirement" shall mean the outstanding principal balance on the bonds minus any amounts reserved in or paid to the Corporation to the Prepayment Account. The "Excess Equity Balance Available for Dividend or Distribution to Equity Holders" shall mean that amount calculated from the Company's GAAP financial statements and calculated as total equity contributions plus total additional paid-in-capital plus the fiscal year 2011 and forward years amounts recorded by the company to retained earnings (loss) less the Minimum Equity Requirement. If any payment of the Excess Equity Balance Available for Dividend or Distribution to Equity Holders is paid out, it shall be paid out as 50% of the amount going to equity holders and 50% being paid to the Corporation to be placed in the Prepayment Account. In the event that the Obligor does not declare a dividend or make distributions but has Excess Equity Balance Available for Dividend or Distribution to Equity Holders, then 25% of the Excess Equity Balance Available for Dividend or Distribution to Equity Holders shall be deposited in the Prepayment Account. All investment earnings on the Prepayment Account may be used by the Obligor toward the next Bond payment due from the Obligor, and the principal shall accumulate and be applied toward the final payment due on the Bonds when it becomes due. In the event the principal balance of the Prepayment Account equals the sum of all remaining payments due on the Bonds, at that

time, the Obligor may prepay the balance of the Deferred Fee at an amount discounted to the then present value of the balance of the Deferred Fee owed by the Obligor to the Corporation.

(q) **Loans to Officers, Directors and Employees.** Make any loan, directly or indirectly, to any officer or employee of Obligor or any Guarantor, Affiliate or Subsidiary except in accord with this Section 6.02A(q). Such loans to Officers and Employees shall be limited to matters of hardship and for relocation expenses incident to employment with Obligor. All such loans shall not, in the aggregate, exceed One Million Five Hundred Thousand and 00/100 Dollars (\$1,500,000.00) and shall not in the case of hardship loans exceed Ten Thousand and 00/100 Dollars (\$10,000.00) to any one individual and in the case of relocation loans shall not exceed Sixty Thousand and 00/100 Dollars (\$60,000.00) to any one individual. Loans shall not be available to directors of Obligor. All such loans shall be pursued as to repayment using all legal remedies reasonably available to Obligor including, but not limited to, deduction from bonuses and compensation. Relocation loans shall be limited to those for relocation within twenty (20) miles of Providence. The repayment term of such loans shall be limited to one (1) year in the case of hardship loans and five (5) years in the case of relocation loans. No loans hereunder shall be available to Curt Schilling.

(r) **Assignment and Assumption.** Assign or attempt to have another assume Obligor's obligations under this Agreement or the Security Documents without the express written consent of the Issuer which consent shall not be unreasonably withheld.

(s) **Compensation Restrictions.** Implement compensation to officers, employees or independent contractors inconsistent with compensation generally implemented in the interactive entertainment industry; and further provided that compensation in any form to Curt Schilling shall be for services actually rendered, within standards generally implemented in the interactive entertainment industry and capped at amounts to be agreed upon in writing in advance between Obligor and Issuer.

(t) **Maynard Massachusetts Lease.** Pay or cause to be paid on and after the date hereof, using, directly or indirectly, proceeds of the Bonds any lease, rental or other payment due or to become due in respect of that Commercial Lease dated October 13, 2006 by and between Obligor and Wellesley/Rosewood Maynard Mills Limited Partnership, as amended from time to time (the "Maynard Lease"), other than monthly lease or monthly rental payments due after the date hereof and for and through the month following the relocation of Obligor's corporate headquarters and primary place of business to the State as provided for in Section 6.01A(o) hereof. Obligor shall furnish evidence, satisfactory to the Corporation in its sole discretion, of the existence of liquid funds ("Liquid Funds") in the amount of One Million Five Hundred Thousand and 00/100 Dollars (\$1,500,000) other than Bond proceeds available to make all payments due under the Maynard Lease accruing beyond the date which is one month following the relocation of Obligor's corporate headquarters and primary place of business to Rhode Island no later than the date which is eight (8) days prior to the execution of a Bond Purchase Agreement for the sale of the

Bonds. Obligor hereby covenants that it will limit its use of the Liquid Funds to payments due under the Maynard Lease and further covenants to furnish on a monthly basis, following commencement of the use of the Liquid Funds to pay the Maynard Lease, copies of bank statements evidencing deposit of the Liquid Funds and payment out to the Maynard Lease landlord. In the event Obligor hereafter receives capital funds in the form of additional equity infusion into Obligor in sufficient amount to pay the remaining Maynard Lease payments or in the event Obligor generates Excess Operating Income in sufficient amount to pay the remaining Maynard Lease payments, the requirement that Obligor maintain Liquid Funds shall be terminated.

(u) Motion Picture Production Tax Credits. Apply for, take actions to obtain or otherwise avail itself of any tax credit whether through a Subsidiary or an Affiliate, directly or indirectly under Rhode Island General Law 44-31.2-5, the "Motion Picture Production Tax Credit", as amended from time to time, until such time as one of the following conditions are met:

- (i) Obligor has expended all of the proceeds of the 2010 Bonds deposited to the Project Fund and written certification of such expenditure is made by the Obligor to the Corporation which certification shall be subject to audit by the Corporation by independent auditors selected by the Corporation, the expense of which shall be borne by the Obligor; or
- (ii) the Obligor receives additional capital, independent of the proceeds of the 2010 Bonds, the receipt of which independent capital is subject to verification and certification in writing by the Obligor and audit of same by the Corporation acting through independent auditors selected by the Corporation, the expense of which shall be borne by the Obligor and the "State certified production cost," as defined in Rhode Island General Law 44-31.2-2, is equal to or less than the additional capital received by Obligor and Obligor demonstrates such independent capital was expended on the State certified production cost. Obligor agrees to execute and deliver such Waiver Forms of the Rhode Island Division of Taxation as are consistent with the provisions hereof; or
- (iii) the Obligor's "State certified production cost," as defined in Rhode Island General Law 44-31.2-2, for the annual period is greater than amounts utilized from the Project Fund for the annual period, the calculation of which is subject to verification and certification in writing by the Obligor and audit of same by the Corporation acting through independent auditors selected by the Corporation, the expense of which shall be borne by the Obligor.

Obligor agrees to execute and deliver such Waiver of Confidentiality forms of the Rhode Island Division of Taxation as are consistent with

the provisions of this 6.02A(u); provided, however, that with respect to (i), (ii) and (iii) above, Obligor agrees that in no event shall Obligor apply for, take actions to obtain or otherwise avail itself of any tax credit whether through a Subsidiary or an Affiliate, directly or indirectly, at any time while an event of default or Obligor Default exists.

Section 6.03A. Reporting Requirements. From the date hereof and thereafter for so long as any portion of the Loan or the Bonds are Outstanding or Obligor is indebted to the Corporation under this Agreement, or any of the Security Documents, Obligor will, unless the Corporation shall otherwise consent in writing, furnish or cause to be furnished to the Corporation the following, all of which shall be in form and substance satisfactory to the Corporation:

(a) As soon as possible and in any event upon acquiring knowledge of a Loan Event of Default, continuing on the date of such statement, a written statement setting forth details of such an Event of Default and the action which Obligor proposes to take with respect thereto;

(b) As soon as practicable after the end of each fiscal year of Obligor and in any event within one hundred eighty (180) days thereafter, financial statements prepared on a combined basis for Obligor and its Affiliates and Subsidiaries as of the end of such year to be prepared on an audited basis by a firm of independent certified public accountants selected by Obligor and reasonably acceptable to the Corporation and management prepared statements within one hundred twenty (120) days;

(c) Within thirty (30) days after each month's end, financial statements prepared for Obligor in form satisfactory to the Corporation for the month then ending as well as for the same month of the preceding year, including, but not limited to, a balance sheet, income statement year-to-date financial results;

(d) Within forty-five (45) days after the beginning of each fiscal year, an income statement and balance sheet projecting operations for such fiscal year, prepared and certified to by Obligor's treasurer or Chief Financial Officer;

(e) Within one hundred twenty (120) days after the end of each fiscal year of Obligor a complete listing of Full Time Jobs with an average annual wage of not less than \$67,500 per year created in the State by Obligor as of the end of such fiscal year.

(f) Such other information respecting the business, properties or the condition or operations, financial or otherwise, of Obligor or any Guarantor as the Loan may from time to time reasonably request; and

(g) Prompt written notice of any material adverse change in Obligor's or any Guarantor's conditions, financial or otherwise, and an explanation thereof and of the actions Obligor proposes to take with respect thereto.

ARTICLE VI

PARTICULAR COVENANTS OF THE CORPORATION

SECTION 6.01 Corporation's Obligation Not to Create a General Liability. Each and every covenant herein made, including all covenants made by the various sections of this Article VI, is predicated upon the condition that any obligation for the payment of money incurred by the Corporation, including the Bonds, shall not constitute nor give rise to a pecuniary liability or a charge against its general credit, but shall be payable solely out of the revenues or other receipts, funds or moneys of the Corporation specifically pledged to the payment thereof in the manner and to the extent in this Agreement specified and nothing in the Bonds or in this Agreement shall be considered as pledging any other revenues, receipts, funds, moneys or assets of the Corporation.

SECTION 6.02 Payment of Principal, Redemption Price, Premium, if any, and Interest. The Corporation covenants that it will, solely from the revenues, receipts, funds or moneys derived from this Agreement or from the Capital Reserve Fund or otherwise from the trust estate designated under the granting clauses of this Agreement, promptly pay the principal of, Redemption Price, and interest on, every Bond issued under this Agreement, at the place, or the dates and in the manner provided herein and in said Bonds according to the true intent and meaning thereof.

SECTION 6.03 Performance of Covenants; Corporation. The Corporation covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Agreement, in any and every Bond executed, authenticated and delivered hereunder and in all of its proceedings pertaining thereto. The Corporation covenants that it is duly authorized under the Constitution, and laws of the State, including particularly and without limitation the Act, to issue the Bonds authorized hereby and to execute this Agreement, to create the liens in the property described herein and created hereby, to grant the security interest herein provided, to assign the Agreement and deliver the Assignment and other amounts hereby pledged in the manner and to the extent herein set forth; that all action on its part for the issuance of the Bonds and the execution and delivery of this Agreement have been duly and effectively taken, and the Bonds in the hands of the owners thereof are and will be valid and enforceable obligations of the Corporation according to the terms thereof and hereof.

SECTION 6.04 Instruments of Further Assurance. The Trustee covenants that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such Supplemental Agreements and such further acts,

instruments and transfers as may reasonably be required for the better assuring, transferring, pledging, assigning and confirming all and singular the property herein described and the Loan payments, revenues and receipts pledged hereby to the payment of the principal of and interest and Redemption Price, as applicable, on the Bonds to the extent such would not adversely affect the rights of the Trustee hereunder. Any and all property hereinafter acquired which is of the kind or nature herein provided to be and become subject to the lien hereof shall ipso facto, and without any further conveyance, assignment or act on the part of the Corporation or the Trustee, become and be subject to the lien of this Agreement as fully and completely as though specifically described herein, but nothing in this sentence contained shall be deemed to modify or change the obligations heretofore made by this Section.

The Corporation covenants that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such agreements supplemental hereto and such further acts, instruments and transfers as Trustee may reasonably require for the better assuring, transferring, pledging, assigning and confirming unto the Trustee all and singular the rights assigned hereby and the lease rentals and other amounts pledged hereby to the payment of the principal of, Redemption Price and interest on the Bonds. The Corporation covenants and agrees that, except as herein and in the Agreement provided, it will not sell, encumber or otherwise dispose of any part of the Loan payments, revenues and receipts therefrom or its rights under this Agreement.

SECTION 6.05 **Recordation of Instruments.** The Corporation covenants that it will cause such other security agreements, mortgages of copyright, financing statements and all supplements thereto and other instruments as may be required from time to time to be kept, to be recorded and filed in such manner and in such places as may be required by law in order to fully preserve and protect the security of the holders and owners of the Bonds, and the rights of the Trustee hereunder, and to perfect the security interest created by this Agreement.

SECTION 6.06 **Inspection of Books.** The Corporation covenants and agrees that all books and documents in its possession relating to the EDC Project and the revenues derived from the EDC Project and documents relating to appropriations to the Capital Reserve Fund shall at all reasonable times be open to inspection by such accountants or other agencies as the Trustee may from time to time designate.

SECTION 6.07 **List of Bondholders.** The Corporation will keep on file at the principal office of the Bond Registrar a list of names and addresses of the last known holders of all Bonds in registered form. Neither the Corporation nor the Bond Registrar shall be under any responsibility with regard to the accuracy of said list. At reasonable times and under reasonable regulations established by the Bond Registrar, said list may be inspected and copied by the Corporation, or by holders or owners (or a designated representative thereof) of fifteen percent or more in principal amount of Bonds then outstanding.

ARTICLE VII

REMEDIES OF BONDHOLDERS AND THE CORPORATION

SECTION 7.01 Events of Default; Acceleration of Due Date. (a). Each of the following events is hereby defined as and shall constitute an "event of default":

(i) Default in the due and punctual payment of the interest on any Bond.

(ii) Default in the due and punctual payment of the principal or Redemption Price of any Bonds, whether at the stated maturity thereof or upon proceedings for redemption thereof.

(iii) Default in the performance or observance of any other of the covenants, agreements or conditions on the part of the Corporation in this Agreement or in the Bonds contained and the continuance thereof for a period of 30 days after written notice given by the Trustee or by the Holders of not less than 25% of the principal amount of Bonds then Outstanding.

(b). Upon the happening and during the continuance of any event of default specified in clause (i) or (ii) of subsection (a) of this Section, unless the principal of all the Bonds shall have already become due and payable, the Trustee may, or on the written request of the Holders of not less than 25% in the principal amount of the Bonds Outstanding shall (by thirty (30) days' notice in writing to the Corporation and the Governor of the State) declare the principal of the Bonds then Outstanding, the Redemption Price due, if any, and the interest accrued thereon to be due and payable immediately, and upon such declaration the same shall become and be immediately due and payable, anything in this Agreement or in any of the Bonds contained to the contrary notwithstanding. The right of the Trustee to make any such declaration as aforesaid, however, is subject to the condition that if, at any time after such declaration, all overdue installments of interest upon the Bonds and the principal of all Bonds which shall have become due by reason of maturity or call for redemption, together with the reasonable and proper charges, expenses and liabilities of the Trustee, shall either be paid by or for the account of the Corporation or provision satisfactory to the Trustee shall be made for such payment, then any such event of default and its consequences shall ipso facto be deemed to be annulled, but no such annulment shall extend to or affect any subsequent default or impair or exhaust any right or power consequent thereon.

SECTION 7.02 Enforcement of Remedies. (a). Upon the happening and continuance of any event of default as defined in Section 7.01, then and in every case

the Trustee may proceed, and upon the written request of the Holders of not less than 25% in the principal amount of the Bonds Outstanding shall proceed, to protect and enforce its rights and the rights of the Bondholders under the Act, the Bonds, and this Agreement forthwith by such suits, actions or special proceedings in equity or at law, or by proceedings in the office of any board or officer having jurisdiction, whether for the specific performance of any covenant or agreement contained in this Agreement or in aid of the execution of any power granted therein or in the Act or for the enforcement of any legal or equitable rights or remedies, including the right to require the Corporation to collect any Loan payments and interest and principal repayments to require the Corporation to account as if it were the Trustee of an express trust for the holders of the Bonds or to enjoin any acts or things which may be unlawful or in violation of the Holders of the Bonds.

(b). In the enforcement of any rights or remedy under this Agreement or under the Act, the Trustee shall be entitled to sue for, enforce payment on and receive any or all amounts then or during any event of default becoming, and any time remaining, due from the Corporation for principal, Redemption Price, interest, or otherwise under any of the provisions of this Agreement or of the Bonds, and unpaid, with interest on overdue payments at the rate or rates of interest specified in the Bonds, together with any and all costs and expenses of collection and of all proceedings under this Agreement and under the Bonds, without prejudice to any other right or remedy of the Trustee or of the Bondholders, and to recover and enforce judgment or decree against the Corporation, but solely as provided in this Agreement and in the Bonds, for any portion of such amounts remaining unpaid, with interest, costs, and expenses, and to collect (but solely from the moneys in the Sinking Fund, the Project Fund, the Capital Reserve Fund, the Appropriation Fund) in any manner provided by law, the moneys adjudged or decreed to be payable.

(c). Regardless of the happening of any event of default, the Trustee, if requested in writing by the Holders of not less than 25% in the principal amount of the Bonds then Outstanding and furnished with adequate security and indemnity against the costs, expenses, and liabilities to be incurred, shall institute and maintain such suits and proceedings as it may be advised shall be necessary or expedient to prevent any impairment of the security under this Agreement by any acts which may be unlawful or in violation of the Agreement or of any resolution authorizing Bonds, and such suits and proceedings as the Trustee may be advised shall be necessary or expedient to preserve or protect its interests and the interests of the Bondholders; provided, that such request shall not be otherwise than in accordance with the provisions of law and of this Agreement and shall not be unduly prejudicial to the interests of the Holders of Bonds not making such request.

SECTION 7.03 Appointment of Receiver. Upon the occurrence and during the continuation of an event of default as defined in Section 7.01 specified in clause (i) or (ii) of subsection 2 of Section 7.01, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the

Bondholders under this Agreement, the Trustee shall be entitled to the appointment of a receiver to administer the EDC Project on behalf of the Corporation, with power to charge and collect Loan payments in accordance with this Agreement sufficient to provide for the payment of the principal, interest and Redemption Price on the Bonds then Outstanding, for the payment of operating expenses and Trustee's fees and expenses, and to apply the income and revenue in conformity with the Act and this Agreement.

SECTION 7.04 Application of Revenues and Other Moneys after Default.

(a.) All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of the cost and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances (including attorneys fees) incurred or made by the Trustee, be deposited in the Sinking Fund and all moneys so deposited in such Fund and available for payment of the Bonds shall be applied, after first deducting fees and expenses of the Trustee then due and payable, as follows:

(i) Unless the principal of all of the Bonds shall have become or have been declared due and payable,

First - To the payment to the persons entitled thereto of all installments of interest then due on the Bonds, in the order of the maturity of the installments of such interest and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or privilege; and

Second - To the payment to the persons entitled thereto of the unpaid principal or Redemption Price, if any, of any of the Bonds or principal installments which shall have become due (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of the Agreement), in the order of their due dates, with interest on such Bonds, at the rate or rates expressed thereon, from the respective dates upon which they became due and, if the amount available shall not be sufficient to pay in full Bonds or principal installments due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal due on such date, to the persons entitled thereto without any discrimination or privilege.

(ii) If the principal of all the Bonds shall have become or have been declared due and payable, to the payment of the principal and interest (at the rate or rates expressed thereon) then due and unpaid upon the Bonds without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amount due respectively for principal and interest, to the persons

entitled thereto without any discrimination or preference except as set forth in Section 12.03 hereof.

(b.) Whenever moneys are to be applied pursuant to the provisions of this Section, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such moneys available for application and likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an interest payment date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the holder or any Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

(c.) Whenever all Bonds and interest thereon have been paid under the provisions of this Section and all expenses and charges of the Trustee, Bondholders and Paying Agents have been paid, any balance remaining in the Sinking Fund shall be paid at the written direction of the Corporation in accordance with the provisions of Section 5.10 of this Agreement.

SECTION 7.05 **Actions by Trustee.** All rights of action under this Agreement or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto and any such suit or proceedings instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any Holders of the Bonds, and any recovery of judgment shall, subject to the provisions of Section 7.04, be for the equal benefit of the Holders of the Outstanding Bonds.

SECTION 7.06 **Majority Bondholders Control Proceedings.** Anything in this Agreement to the contrary notwithstanding, the Holders of a majority in aggregate principal amounts of Bonds then Outstanding shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of the Agreement, or for the appointment of a receiver or any other proceedings hereunder, provided, that such direction shall not be otherwise than in accordance with the provisions of law and of the Agreement.

SECTION 7.07 **Individual Bondholder Action Restricted.** No holder of any Bond shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of any provision of this Agreement or the execution of any trust under this Agreement or for any remedy under this Agreement, unless such Holder shall have previously given to the Trustee written notice of the happening of an event of default, as provided in this Article, and the Holders of at least 25% in the principal

amount of the Bonds then Outstanding shall have filed a written request with the Trustee, and shall have offered it reasonable opportunity to exercise the powers granted in this Agreement or by the Act or by the laws of the State or to institute such action, suit or proceeding in its own name, and unless such Holders shall have offered to the Trustee adequate security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee shall have refused to comply with such request for a period of 60 days after receipt by it of such notice, request and offer of indemnity, it being understood and intended that no one or more Holders of Bonds shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the pledge created by this Agreement, or to enforce any right under this Agreement, except in the manner therein provided; and that any proceeding at law or in equity available to the Trustee or to the Holders of the Bonds is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to any other remedy given under the Agreement or now or hereafter existing at law or in equity or by statute.

SECTION 7.08 **Effect of Discontinuance of Proceedings.** In case any proceedings taken by the Trustee on account of any event of default shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Corporation, the Trustee, and Bondholders shall be restored, respectively, to their former positions and rights hereunder, and all rights, remedies, powers and duties of the Trustee shall continue as though no such proceedings had been taken.

SECTION 7.09 **Remedies Not Exclusive.** No remedy by the terms of this Agreement conferred upon or reserved to the Trustee or to the Holders of the Bonds is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to any other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute including but not limited to, those found in Rhode Island General Laws 42-64-25.

SECTION 7.10 **Delay or Omission.** No delay or omission of the Trustee or of any Holder of the Bonds in exercising any right or power arising upon any default shall impair any right or power or shall be construed to be a waiver of any such event of default or an acquiescence therein; and every power and remedy given by this Article to the Trustee and the Holders of the Bonds, respectively, may be exercised from time to time and as often as may be deemed expedient by the Trustee or by the Bondholders.

SECTION 7.11 **Notice of Event of Default.** The Trustee shall promptly mail to registered Holders of Bonds, written notice of the occurrence of any event of default. The Trustee shall not, however, be subject to any liability to any Bondholder by reason of its failure to mail any notice required by this Section.

SECTION 7.12 **Waivers of Events of Default.** The Trustee shall waive any event of default hereunder and its consequences upon the written request of the

Holders of one-half in aggregate principal amount of all the Bonds then Outstanding; provided however, that there shall not be waived without the consent of the Holders of all the Bonds Outstanding (a) any event of default in the payment of the principal of any Outstanding Bonds at the date of maturity specified therein or (b) any event of default in the payment when due of the interest on any such Bonds unless, prior to such waiver, all arrears of interest, with interest (to the extent permitted by law) at the rate borne by the Bonds on overdue installments of interest in respect of which such event of default shall have occurred, or all arrears of payments or principal when due, as the case may be, and all expenses of the Trustee in connection with such event of default shall have been paid or provided for, and in case of any such waiver, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the Corporation, the Trustee and the Bondholders shall be restored to their former positions and rights hereunder respectively, but no such waiver shall extend to any subsequent or other event of default, or impair any right consequent thereon.

SECTION 7.13 Obligor Defaults.

(a) Obligor Defaults. The following events shall constitute "Obligor Defaults":

- (i) Default in the due and punctual payment of any Loan Payments due from Obligor; and
- (ii) Default in the performance and observance of any other of the covenants, agreements, or conditions on the part of the Obligor in this Agreement contained and the continuance thereof for a period of thirty (30) days after written notice by the Corporation to the Obligor.

(b) Upon the happening and following the continuance thereof for in excess of thirty (30) days of any Obligor Default, the Corporation may declare all remaining Loan Payments due and payable immediately anything in this Agreement to the contrary notwithstanding. In addition to the foregoing, the Corporation in its sole discretion may declare any Obligor Default, an "event of default" under Section 7.01 hereof with the same effect and subject to the same remedies available for such events of default. The Corporation shall have available to it all remedies at law or in equity with respect to any Obligor Default.

ARTICLE VIII

TRUSTEE, PAYING AGENT AND BOND REGISTRAR

SECTION 8.01 Appointment and Acceptance of Duties. (a.) The Bank of New York Mellon Trust Company, N.A., having offices in Providence, Rhode Island, is hereby appointed as Trustee. The Trustee shall signify its acceptance of the duties and obligations of the Trustee by executing this Agreement.

(b.) The Trustee is hereby appointed Paying Agent for the Bonds.

(c.) The Trustee is hereby appointed Bond Registrar for the Bonds.

SECTION 8.02 Indemnity. The Trustee shall be under no obligation to institute any suit, or to take any remedial proceeding under the Agreement, or to enter any appearance or in any way defend in any suit in which it may be made defendant, or to take any steps in the execution of the trusts hereby created or in the enforcement of any rights and powers under this Agreement, until it shall be indemnified to its satisfaction against any and all reasonable costs and expenses, outlays, and counsel fees and other disbursements, and against all liability not due to its willful misconduct, gross negligence or bad faith. The Trustee shall have the right to obtain indemnity prior to taking action hereunder.

SECTION 8.03 Responsibilities of Trustee. (a.) The Trustee shall have no responsibility in respect of the validity or sufficiency of this Agreement or the security provided thereunder or the due execution thereof by the Corporation, or in respect of the title or the value of the EDC Project, or in respect of the validity of any Bonds authenticated and delivered by the Trustee in accordance with this Agreement or to see to the recording or filing (but not re-filing) of any financing statement or any other document or instrument whatsoever. The recitals, statements and representations contained in this Agreement, in the Bonds and in any offering document shall be taken and construed as made by and on the part of the Corporation and not by the Trustee, and it does not assume any responsibility for the correctness of the same, provided, however, that the Trustee shall be responsible for its representations contained in its certificate on the Bonds.

(b.) The Trustee shall not be liable or responsible because of the failure of the Corporation to perform any act required of it by this Agreement or because of the loss of any moneys arising through the insolvency or the act or default or omission of any depository other than itself in which such moneys shall have been deposited under this Agreement. The Trustee shall not be responsible for the application of any of the proceeds of the Bonds or any other moneys deposited with it and paid out, invested, withdrawn or transferred in accordance with this Agreement or for any loss resulting from any such investment. The Trustee shall have no obligation to risk or expend its own funds. The Trustee shall not be liable in connection with the performance of its duties under this Agreement except for its own willful misconduct, gross negligence or bad faith. The immunities and exemptions from liability of the Trustee shall extend to its directors, officers, employees, affiliates and agents. The Trustee shall have the right to consult with counsel and to act through attorneys and agents. Permissive rights of the Trustee shall not be construed as duties.

(c.) The Trustee, prior to the occurrence of an event of default (as defined in Section 7.01) and after curing or waiving of all events of default which may have

occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Agreement. In case an event of default has occurred (which has not been cured or waived) the Trustee shall exercise such of the rights and powers vested in it by the Agreement, and use the same degree of care and skill in their exercise, as a prudent man would exercise under the circumstances in the conduct of his own affairs. The Trustee will not be required to foreclose on any mortgage under the Security Documents unless indemnified to its reasonable satisfaction and will not be required to foreclose if doing so will subject it to environmental liability or will require the approval of a governmental regulator that cannot be obtained.

(d.) The Trustee shall not be liable or responsible for the failure of the Obligor to effect or maintain insurance on the Project as provided in the Agreement nor shall it be responsible for any loss by reason of want or insufficiency in insurance or by reason of the failure of any insurer in which the insurance is carried to pay the full amount of any loss against which it may have insured the Corporation, the Obligor, the Trustee or any other person.

SECTION 8.04 Compensation. The Trustee, Paying Agent and Bond Registrar shall be entitled to receive and collect from the Obligor as and to the extent provided in the Agreement and in this Agreement and to receive and collect from other sources provided for in this Agreement payment for reasonable fees for services rendered hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Trustee, Paying Agent or Bond Registrar in connection therewith. The Trustee, Paying Agent and Bond Registrar shall obtain payment of the amounts referenced in this Section 8.04 by first availing itself of monies available therefor as provided in Section 5.06(b) of this Agreement. Failing the availability of those funds, the Trustee shall be paid the foregoing amounts by the Obligor under this Agreement.

SECTION 8.05 Evidence on Which Trustee May Act. (a.) In case at any time it shall be necessary or desirable for the Trustee to make any investigation respecting any fact preparatory to taking or not taking any action, or doing or not doing anything, as such Trustee, and in any case in which this Agreement provides for permitting or taking any action, the Trustee may rely upon any certificate required or permitted to be filed with it under the provisions of this Agreement, and any such certificate shall be evidence of such fact to protect it in any action that it may or may not take, or in respect of anything it may or may not do, in good faith, by reason of the supposed existence of such fact.

(b.) The Trustee shall be protected and shall incur no liability in acting or proceeding, or in not acting or not proceeding, in good faith, reasonably and in accordance with the terms of this Agreement, upon any resolution, order, notice, request, consent, waiver, certificate, statement, affidavit, requisition, bond or other paper or document which it shall in good faith reasonably believe to be genuine and to have been adopted or signed by the proper board or person, or to have been prepared

and furnished pursuant to any of the provisions of this Agreement, or upon the written opinion of any attorney (who may be an attorney for the Corporation or the Obligor), engineer, appraiser, or accountant believed by the Trustee to be qualified in relation to the subject matter.

SECTION 8.06 Trustee, Paying Agent and Bond Registrar May Deal in Bonds. Any national banking association, bank or trust company acting as a Trustee, Paying Agent and/or Bond Registrar, and its directors, officers, employees or agents, shareholders and affiliates may in good faith buy, sell, own, hold and deal in any of the Bonds or coupons, if any, and may join in any action which any Bondholder may be entitled to take with like effect as if such association, bank or trust company were not such Trustee, Paying Agent and/or Bond Registrar and the fact that such Trustee, Paying Agent and/or Bond Registrar is a holder of all or any portion of the Bonds shall not in any way increase such Trustee's, Paying Agent's and/or Bond Registrar's obligations hereunder or cause the standards by which such Trustee's, Paying Agent's and/or Bond Registrar's performance hereunder is measured to be higher than if such Trustee, Paying Agent and/or Bond Registrar were not such a holder.

SECTION 8.07 Resignation or Removal of Trustee. (a.) The Trustee may resign and thereby become discharged from the trusts created under this Agreement by notice in writing to be given to the Corporation and by notice to each Holder of the Bonds, not less than 60 days before such resignation is to take effect, but such resignation shall take effect immediately upon the appointment of a successor Trustee, pursuant to Section 8.08, if such successor Trustee shall be appointed before the time specified by such notice and shall accept such trusts.

(b.) The Trustee may be removed at any time by an instrument or concurrent instrument in writing, filed with the Trustee and signed by the Holders of not less than a majority in principal amount of the Bonds then Outstanding or their attorneys-in-fact duly authorized. The Trustee shall promptly give notice of such filing to the Corporation.

SECTION 8.08 Successor Trustee. (a.) If at any time the Trustee shall resign, or shall be removed, be dissolved or otherwise become incapable of acting or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator thereof, or of its property, shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs, the position of Trustee shall thereupon become vacant. If the position of Trustee shall become vacant for any of the foregoing reasons or for any other reason, the Corporation shall appoint a successor Trustee to fill such vacancy. Within 20 days after such appointment, the Corporation shall cause notice of such appointment to be mailed by certified mail to the Owners of the Bonds as set forth in the bond registry.

(b.) At any time within one year after any such vacancy shall have occurred, the Holders of a majority in principal amount of the Bonds then Outstanding, by an

instrument or concurrent instruments in writing, signed by such Bondholders or their respective attorneys-in-fact thereunto duly authorized and filed with the Corporation, may appoint a successor Trustee, which shall immediately and without further act, supersede any Trustee theretofore appointed. If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section, the Holder of any Bond then Outstanding, or any retiring Trustee may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

(c.) Any Trustee appointed under this Section shall be a national banking association or a bank or trust company duly organized under the laws of any State of the United States authorized to exercise corporate trust powers. At the time of its appointment, any successor Trustee shall have a capital stock and surplus aggregating not less than \$50,000,000.

(d.) Every successor Trustee shall execute, acknowledge and deliver to its predecessor, and also to the Corporation, an instrument in writing accepting such appointment, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become fully vested with all moneys, estates, properties, rights, immunities, powers and trusts, and subject to all the duties and obligations, of its predecessor, with like effect as if originally named as such Trustee, but such predecessor shall, nevertheless, on the written request of its successor or of the Corporation, and upon payment of the compensation, expenses, charges and other disbursements of such predecessor which are due and payable pursuant to Section 8.04, execute and deliver an instrument transferring to such successor Trustee all the estate, properties, rights, immunities, powers and trusts of such predecessor; and every predecessor Trustee shall deliver all property and moneys held by it under this Agreement to its successor. Should any instrument in writing from the Corporation be required by any successor Trustee for more fully and certainly vesting in such Trustee, the estate, properties, rights, immunities, power and trusts vested or intended to be vested in the predecessor Trustee any such instrument in writing shall, on request, be executed, acknowledged and delivered by the Corporation. Any successor Trustee shall promptly notify the Paying Agent and/or the Bond Registrar of its appointment as Trustee.

(e.) Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business; provided such company shall be a national banking association or a bank or trust company duly organized under the laws of the United States, and shall be authorized by law to perform all the duties imposed upon it by the Agreement, shall be the successor to such Trustee without the execution or filing of any paper or the performance of any further act.

(f.) Any Trustee who becomes incapable of acting as Trustee shall pay over, assign and deliver to its successor any moneys, funds or investment held by it and shall render an accounting to the Corporation.

SECTION 8.09 Resignation or Removal of Paying Agent; Successors.

(a.) Any Paying Agent may at any time resign and be discharged of the duties and obligations created by the Agreement by giving at least 60 days' written notice to the Corporation and the Trustee. Any Paying Agent may be removed at any time by an instrument filed with such Paying Agent and the Trustee and signed by the Corporation.

Any successor Paying Agent shall be appointed by the Corporation, with the approval of the Trustee, and shall be a bank or trust company duly organized under the laws of any state of the United States or a national banking association, having a capital stock and surplus aggregating at least \$50,000,000, and willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by the Agreement.

(b.) In the event of the resignation or removal of any Paying Agent, such Paying Agent shall pay over, assign and deliver any moneys held by it as Paying Agent to its successor, or if there be no successor, to the Trustee. In the event that for any reason there shall be a vacancy in the office of any Paying Agent, the Trustee shall act as such Paying Agent.

SECTION 8.10 Filings. The Trustee shall cause all continuation statements with respect to the Uniform Commercial Code to be filed in the applicable State office for such filings, so as to continue the perfection of the security interest of the Corporation herein provided.

SECTION 8.11 Notice to Corporation. The Trustee shall give the Corporation and the Corporation shall give to the Trustee an annual report as to whether or not it has become aware of any failure of any party to this Agreement to comply with the provisions thereof and, if so to specify the details thereof.

ARTICLE IX

AMENDMENTS OF AGREEMENT

SECTION 9.01 Limitation on Modifications. This Agreement shall not be modified or amended in any respect except as provided in and in accordance with and subject to the provisions of this Article.

SECTION 9.02 Supplemental Agreements without Bondholders' Consent.
(1.) The Corporation may, from time to time and at any time, adopt Supplemental Agreements without consent of the Bondholders as follows:

(a) To cure any formal defect, omission or ambiguity in the Agreement or in any description of property subject to the lien thereof, if such action is not adverse to the interests of the Bondholders; or

(b) To grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers or security which may lawfully be granted or conferred and which are not contrary to or inconsistent with the Agreement as heretofore in effect; or

(c) To add to the covenants and agreements of the Corporation in the Agreement, other covenants and agreements to be observed by the Corporation which are not contrary to or inconsistent with the Agreement as theretofore in effect or adverse to the interests of the Bondholders; or

(d) To add to the limitations and restrictions in the Agreement, other notations and restrictions to be observed by the Corporation which are not contrary to or inconsistent with the Agreement or theretofore in effect; or

(e) To confirm, as further assurance, any pledge under, and the subjection to any lien or pledge created or to be created by, the Agreement, of the revenues or Loan payments from or in connection with the EDC Project or of any other moneys, securities or funds, or to subject to the lien or pledge of the Agreement additional revenues, properties or collateral; or

(f) To provide for the issuance of Additional Bonds to the extent provided in Section 2.10(1) of this Agreement; or

(g) To effectuate any other change, amendment or revision which in the opinion of the Trustee is not adverse to the interests of the Bondholders.

(2.) Before the Corporation shall adopt any Supplemental Agreement pursuant to this Section, there shall have been filed with the Trustee an opinion of counsel satisfactory to the Trustee stating that such Supplemental Agreement is authorized or permitted by the Agreement and complies with the terms, and that upon enactment it will be valid and binding upon the Corporation in accordance with its terms.

SECTION 9.03 Supplemental Agreements with Bondholders' Consent.

(1.) Subject to the terms and provisions contained in this Article and except as provided in Section 2.10 of this Agreement, and not otherwise, the Holders of not less than 66 2/3% in aggregate principal amount of the Bonds then Outstanding shall have the right from time to time, to consent to and approve the adoption by the Corporation of any Supplemental Agreement as shall be deemed necessary, or desirable by the Corporation for the purpose of modifying, altering, amending, adding to or rescinding, in

any particular, any of the terms or provisions contained in this Agreement; provided, however, that nothing herein contained shall permit, or be construed as permitting, (i) a change in the terms of redemption or maturity of the principal of or the interest on any Outstanding Bond, or a reduction in the principal amount or Redemption Price of any Outstanding Bond or the rate of interest thereon, without the consent of the holder of such Bond, or (ii) the creation of a lien upon or pledge of revenues from or in connection with the EDC Project ranking prior to the lien or pledge created by the Agreement or (iii) a preference or priority of any Bond or Bonds over any other Bond or Bonds, except as provided in Section 12.03 or (iv) a reduction in the aggregate principal amount of the Bonds required for consent to such Supplemental Agreement.

(b.) If at any time the Corporation shall determine to adopt any Supplemental Agreement for any of the purposes of this Section it shall cause notice of the proposed Supplemental Agreement to be mailed, postage prepaid, to all registered Bondholders. Such notice shall briefly set forth the nature of the proposed Supplemental Agreement and shall state that a copy thereof is on file at the offices of the Trustee for inspection by all bondholders.

(c.) Within one year after the date of the first notice, the Corporation may adopt such Supplemental Agreements in substantially the form described in such notice only if there shall have first been filed with the Corporation (a) the written consents of Holders of not less than 66 2/3% in aggregate principal amount of the Bonds then Outstanding and (b) the opinion of counsel satisfactory to the Trustee stating that such Supplemental Agreement is authorized or permitted by the Agreement and complies with the terms, and that upon adoption it will be valid and binding upon the Corporation in accordance with its terms. Each valid consent shall be effective only if accompanied by proof of the holding, at the date of such consent, of the Bonds with respect to which such consent is given. A certificate or certificates by the Trustee that it has examined such proof is sufficient in accordance with this Agreement shall be conclusive that the consents have been given by the Holders of the Bonds described in such certificate or certificates. Any such consent shall be binding upon the Holder of the Bonds giving such consent and upon any subsequent Holder of such Bonds and of any Bonds issued in exchange therefor (whether or not such subsequent Holder thereof has notice thereof), unless such consent is revoked in writing by the Holder of such Bonds giving such consent or a subsequent Holder thereof by filing such revocation with the Trustee prior to the adoption of such Supplemental Agreement.

(d.) If the Holders of not less than the percentage of Bonds required by this Section shall have consented to and approved the execution thereof as herein provided, no Holder of any Bonds shall have any right to object to the enactment of such Supplemental Agreement, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the Corporation from adopting the same or from taking any action pursuant to the provisions thereof.

(e.) Upon the adoption of any Supplemental Agreement pursuant to the provisions of this Section, this Agreement shall be and be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under the Agreement of the Corporation, the Trustee and all Holders of Bonds then Outstanding shall thereafter be determined, exercised and enforced under this Agreement, subject in all respects to such modifications and amendments.

SECTION 9.04 Supplemental Agreement Part of the Agreement. Any Supplemental Agreement adopted in accordance with the provisions of this Article shall thereafter form a part of the Agreement; and all the terms and conditions contained in any such Supplemental Agreement as to any provisions authorized to be contained therein shall be and shall be deemed to be part of the terms and conditions of the Agreement for any and all purposes. The Trustee shall execute any Supplemental Agreement adopted in accordance with the provisions of Section 9.02 or 9.03.

SECTION 9.05 [RESERVED]

SECTION 9.06 [RESERVED]

SECTION 9.07 [RESERVED]

ARTICLE X

PROVISIONS RELATING TO BOND INSURANCE

SECTION 10.01 Scope of Provisions. The following provisions contained in this Article X shall govern, notwithstanding anything to the contrary set forth in this Agreement.

SECTION 10.02 Capital Reserve Fund Provisions. The prior written consent of the Insurer shall be a condition precedent to the deposit of any credit instrument provided in lieu of a cash deposit into the Capital Reserve Fund. Notwithstanding anything to the contrary set forth in the Agreement, amounts on deposit in the Capital Reserve Fund shall be applied solely to the payment of debt service due on the Bonds.

SECTION 10.03 Deemed Holder. The Insurer shall be deemed to be the sole holder of the 2010 Series Bonds for the purpose of exercising any voting right or privilege or giving any consent or direction or taking any other action that the holders of the Bonds insured by it are entitled to take pursuant to any section or article of the Agreement pertaining to (i) defaults and remedies and (ii) the duties and obligations of the Trustee for so long as the Insurance Policy is outstanding and the Insurer has honored its obligation thereunder and is not in default of any of its obligations thereunder. Remedies granted to the Bondholders shall expressly include mandamus.

SECTION 10.04 Acceleration. To the extent acceleration of any amounts due with respect to the 2010 Series Bonds is permitted under this Agreement, the maturity of Bonds insured by the Insurer shall not be accelerated without the consent of the Insurer and in the event the maturity of the Bonds is accelerated, the Insurer may elect, in its sole discretion, to pay accelerated principal and interest accrued, on such principal to the date of acceleration (to the extent unpaid by the Issuer) and the Trustee shall be required to accept such amounts. Upon payment of such accelerated principal and interest accrued to the acceleration date as provided above, the Insurer's obligations under the Insurance Policy with respect to such Bonds shall be fully discharged.

SECTION 10.05 Grace Periods. No grace period for a covenant default under this Agreement shall exceed 30 days or be extended for more than 60 days, without the prior written consent of the Insurer. No grace period shall be permitted for any payment defaults.

SECTION 10.06 Third Party Beneficiary. The Insurer shall be deemed as a third party beneficiary of this Agreement.

SECTION 10.07 Redemption Provisions. Upon the occurrence of an extraordinary optional, special or extraordinary mandatory redemption in part, the selection of Bonds to be redeemed shall be subject to the approval of the Insurer. The exercise of any provision of this Agreement which permits the purchase of Bonds in lieu of redemption shall require the prior written approval of the Insurer if any Bond so purchased is not cancelled upon purchase.

SECTION 10.08 Amendments. Any amendment, supplement, modification to, or waiver of, this Agreement or any other transaction document, including any underlying security agreement (each a "Related Document"), that requires the consent of Bondholders or adversely affects the rights and interests of the Insurer shall be subject to the prior written consent of the Insurer.

SECTION 10.09 Project Fund Application. Unless the Insurer otherwise directs, upon the occurrence and continuance of an Event of Default or an event which with notice or lapse of time would constitute an Event of Default, amounts on deposit in the Project Fund shall not be disbursed, but shall instead be applied to the payment of debt service or redemption price of the Bonds.

SECTION 10.10 Rights of Insurer. The rights granted to the Insurer under this Agreement or any other Related Document to request, consent to or direct any action are rights granted to the Insurer in consideration of its issuance of the Insurance Policy. Any exercise by the Insurer of such rights is merely an exercise of the Insurer's contractual rights and shall not be construed or deemed to be taken for the benefit, or on behalf, of the Bondholders and such action does not evidence any position of the

Insurer, affirmative or negative, as to whether the consent of the Bondholders or any other person is required in addition to the consent of the Insurer.

SECTION 10.11 Defeasance Obligations. Only (1) cash, (2) non-callable direct obligations of the United States of America ("Treasuries"), (3) evidences of ownership of proportionate interests in future interest and principal payments on Treasuries held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying Treasuries are not available to any person claiming through the custodian or to whom the custodian may be obligated, (4) subject to the prior written consent of the Insurer, pre-refunded municipal obligations rated "AAA" and "Aaa" by S&P and Moody's, respectively, or (5) subject to the prior written consent of the Insurer, securities eligible for "AAA" defeasance under then existing criteria of S&P or any combination thereof, shall be used to effect defeasance of the Bonds unless the Insurer otherwise approves.

To accomplish defeasance, the Issuer shall cause to be delivered (i) a report of an independent firm of nationally recognized certified public accountants or such other accountant as shall be acceptable to the Insurer ("Accountant") verifying the sufficiency of the escrow established to pay the Bonds in full on the maturity or redemption date ("Verification"), (ii) an Escrow Deposit Agreement (which shall be acceptable in form and substance to the Insurer), (iii) an opinion of nationally recognized bond counsel to the effect that the Bonds are no longer "Outstanding" under the Agreement and (iv) a certificate of discharge of the Trustee with respect to the Bonds; each Verification and defeasance opinion shall be acceptable in form and substance, and addressed, to the Issuer, Trustee and Insurer. The Insurer shall be provided with final drafts of the above-referenced documentation not less than five business days prior to the funding of the escrow.

Bonds shall be deemed "Outstanding" under this Agreement unless and until they are in fact paid and retired or the above criteria are met.

SECTION 10.12 Payments of Insurer. Amounts paid by the Insurer under the Insurance Policy shall not be deemed paid for purposes of this Agreement and the Bonds relating to such payments shall remain Outstanding and continue to be due and owing until paid by the Issuer in accordance with this Agreement. This Agreement shall not be discharged unless all amounts due or to become due to the Insurer have been paid in full or duly provided for.

SECTION 10.13 Actions Pertaining to the Trust Estate. The Issuer covenants and agrees to take such actions (including, as applicable, filing of UCC financing statements and continuations thereof) as is necessary from time to time to preserve the priority of the pledge of the Trust Estate under applicable law. The Trustee also covenants and agrees to file such UCC continuation statements as are

necessary from time to time to preserve the priority of the pledge of the Trust Estate under applicable law.

SECTION 10.14 Records and Accounts of Payments by the Insurer. With respect to claims upon the Insurance Policy and payments by and to the Insurer, if on the third Business Day prior to the related scheduled interest payment date or principal payment date ("Payment Date") there is not on deposit with the Trustee, after making all transfers and deposits required under the Agreement, moneys sufficient to pay the principal and interest on the Bonds due on such Payment Date, the Trustee shall give notice to the Insurer and to its designated agent (if any) (the "Insurer's Fiscal Agent") by telephone or telecopy of the amount of such deficiency by 12:00 noon, New York City time, on such Business Day. If, on the second Business Day prior to the related Payment Date, there continues to be a deficiency in the amount available to pay the principal of and interest on the Bonds due on such Payment Date, the Trustee shall make a claim under the Insurance Policy and give notice to the Insurer and the Insurer's Fiscal Agent (if any) by telephone of the amount of such deficiency, and the allocation of such deficiency between the amount required to pay interest on the Bonds and the amount required to pay principal of the Bonds, confirmed in writing to the Insurer and the Insurer's Fiscal Agent by 12:00 noon, New York City time, on such second Business Day by filling in the form of Notice of Claim and Certificate delivered with the Insurance Policy.

The Trustee shall designate any portion of payment of principal on Bonds paid by the Insurer, whether by virtue of mandatory sinking fund redemption, maturity or other advancement of maturity, on its books as a reduction in the principal amount of Bonds registered to the then current Bondholder, whether DTC or its nominee or otherwise, and shall issue a replacement Bond to the Insurer, registered in the name of Assured Guaranty Municipal Corp. (formerly known as Financial Security Assurance, Inc.), in a principal amount equal to the amount of principal so paid (without regard to authorized denominations); provided that the Trustee's failure to so designate any payment or issue any replacement Bond shall have no effect on the amount of principal or interest payable by the Issuer on any Bond or the subrogation rights of the Insurer.

The Trustee shall keep a complete and accurate record of all funds deposited by the Insurer into the Policy Payments Account (defined below) and the allocation of such funds to payment of interest on and principal of any Bond. The Insurer shall have the right to inspect such records at reasonable times upon reasonable notice to the Trustee.

Upon payment of a claim under the Insurance Policy, the Trustee shall establish a separate special purpose trust account for the benefit of Bondholders referred to herein as the "Policy Payments Account" and over which the Trustee shall have exclusive control and sole right of withdrawal. The Trustee shall receive any amount paid under the Insurance Policy in trust on behalf of Bondholders and shall deposit any such amount in the Policy Payments Account and distribute such amount only for

purposes of making the payments for which a claim was made. Such amounts shall be disbursed by the Trustee to Bondholders in the same manner as principal and interest payments are to be made with respect to the Bonds under the sections hereof regarding payment of Bonds. It shall not be necessary for such payments to be made by checks or wire transfers separate from the check or wire transfer used to pay debt service with other funds available to make such payments. Notwithstanding anything herein to the contrary, the Issuer agrees to pay, but solely to the extent of available monies under this Agreement and funds and accounts established thereunder, to the Insurer (i) a sum equal to the total of all amounts paid by the Insurer under the Insurance Policy (the "Insurer Advances"); and (ii) interest on such Insurer Advances from the date paid by the Insurer until payment thereof in full, payable to the Insurer at the Late Payment Rate per annum (collectively, the "Insurer Reimbursement Amounts"). "Late Payment Rate" means the lesser of (a) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank at its principal office in The City of New York, as its prime or base lending rate (any change in such rate of interest to be effective on the date such change is announced by JPMorgan Chase Bank) plus 3%, and (ii) the then applicable highest rate of interest on the Bonds and (b) the maximum rate permissible under applicable usury or similar laws limiting interest rates. The Late Payment Rate shall be completed on the basis of the actual number of days elapsed over a year of 360 days. The Issuer hereby covenants and agrees that the Insurer Reimbursement Amounts are secured by a lien on and pledge of the Trust Estate and payable from such Trust Estate on a parity with debt service due on the Bonds.

Funds held in the Policy Payments Account shall not be invested by the Trustee and may not be applied to satisfy any costs, expenses or liabilities of the Trustee. Any funds remaining in the Policy Payments Account following a Bond payment date shall promptly be remitted to the Insurer.

SECTION 10.15 Subrogation. The Insurer shall, to the extent it makes any payment of principal of or interest on the Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Insurance Policy. Each obligation of the Issuer to the Insurer under the Related Documents shall survive discharge or termination of such Related Documents.

SECTION 10.16 Payments by Issuer. The Issuer shall pay or reimburse, but solely to the extent of available monies under this Agreement and funds and accounts established thereunder, the Insurer any and all charges, fees, cost and expenses that the Insurer may reasonably pay or incur in connection with (i) the administration, enforcement, defense or preservation of any rights or security in any Related Document; (ii) the pursuit of any remedies under this Agreement or any other Related Document or otherwise afforded by law or equity, (iii) any amendment, waiver or other action with respect to, or related to, this Agreement or any other Related Document whether or not executed or completed, or (iv) any litigation or other dispute in connection with this Agreement or any other Related Document or the transactions

contemplated thereby, other than costs resulting from the failure of the Insurer to honor its obligations under the Insurance Policy. The Insurer reserves the right to charge a reasonable fee as a condition to executing any amendment, waiver or consent proposed in respect of this Agreement or any other Related Document.

SECTION 10.17 Application of Funds. After payment of reasonable expenses of the Trustee, the application of funds realized upon default shall be applied to the payment of expenses of the Issuer only after the payment of past due and current debt service on the Bonds and amounts required to restore the Capital Reserve Fund to the Minimum Capital Reserve Fund Requirement.

SECTION 10.18 Insurer Rights to Make Payment. The Insurer shall be entitled to pay principal or interest on the Bonds that shall become due for payment but shall be unpaid by reason of Nonpayment by the Issuer (as such terms are defined in the Insurance Policy) and any amounts due on the Bonds as a result of acceleration of the maturity thereof in accordance with this Agreement, whether or not the Insurer has received a Notice of Nonpayment (as such terms are defined in the Insurance Policy) or a claim upon the Insurance Policy.

SECTION 10.19 Notices. The notice address of the Insurer is: Assured Guaranty Municipal Corp. (formerly known as Financial Security Assurance, Inc.), 31 West 52nd Street, New York, New York 10019, Attention: Managing Director – Surveillance, re: Policy No. 212809-N, Telephone (212) 826-0100; Telecopier: (212) 339-3556. In each case in which notice or other communication refers to an Event of Default, then a copy of such notice or other communication shall also be sent to the attention of the General Counsel and shall be marked to indicate "URGENT MATERIAL ENCLOSED."

SECTION 10.20 Furnishing of Information. The Insurer shall be provided with the following information by the Obligor (except as otherwise indicated below):

- (i) Annual audited financial statements within 180 days after the end of the Obligor's fiscal year (together with a certification of the Obligor that it is not aware of any default or Event of Default under this Agreement), and the Obligor's annual budget within 30 days after the approval thereof together with such other information, data or reports as the Insurer shall reasonably request from time to time;
- (ii) Notice by the Trustee of any draw upon the Capital Reserve Fund within two Business Days after knowledge thereof other than (i) withdrawals of amounts in excess of the Minimum Capital Reserve Fund Requirement and (ii) withdrawals in connection with a refunding of Bonds;

- (iii) Notice by the Trustee of any default known to the Trustee or notice of any default known to the Obligor to be provided by the Obligor within five Business Days after knowledge thereof;
- (iv) Prior notice of the advance refunding or redemption of any of the Bonds, including the principal amount, maturities and CUSIP numbers thereof;
- (v) Notice of the resignation or removal of the Trustee and Bond Registrar and the appointment of, and acceptance of duties by, any successor thereto;
- (vi) Notice of the commencement of any proceeding by or against the Issuer or the Obligor commenced under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an "Insolvency Proceeding");
- (vii) Notice of the making of any claim in connection with any Insolvency Proceeding seeking the avoidance as a preferential transfer of any payment of principal of, or interest on, the Bonds;
- (viii) A full original transcript of all proceedings relating to the execution of any amendment, supplement, or waiver to the Related Documents; and
- (ix) All reports, notices and correspondence to be delivered to Bondholders under the terms of the Related Documents.

In addition, to the extent that the Issuer or the Obligor have entered into continuing disclosure agreements, covenants, or undertakings with respect to the Bonds, all information furnished pursuant to such agreements shall also be provided to the Insurer, simultaneously with the furnishing of such information.

SECTION 10.21 Additional Information. The Insurer shall have the right to receive such additional information as it may reasonably request.

SECTION 10.22 Access to Information. The Issuer and the Obligor will permit the Insurer to discuss the affairs, finances and accounts of the Issuer and the Obligor or any information the Insurer may reasonably request regarding the security for the Bonds with appropriate officers of the Issuer and will use commercially reasonable efforts to enable the Insurer to have access to the facilities, books and records of the Issuer and the Obligor on any Business Day upon reasonable prior notice.

SECTION 10.23 Trustee Notice. The Trustee shall notify the Insurer of any failure of the Issuer or the Obligor to provide notices, certificates and other information under the transaction documents.

SECTION 10.24. Conditions with Respect to Additional Bonds. Notwithstanding satisfaction of the other conditions to the issuance of Additional Bonds set forth in this Agreement, no such issuance may occur (1) if an Event of Default (or any event which, once all notice or grace periods have passed, would constitute an Event of Default) exists unless such default shall be cured upon such issuance and (2) unless the Capital Reserve Fund is fully funded at the Minimum Capital Reserve Fund Requirement (including the proposed issue) upon the issuance of such Additional Bonds, in either case unless otherwise permitted by the Insurer.

SECTION 10.25 Considerations with Respect to Amendments. In determining whether any amendment, consent, waiver or other action to be taken, or any failure to take action, under this Agreement would adversely affect the security for the Bonds or the rights of the Bondholders, the Trustee shall consider the effect of any such amendment, consent, waiver, action or inaction as if there were no Insurance Policy.

SECTION 10.26 Consent of Insurer. No contract shall be entered into or any action taken by which the rights of the Insurer or security for or sources of payment of the Bonds may be impaired or prejudiced in any material respect except upon obtaining the prior written consent of the Insurer.

ARTICLE XI

[RESERVED]

ARTICLE XII

MISCELLANEOUS

SECTION 12.01 Evidence of Signatures of Bondholders and Ownership of Bonds. (1.) Any request, consent, revocation of consent or other instrument which this Agreement may require or permit to be signed and executed by the Bondholders may be in one or more instruments of similar tenor, and shall be signed or executed by such Bondholders in person or by their attorneys appointed in writing.

(2.) The ownership of registered Bonds and the amount, numbers and other identification, and date of holding the same shall be proved a bond registry maintained by the Bond Registrar for that purpose.

(3.) Except as otherwise provided in Section 9.03 with respect to revocation of a consent, any request or consent by the owner of any Bond shall bind all future owners

of such Bond in respect of anything done or suffered to be done by the Corporation or the Trustee or any Paying Agent or the Bond Registrar in accordance therewith.

SECTION 12.02 [RESERVED]

SECTION 12.03 Moneys Held for Particular Bonds. The amounts held by the Trustee or Paying Agent for the payment of the interest, principal or Redemption Price due on any date with respect to a particular Bond shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Holders of the Bonds entitled thereto.

SECTION 12.04 [RESERVED]

SECTION 12.05 Severability. If any provision of this Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative, or unenforceable to any extent whatever.

SECTION 12.06 Notices. Any notice, request, demand, communication or other paper shall be sufficiently given and shall be deemed given when delivered or mailed by registered or certified mail, return receipt requested, postage prepaid, or sent by telegram, addressed as follows:

- (a) If to the Corporation, at 315 Iron Horse Way, Suite 101, Providence, Rhode Island 02908, attention: Executive Director;
- (b) If to the Obligor, at 5 Clock Tower Place, , Maynard, Massachusetts 01751, attention: Chief Financial Officer;
- (c) If to the Trustee at its principal office at One Financial Plaza, Suite 1435, Providence, Rhode Island 02903, attention: Deborah Daniello.

A duplicate copy of each notice required to be given hereunder by the Trustee to either the Corporation or the Obligor shall also be given to the other. The Corporation, the Obligor and the Trustee may designate any further or different addresses to which subsequent notices, certificates or other communication shall be sent.

SECTION 12.07 Payments Due on Saturdays, Sundays and Holidays. In any case where the date of payment or maturity of interest on or principal of the Bonds or the date fixed for redemption of any Bonds shall be a Saturday, Sunday or legal holiday in Rhode Island or a day on which banking institutions in Rhode Island are authorized by law to close, then payment of principal, Redemption Price, if any, or interest need not be made on such date but may be made on the next succeeding business day with the same force and effect as if made on the date of payment or maturity or the date fixed for redemption, and no interest shall accrue for the period after such date.

SECTION 12.08 Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 12.09 Applicable Provisions of Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Rhode Island.

SECTION 12.10 Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provision or section of this Agreement.

SECTION 12.11 No Pecuniary Liability on Corporation or Members. No provision, covenant or agreement contained in this Agreement or in the Bonds or interest coupons, or any obligations herein or therein imposed upon the Corporation or the breach thereof, shall constitute or give rise to or impose upon the Corporation a pecuniary liability or a charge upon its general credit except as set forth herein. In making the agreements, provisions and covenants set forth in this Agreement, the Corporation has not obligated itself except with respect to the Loan Payments, the Capital Reserve Fund and the trust estate designated in the granting clause of this Agreement and the application of the revenues, income and all other property therefrom, as hereinabove provided. Without limiting the generality of the foregoing, the Corporation shall have no obligation or liability to Holders of the Bonds with respect to the performance by the Trustee of any duty imposed upon it under this Agreement or the Bonds. Except as expressly provided herein, the Corporation shall not have any liability with respect to the performance of the Obligor. The Corporation makes no representation or assurance as to the appropriation by the General Assembly of the State of monies to the Capital Reserve Fund or any other fund established hereunder.

All covenants, stipulations, promises, agreements and obligations of the Corporation contained herein shall be deemed to be covenants, stipulations, promises, agreements and obligations of the Corporation and not of any member, officer or employee of the Corporation or of the State of Rhode Island in his individual capacity, and no recourse shall be had for the payment of the principal or premium, if any, of or interest or Redemption Price on the Bonds or for any claim based thereon or hereunder against any member, officer or employee of the Corporation or of the State of Rhode Island or any natural person executing the Bonds.

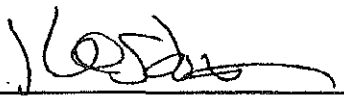
SECTION 12.12 Confidentiality. All information submitted by the Obligor to the Corporation pursuant to this Agreement and designated by the Obligor as confidential will be maintained by the Corporation as confidential to the extent permitted by the laws of the State.

IN WITNESS WHEREOF, Rhode Island Economic Development Corporation has caused these presents to be signed in its name and behalf by its Executive Director and its official seal to be hereunto impressed and attested by its Secretary, and to evidence its acceptance of the trusts hereby created has caused these presents to be signed and sealed in its name and behalf by its duly authorized officers, as of the date first above written.

RHODE ISLAND ECONOMIC
DEVELOPMENT CORPORATION

[SEAL]

By


Executive Director

Attest:


Secretary

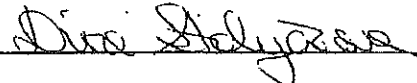
The Bank of New York Mellon Trust
Company, N. A., as Trustee

[SEAL]

By


Title: Vice President

Attest:



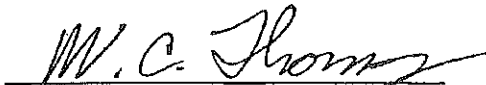
38 STUDIOS, LLC

[SEAL]

By


Jennifer MacLean
Chief Executive Officer

Attest:



STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

I, the undersigned, a Notary Public in and for said State and County, do hereby certify that Keith Stokes, whose name as Executive Director of the Rhode Island Economic Development Corporation is signed to the foregoing Agreement, and who is known to me and known to be such officer, acknowledged before me on this day under oath, that, being informed of the contents of said Agreement he, in his capacity as such officer and with full authority, executed the same voluntarily for and as the act of said Corporation.

Given under my hand and seal of office this 1st day of November, 2010.

Janet Roberts
Notary Public Janet Roberts
My Commission Expires: 8-31-13

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

I, the undersigned, a Notary Public in and for said State and County, do hereby certify that before me personally appeared Deborah Daniello, whose name as Vice President of The Bank of New York Mellon Trust Company, N.A. is signed to the foregoing Agreement, and who is known to me and known by me to be such officer, acknowledged before me on this day under oath, that, being informed of the contents of said Agreement she, with full authority, executed the same as her free act and deed and as the free act and deed of said Trustee.

Given under my hand and seal of office this 1st day of November, 2010.

Janet Roberts
Notary Public Janet Roberts
My Commission Expires: 8-31-13

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

I, the undersigned, a Notary Public in and for said State and County, do hereby certify that Jennifer MacLean, whose name as Chief Executive Officer of 38 Studios, LLC is signed to the foregoing Agreement, and who is known to me and known to be such officer, acknowledged before me on this day under oath, that, being informed of the contents of said Agreement she, in her capacity as such officer and with full authority, executed the same voluntarily for and as the act of said 38 Studios, LLC.

Given under my hand and seal of office this 1st day of November, 2010.

Janet Roberts
Notary Public Janet Roberts
My Commission Expires: 8-31-13

EXHIBIT A

REQUISITION NO.

Rhode Island Economic Development Corporation
\$75,000,000 Job Creation Guaranty Program Taxable Revenue Bonds
(38 Studios, LLC Project), Series 2010

To: The Bank of New York Mellon Trust Company, N.A.
Trustee under Loan and Trust Agreement dated as of November 1, 2010.

This Requisition is made pursuant to Section 4.05 of the above Loan and Trust Agreement, as defined in the Loan and Trust Agreement.

The Trustee is directed to pay sums out of The Rhode Island Economic Development Corporation, 38 Studios, LLC Project Fund as follows:

<u>Payee</u>	<u>Purpose of Payment</u>	<u>Amount</u>
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The undersigned hereby certify on behalf of 38 Studios, LLC (the "Obligor") that with respect to each obligation for payment set forth above, or payment thereof:

- (a) the payment of such obligation is a proper expenditure of moneys in Rhode Island Economic Development Corporation, 38 Studios, LLC Project Fund in accordance with the Trust Agreement,
- (b) the payment is currently due and payable, and has not been previously paid or reimbursed (as applicable), and
- (c) the payment(s) being requisitioned have not been the basis of any previous withdrawal from Rhode Island Economic Development Corporation, 38 Studios, LLC

Project Fund,

38 STUDIOS, LLC

By _____
Authorized Representative

Approved:

RHODE ISLAND ECONOMIC
DEVELOPMENT CORPORATION

By _____
Authorized Representative

EXHIBIT B

CERTIFICATE OF THE EXECUTIVE DIRECTOR
OF THE RHODE ISLAND ECONOMIC DEVELOPMENT CORPORATION
TO THE GOVERNOR OF THE STATE OF RHODE ISLAND WITH
RESPECT TO \$75,000,000 RHODE ISLAND ECONOMIC DEVELOPMENT
CORPORATION TAXABLE-ECONOMIC DEVELOPMENT REVENUE BONDS
(38 STUDIOS, LLC PROJECT - 2010 SERIES)

(CAPITAL RESERVE FUND CERTIFICATE)

The undersigned, being the duly appointed and acting Executive Director of the Rhode Island Economic Development Corporation does hereby pursuant to the General Laws of the State of Rhode Island and Section 5.04 of the Loan and Trust Agreement (the "Agreement") between the Rhode Island Economic Development Corporation and The Bank of New York Mellon Trust Company, N.A., as Trustee, dated as of November 1, 2010 entered into incident to the issuance of the above referenced Bonds certify to the Governor of the State of Rhode Island and Providence Plantations that there is required to restore the capital reserve fund securing bonds issued pursuant to the Agreement to the minimum capital reserve fund requirement for such fund \$ ____ for the fiscal year ending June 30, ____ [insert year in which next fiscal year ends].

This Certificate is furnished pursuant to R.I.G.L. Section 42-64-18 and Chapters 026 and 029 of the Public Laws of 2010 of the State of Rhode Island (also known as H8158, as amended and S2923, as amended) (the "Job Creation Guaranty Program Act"). Pursuant to the foregoing, there should be submitted to the General Assembly printed copies of the budget including the total of the sums cited herein to restore the capital reserve fund established under the foregoing Agreement to the minimum capital reserve fund requirement.

[_____]
Executive Director

Dated: December 1, [_____]