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**BOND PURCHASE, BUILDING LOAN AND LOAN AGREEMENT**

BY AND AMONG

**THE GENESEE COUNTY FUNDING CORPORATION,**

**MERCY FLIGHT INC.**

AND

**M&T BANK**

DATED AS OF NOVEMBER 1, 2017

Relating To:

\$2,000,000

Aggregate Principal Amount

**The Genesee County Funding Corporation  
Tax-Exempt Revenue Bonds  
(Mercy Flight Inc. Project), Series 2017**

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## BOND PURCHASE, BUILDING LOAN AND LOAN AGREEMENT

**THIS BOND PURCHASE, BUILDING LOAN AND LOAN AGREEMENT** (the "Bond Purchase Agreement"), dated as of November 1, 2017, is by and among (i) **THE GENESEE COUNTY FUNDING CORPORATION**, a not-for-profit local development corporation duly organized and existing under the laws of the State of New York having its principal office at 99 MedTech Drive, Batavia, New York 14020 (the "Issuer"), (ii) **MERCY FLIGHT INC.**, a not-for-profit corporation duly organized and existing under the laws of the State of New York having offices at 100 Amherst Villa Road, Buffalo, New York 14225 (the "Company") and (iii) **M&T BANK**, a banking corporation duly organized and validly existing under the laws of the State of New York, having an office at One M&T Plaza, Buffalo, New York 14203 (the "Bank").

### WITNESSETH:

WHEREAS, pursuant to Section 1411 of the Not-for-Profit Corporation Law ("N-PCL") of the State of New York (the "State"), as amended (hereinafter collectively called the "Act"), and pursuant to its certificate of incorporation, as amended (the "Certificate"), the Issuer was established as a not-for-profit local development corporation of the State with the authority and power to own, lease and sell personal and real property for the purposes of, among other things, acquiring, constructing and equipping certain projects exclusively in furtherance of the charitable or public purposes of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, by encouraging the development of, or retention of, an industry in the community or area, and lessening the burdens of government and acting in the public interest; and

WHEREAS, the Act further authorizes the Issuer to issue its bonds and to loan the proceeds thereof for the purpose of carrying out any of its corporate purposes and, as security for the payment of the principal and redemption price of and interest on any such bonds so issued and any agreements made in connection therewith, to pledge certain revenues and receipts to secure the payment of such bonds and interest thereon; and

WHEREAS, pursuant to a certain resolution duly adopted by the Issuer on August 16, 2017 (the "Bond Resolution"), the Issuer authorized the issuance and sale of its \$2,000,000 aggregate principal amount Tax-Exempt Revenue Bonds (Mercy Flight Inc. Project), Series 2017 (the "Series 2017 Bonds", the "Bond" or the "Bonds") for the benefit of the Company, for the purpose of assisting in financing all or a portion of the costs of a certain project (the "Project") consisting of: (1) the acquisition of approximately two (2) acres of land located off of Route 98 and Call Parkway (next to Gateway II) on Oak Orchard Road, Town of Batavia, Genesee County, New York, being more particularly identified as part of tax map number 4-1-26.112 (the "Land"); (2) the construction and equipping on the Land of an approximately 11,500 square-foot one-story ambulance headquarters to include storage and maintenance space for ambulances, administrative offices and training facilities (the "Improvements"); (3) the acquisition and installation in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land and the Improvements,

the "Facility"); and (4) the paying of all or a portion of the costs incidental to the issuance of the Bonds, including issuance costs of the Bonds, capitalized interest and any reserve funds as may be necessary to secure the Bonds (the costs associated with items (1) through (4) above being hereinafter collectively referred to as the "Project Costs"); and

WHEREAS, as security for the Bonds, the Company has granted to the Issuer a first priority mortgage lien on and security interest in the Facility pursuant to a certain Mortgage, Assignment of Leases and Rents and Security Agreement, dated as of November 1, 2017 (the "Mortgage"), which Mortgage has been assigned by the Issuer to the Bank pursuant to that certain Assignment of Mortgage, dated as of November 1, 2017, from the Issuer to the Bank (the "Assignment of Mortgage"); and

WHEREAS, a Supplemental Mortgage, Assignment of Leases and Rents and Security Agreement, dated as of November 1, 2017 (the "Supplemental Mortgage"), given by the Company to the Issuer, which Supplemental Mortgage has been assigned by the Issuer to the Bank pursuant to an Assignment of Supplemental Mortgage, dated as of November 1, 2017, from the Issuer to the Bank (the "Assignment of Supplemental Mortgage"), supplements the Mortgage and further secures the payment and performance of all of the Obligations (as defined under the Mortgage) by encumbering certain additional mortgaged property located at the Company's headquarters at 100 Amherst Villa Road, Buffalo, New York 14225 but does not create or secure any new or further indebtedness or obligation other than the principal indebtedness secured, or which under any contingency may be secured, by the Mortgage; and

WHEREAS, the execution and delivery of this Bond Purchase Agreement and the issuance of the Bonds under the Act have been in all respects approved and duly and validly authorized by the Bond Resolution; and

WHEREAS, the undertaking of the Project is for a proper purpose, to wit, to promote the job opportunities, the general prosperity and the economic welfare of the inhabitants of the State, pursuant to the provisions of the Act; and

WHEREAS, the Bank, in consideration of, among other things, the express promises of the Company set forth in Section 2.04, Section 4.39 and Section 7.13 hereof, has agreed to purchase the Bonds in the aggregate principal amount of \$2,000,000 and to make the proceeds thereof available to the Company for the purpose of assisting in the financing of the Project, all on the terms of this Bond Purchase Agreement; and

WHEREAS, the Bond shall be substantially in the form attached hereto as **Exhibit A**; and

WHEREAS, the Bank and the Issuer have agreed that the Bank shall make all advances hereunder to the Company or its order, as agent of the Issuer, on the terms set forth in Article IV hereof.

NOW, THEREFORE, the parties agree as follows:

**ARTICLE I**  
**DEFINITIONS**

Section 1.01. Definitions of Terms. The following words and terms as used in this Bond Purchase Agreement shall have the following meanings:

"Act" means Section 1411 of the Not-For-Profit Corporation Law of the State of New York as amended.

"Act of Bankruptcy" means the filing of a petition in bankruptcy (or other commencement of a bankruptcy or similar proceeding) by or against the Company as debtor or the Issuer under any applicable bankruptcy, insolvency, reorganization or similar law as now or hereafter in effect.

"Additions to Tax" means any penalties, fines, additions to tax, interest and additional amount described in Chapter 68 of the Internal Revenue Code of 1986, as amended, and in any similar state statute with respect to state income or franchise tax.

"Amortization Period" means the period commencing on the Business Day immediately following the first (1<sup>st</sup>) anniversary of the Closing Date and ending on the tenth (10<sup>th</sup>) anniversary of the Closing Date.

"Architect" means Clark Patterson Lee, or such other architect which is engaged by the Company and approved by the Bank.

"Authorized Investments" means such investments as are designated by the Company, approved by the Bank and permitted under the Tax Compliance Agreement.

"Authorized Representative" means, in the case of the Issuer, the Chairman and Executive Director of the Issuer; and in the case of the Company, the Executive Vice President/Chief Financial Officer or the Vice President – Finance of the Company, and, in each case, such additional persons as, at the time, are designated to act on behalf of the Issuer or the Company, as the case may be, by written certificate furnished to the Bank, to the Issuer or to the Company, as the case may be, containing the specimen signature of each such person and signed on behalf of (i) the Issuer by the Chairman or Executive Director of the Issuer and (ii) the Company, by its Executive Vice President/Chief Financial Officer or the Vice President – Finance.

"Bank" means (i) M&T Bank, a banking corporation duly organized and validly existing under the laws of the State of New York, and its successors and assigns as the Holder, and (ii) any surviving, resulting or transferee or corporation authorized to do business in the State.

"Bank Documents" means collectively, the Bond Purchase Agreement, the Mortgage, the Supplemental Mortgage, the Assignment of Mortgage, the Assignment of Supplemental

Mortgage, the Environmental Indemnification Agreement, and all other documents executed and delivered to the Bank in connection herewith.

"Bank Rate" means (i) during the Draw Period, a rate of interest equal to seventy-two percent (72.00%) of the one-month LIBOR plus two-hundred forty basis points (2.40%) and (ii) during the Amortization Period, a floating rate of interest, as determined from time to time by the Bank (as the LIBOR Rate changes) equal to seventy-two percent (72.00%) of the one-month LIBOR plus two-hundred fifteen basis points (2.15%), provided, however, that such rate shall not exceed the maximum permitted by, or enforceable under, applicable law.

"Bond" or "Bonds" shall have the meaning given to such terms in the WHEREAS paragraphs of this Bond Purchase Agreement.

"Bond Counsel" means the law firm of Harris Beach PLLC or an attorney or firm of attorneys whose experience in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized.

"Bond Documents" or "Financing Documents" means collectively, this Bond Purchase Agreement, the Bonds, the Mortgage, the Supplemental Mortgage, the Assignment of Mortgage, the Assignment of Supplemental Mortgage, the Tax Compliance Agreement, the Bank Documents and any other document now or hereafter executed by the Issuer or the Company in favor of the Holder which affects the rights of the Holder in or to the Project, in whole or in part, or which secures or guarantees any sum due on the Bonds or any of the other Financing Documents, each as amended, restated, supplemented or otherwise modified, from time to time and all documents related thereto and executed in connection therewith.

"Bond Payment Date" means each date on which interest or principal or any combination of the foregoing shall be payable on the Bonds according to its terms so long as the Bonds shall be outstanding.

"Bond Proceeds" means the proceeds of the Bonds.

"Bond Purchase Agreement" means this Bond Purchase, Building Loan and Loan Agreement, dated as of November 1, 2017, by and among the Issuer, the Company and the Bank, as the same may be amended, restated, supplemented or otherwise modified from time to time.

"Bond Registrar" shall have the meaning ascribed to such term in Section 3.03 of this Bond Purchase Agreement.

"Bond Resolution" means the resolution adopted by the Issuer on August 16, 2017, authorizing, among other things, the issuance, execution, sale and delivery of the Bonds and the execution and delivery of the Issuer Documents, as such resolution may be amended or supplemented from time to time.



"Bond Year" means the one-year period beginning on the day after the expiration of the preceding Bond Year. The first Bond Year begins on November 1, 2017 and ends one (1) year later.

"Bondholder" or "Holder" or "Owner" means the registered owner at the time in question of the Bonds, and initially means the Bank.

"Business Day" means any day other than a Saturday, Sunday or legal holiday on which commercial banks in the State are required or permitted by law to close.

"Closing Date" means the date of sale and delivery of the Bonds, being November 9, 2017.

"Code" means the Internal Revenue Code of 1986, as amended, and the applicable regulations of the United States Treasury Department thereunder and under the Internal Revenue Code of 1954, as amended.

"Commitment" means that certain term sheet from the Bank to the Company, dated June 9, 2017, as it may be amended from time to time.

"Company" means Mercy Flight Inc., a not-for profit corporation and organization described under Section 501(c)(3) of the Code, duly organized, validly existing and in good standing under the laws of the State of New York.

"Company Documents" means this Bond Purchase Agreement, the Tax Compliance Agreement, the Bank Documents and any other document executed by the Company in connection with the transactions contemplated by the Financing Documents, each as may be amended, restated, supplemented or otherwise modified, from time to time.

"Completion Date" means August 1, 2018 (except for certain items of construction itemized by the Company prior to such date and approved by the Bank in writing).

"Condemnation" means the taking of title to, or the use of, the Property under the exercise of the power of eminent domain by any governmental entity or other Person acting under Governmental Authority.

"Construction Contract" means the general, fixed price, contract between the Company and the General Contractor for the rendering of all services and the furnishing of all materials for the construction of the Improvements, together with any other or additional construction contracts entered into in connection with the construction of the Improvements, and in all cases, in a form and substance satisfactory to the Bank.

"Construction Documents" means collectively, the Construction Contract and all subcontracts and related documents.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, partnership interests or other equity interest, by contract or otherwise, including the power to elect a majority of the directors of a corporation or trustees of a trust, as the case may be. A Person shall be deemed to Control another Person if the controlling Person owns greater than fifty percent (50%) of any class of voting securities, partnership interests or other equity interests of the controlled Person or possess, indirectly or directly, the power to direct or cause the direction of the management or policies of the Controlled Person, whether through the ownership of voting securities, by contract or otherwise.

"Cost of Funds Rate" shall mean the most recent yield on United States Treasury Securities adjusted to a constant maturity of eleven and one half (11.5) years, in effect two (2) Business Days preceding the Closing Date, as published by the Board of Governors of the Federal Reserve System in the Federal Reserve Statistical Release H.15 (519), or by such other quoting service, index or commonly available source utilized by the Bank, plus the "ask" side of the eleven and one half (11 ½) year LIBOR swap spread in effect two (2) Business Days prior to the Closing Date as set forth in Bloomberg, L.P. or by such other quoting service, index or commonly available source utilized by the Bank.

"Current Market Rate" shall mean the most recent yield on United States Treasury Obligations adjusted to a constant maturity having a term most nearly corresponding to the Measurement Period, in effect two (2) Business Days prior to the date of prepayment, as published by the Board of Governors of the Federal Reserve System in the Federal Reserve Statistical Release H.15 (519), or by such other quoting service, index or commonly available source utilized by the Bank for such purposes.

"Debt Service Payment" means, with respect to any Bond Payment Date, (i) the interest payable on such Bond Payment Date on the Bonds, plus (ii) the principal, if any, payable on such Bond Payment Date on the Bonds.

"Disbursing Agent" means the Bank, in its capacity as the Disbursing Agent as appointed under Section 4.01 hereof.

"Draw Period" means the period commencing on the Closing Date and ending on the first (1<sup>st</sup>) anniversary of the Closing Date.

"Enabling Act" means the Act.

"Engineer" means Studio T3, or such other engineer engaged by the Bank.

"Environmental Indemnification Agreement" means the Environmental Indemnification Agreement, dated as of November 1, 2017, from the Company to the Bank.

"Environmental Laws" means all federal, State and local environmental, land use, zoning, health, chemical use, safety and sanitation laws, statutes, ordinances and codes relating to the protection of the environment or governing the use, storage, treatment, generation,

transportation, processing, handling, production or disposal of Hazardous Materials and the rules, regulations, policies, guidelines, interpretations, decisions, orders and directives of federal, State and local governmental agencies and authorities with respect thereto.

"Equipment" means all materials, machinery, equipment, fixtures or furnishings or other items of tangible personal property, intended to be acquired, installed or refinanced with the Bond Proceeds and such substitutions and replacements therefor as may be made from time to time.

"ERISA" means the Employee Retirement Income Security Act of 1974, as the same may, from time to time, be amended or supplemented, and all regulations thereunder.

"Event of Default" means any of those events defined as Events of Default by Section 6.01 of this Bond Purchase Agreement.

"Event of Taxability" means:

(A) a final determination by any court of competent jurisdiction or a final determination by the Internal Revenue Service (the "IRS") to which the Company shall consent or from which no timely appeal shall be taken to the effect that interest on the Bonds is includable in the gross income of the Holders thereof for federal income tax purposes;

(B) ninety (90) days after receipt by the Issuer, the Bank or the Company of written notice that the IRS has issued a "notice of deficiency" or similar notice to any present or former Holder of a Bond assessing a tax in respect of any interest on the Bonds as a result of such interest being includable in gross income for federal income tax purposes, provided that such notice has not been withdrawn by the IRS and from which such Holder (or the Issuer, the Company or the Bank on behalf of the Holder, if allowable) has not filed a timely petition in the United States Tax Court contesting the same; or

(C) the delivery to the Company, the Bank and the Issuer of an opinion of Bond Counsel to the effect that interest on the Bonds is includable in the gross income of a Holder thereof for federal income tax purposes.

Nothing in this definition of "Event of Taxability" shall be construed to mean that the Issuer, the Company or any Holder of any Bond shall have any obligation to contest or appeal any assertion or decision that any interest payable under the Bonds is subject to taxation. Notwithstanding the foregoing, in no event shall the imposition of an alternative minimum tax or preference tax or environmental tax or branch profits tax on any Bondholder, the calculation of which included the interest on the Bonds, be considered an Event of Taxability.

"Facility" shall have the meaning assigned to such term in the WHEREAS paragraphs of this Bond Purchase Agreement.

"Fiscal Year" means the twelve (12) month period beginning on January 1, in any year or such other fiscal year as the Company may adopt from time to time.

"G.A.A.P." means, with respect to any date of determination, generally accepted accounting principles as used by the Financial Accounting Standards Board and/or the American Institute of Certified Public Accountants consistently applied and maintained throughout the periods indicated.

"General Contractor" means Manning-Squires-Henning Co., Inc., or such other general contractor engaged by the Company and approved by the Bank.

"Governmental Authority" means the United States, the State, and any other state or any political subdivision thereof, and any agency, department, commission, board, bureau or instrumentality of any of these, having jurisdiction over the construction, equipping, ownership, leasing, operation and/or maintenance of the Facility.

"Hazardous Materials" or "Hazardous Substance" means any flammable explosives, radon, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum, petroleum-based products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials as set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. Sections 2601, et seq.), Articles 15 or 27 of the New York Environmental Conservation Law, or any other applicable Environmental Law and the regulations promulgated thereunder.

"Independent Counsel" means an attorney or attorneys or firm or firms of attorneys duly admitted to practice law before the highest court in the State and reasonably acceptable to the Bank.

"Interest Payment Date" means the first (1<sup>st</sup>) day of each month, unless such day is not a Business Day, in which case the Interest Payment Date shall be extended to the next succeeding Business Day.

"Issuer" means (i) The Genesee County Funding Corporation and its successors and assigns and (ii) any entity resulting from or surviving any consolidation or merger to which The Genesee County Funding Corporation or its successors or assigns may be a party.

"Issuer Documents" means collectively, the Bonds, this Bond Purchase Agreement, the Tax Compliance Agreement and IRS Form 8038.

"Land" shall have the meaning given to such term in the WHEREAS paragraphs of this Bond Purchase Agreement.

"LIBOR" means the rate of interest in U.S. Dollars equal to the Intercontinental Exchange Benchmark Administration Ltd. ("ICE," or the successor thereto if ICE is no longer making a London Interbank Offered Rate available) ("ICE LIBOR") rate for the equivalent

interest period as published by Bloomberg (or such other commercially available source providing quotations of ICE LIBOR as designated by each Purchaser with respect to its Bonds from time to time) at approximately 11:00 A.M. (London time) two (2) London Business Days prior to each Interest Payment Date; provided however, if more than one ICE LIBOR is specified, the applicable rate shall be the arithmetic mean of all such rates. If, for any reason, such rate is not available, the term London Interbank Offered Rate or LIBOR shall mean, with respect to any LIBOR Rate Bonds for the LIBOR Interest Period applicable thereto, the rate of interest per annum determined by the Bank to be the average rate of interest per annum at which deposits in U.S. Dollars are offered for such period to major banks in London, England at approximately 11:00 A.M. (London time) two (2) London Banking Days prior to the first day of such period for a term comparable to such period.

"Lien" means any interest in Property securing an obligation owed to a Person, whether such interest is based on the common law, statute or contract, and including but not limited to a security interest arising from a mortgage, encumbrance, pledge, conditional sale or trust receipt or a lease, consignment or bailment for security purposes. The term "Lien" also includes reservations, exceptions, encroachments, easements, rights of way, covenants, conditions, restrictions, leases, mechanics', materialmen's, warehousemen's and carriers' liens and other similar encumbrances affecting real property. For the purposes hereof, a Person shall be deemed to be the owner of any Property which it has acquired or holds subject to a conditional lease agreement or other arrangement pursuant to which title to the Property has been retained by or vested in some other Person for security purposes.

"Mandatory Tender Date" means November 1, 2027.

"Material Adverse Change" shall mean any set of circumstances or events that (a) has had a material adverse effect whatsoever upon the validity or enforceability of this Bond Purchase Agreement or any of the other Bond Documents, (b) is, or could reasonably be expected to likely be, materially adverse to the business, properties, assets, condition (financial or otherwise) or results of operations of the Company taken as a whole, (c) impairs materially, or could reasonably be expected to likely impair materially, the ability of the Company to duly and punctually pay or perform its indebtedness, or (d) impairs materially the ability of the Bank to enforce its legal remedies pursuant to this Bond Purchase Agreement or any of the other Bond Documents.

"Maturity Date" means November 1, 2043.

"Measurement Period" means as defined in Section 5.02(a).

"Mortgage" shall have the meaning given to such term in the WHEREAS paragraphs of this Bond Purchase Agreement.

"Net Proceeds" means so much of the gross proceeds with respect to which that term is used as remain after payment of all expenses, costs including attorney's fees, and taxes incurred in obtaining such gross proceeds.

"Permitted Encumbrances" means (i) Liens of the Company existing as of the Closing Date and/or Liens consented to, from time to time, by the Bank in writing, (ii) this Bond Purchase Agreement, (iii) the Mortgage, (iv) the Supplemental Mortgage, (v) the Assignment of Mortgage, (vi) the Assignment of Supplemental Mortgage, (vii) the utility, access and other easements and rights of way, restrictions and exceptions that do not materially impair the use or the value of the Property affected thereby for the purpose for which it is intended, (viii) mechanics', materialmen's, warehousemen's, carriers' and other similar Liens to the extent permitted by Section 4.08 hereof, (ix) taxes, assessments and other charges, (x) Liens for taxes at the time not delinquent, (xi) purchase money mortgages, liens, leases or encumbrances on existing or newly acquired equipment, (subject to the terms and conditions of the Bond Documents), (xii) Liens securing any indebtedness permitted pursuant to Section 4.39(c) hereof, and (xiii) leases permitted pursuant to Section 4.39(c) hereof.

"Person" means an individual, partnership, corporation, trust or unincorporated organization, and a government or agency or political subdivision or branch thereof.

"Plan" means any plan defined in Section 4021(a) of ERISA in respect of which the Company or any subsidiary of the Company is an "employer" or a "substantial employer" as defined in Sections 3(5) and 4001(a)(2) of ERISA, respectively.

"Plans and Specifications" means the construction drawings and specifications for the Improvements to be constructed, as prepared by the Architect and approved by the Bank and by the Engineer, and all amendments and modifications thereof, as approved by the Bank and by the Engineer.

"Project" shall have the meaning given to such term in the WHEREAS paragraphs of this Bond Purchase Agreement.

"Project Costs" shall have the meaning assigned to such term in the WHEREAS paragraphs of this Bond Purchase Agreement.

"Project Fund" means the fund so designated which is created by Section 4.04 of this Bond Purchase Agreement.

"Property" means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

"Reportable Event" means any reportable event as that term is defined in ERISA.

"SEQRA" means the State Environmental Quality Review Act, as amended and the regulations thereunder.

"State" means the State of New York.

"Subcontractor" means each subcontractor engaged to perform Project work, labor or services, and each materialman engaged to furnish materials, supplies or equipment in connection with the Project.

"Supplemental Mortgage" shall have the meaning given to such term in the WHEREAS paragraphs of this Bond Purchase Agreement.

"Swap Documents" means interest rate swap agreements, interest rate cap agreements, and interest rate collar agreements, or other agreements or arrangements entered into between the Company and the Bank and designed to protect the Company against fluctuations in interest rates or currency exchange rates.

"Swap Obligations" means, with respect to the Company, all liabilities of the Company to the Bank under the Swap Documents.

"Tangible Assets" means total assets except: (i) that portion of deferred assets and prepaid expenses (other than prepaid insurance, prepaid rent and prepaid taxes) which do not mature or, in accordance with G.A.A.P., are not amortizable within one year from the date of calculation, and (ii) trademarks, trade names, good will, and other similar intangibles.

"Taxable Rate" means a fixed rate equal to the sum of LIBOR, plus three hundred and sixty-five basis points (3.65%), plus the applicable Cost of Funds Rate.

"Tax Compliance Agreement" means the Tax Compliance Agreement, dated the Closing Date, executed by the Company and the Issuer regarding, among other things, the restrictions prescribed by the Code in order for interest on the Bonds to remain excludable from gross income for federal income tax purposes.

"Tax Incidence Date" means the first date on which, as a result of the occurrence of an Event of Taxability, interest on the Bonds is includable in the gross income of the recipient thereof for federal income tax purposes.

"Unassigned Rights" means (i) the rights of the Issuer under Sections 4.15, 4.16, 4.17, 4.19, 4.20, 4.24, 4.29, and 7.10 hereunder; (ii) the monies due and to become due to the Issuer for its own account or the members, officers, agents and employees of the Issuer for their own account; and (iii) the right to enforce the foregoing pursuant to the provisions hereof.

"Unrestricted Net Assets" means assets of the Company not subject to donor, Board of Directors or other restrictions as to use, as shown on the Company's balance sheet as "Unrestricted Net Assets" consistent with the use of such designation on the financial statements.

"Utility Services" means any utility service necessary for the construction of the Improvements and the development and planned use of the Project, including but not limited to, sanitary sewer, storm sewer, water, electricity, natural gas and telephone service.

Section 1.02. Rules of Construction. Unless the context clearly indicates to the contrary, the following rules shall apply to the construction of this Bond Purchase Agreement:

(a) Words importing the singular number shall include the plural number and vice versa.

(b) Words importing the redemption or calling for redemption of Bonds shall not be deemed to refer to or connote the payment of the Bonds at their respective stated maturity.

(c) All references herein to particular articles or sections are references to articles or sections of this Bond Purchase Agreement.

(d) The table of contents and headings of the several sections herein are solely for convenience of reference and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Bond Purchase Agreement.

(e) The use of the neuter gender shall include the masculine and feminine genders as well.



## ARTICLE II

### REPRESENTATIONS BY AND COVENANTS OF THE ISSUER, THE COMPANY AND THE BANK

Section 2.01. Representations by the Issuer. The Issuer represents and warrants that:

(a) The Issuer is a not-for-profit local development corporation under the laws of the State, duly organized and validly existing as such under the laws of the State;

(b) The Issuer has full power and authority to issue and sell the Bonds to finance the Project Costs and to pay the costs of such financing as is provided in this Bond Purchase Agreement, to secure the Bonds in the manner provided in this Bond Purchase Agreement, and the Issuer has taken all actions and obtained all approvals required by the Act;

(c) The Issuer has duly adopted the Bond Resolution and has duly authorized the execution and delivery of each of the Issuer Documents, and the issuance and sale of the Bonds, and has taken all actions necessary or appropriate to carry out the same;

(d) The Issuer is not aware of any litigation or proceeding pending or, to the Issuer's knowledge, threatened against the Issuer, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Bonds or the Issuer Documents;

(e) The consummation of the transactions contemplated by the Bond Resolution and this Bond Purchase Agreement and the performance of the Issuer Documents will not result in any breach of, or constitute a default under, the Act or any mortgage, deed of trust, lease, bank loan or credit agreement, order or judgment, by-law or other instrument or document to which the Issuer is a party or by which it may be bound or affected; and

(f) The Issuer has not made and does not intend to make in connection with the Project or the sale of the Bonds to the Bank or otherwise any inquiry concerning the financial position or business condition of the Company. The Issuer makes no warranty or representation as to the financial position or business condition of the Company and does not represent or warrant as to any of the statements, materials, representations or certifications (financial or otherwise) made or furnished, or to be made and furnished by the Company in connection with the Project or the sale of the Bonds to the Bank or the making of disbursements hereunder or otherwise or as to the correctness, completeness or accuracy of such statements, materials, representations or certificates.

Section 2.02. Covenants of the Issuer. Subject to Section 7.10 hereof, the Issuer hereby agrees with the Bank and the Company that, so long as the Bonds remain unpaid:

(a) Except as provided in Section 4.37 hereof, the Issuer will take no action and, to the extent of its ability to do so, will suffer no action to be taken to terminate its existence;

(b) The Issuer will use or cause to be used the Net Proceeds of the Bonds only to pay the Project Costs;

(c) The Issuer will take all action and do all things which it is authorized by law to take and do in order to perform and observe all covenants and agreements on its part to be performed and observed under the Bonds and each of the Issuer Documents and in order to provide for and to assure payment of the Bonds and interest thereon when due;

(d) The Issuer will not create, assume or suffer to exist any assignment, mortgage, pledge, security interest or other lien, encumbrance or charge on any revenues derived or to be derived from the Bonds;

(e) The Issuer will not take any action impairing any authority, right or benefit given or conferred by the Bond Resolution, this Bond Purchase Agreement or any of the other Bond Documents;

(f) The Issuer will pay or cause to be paid the principal of, premium, if any, and the interest on the Bonds as the same become due, but solely to the extent provided in Section 7.10 hereof; and

(g) The Issuer will execute, acknowledge, when appropriate, and deliver from time to time at the request of the Bank such instruments and documents as in the opinion of the Bank are necessary or desirable to carry out the intent and purpose of the Bond Documents.

Section 2.03. Representations by the Company. The Company makes the following representations, all of which will survive the purchase of the Bonds:

(a) The Company is a not-for-profit corporation, duly organized, validly existing and in good standing under the laws of the State and has the full power and authority to enter into each of the Company Documents and to carry out its obligations thereunder and by proper corporate action has been duly authorized to execute, deliver and perform its obligations under this Bond Purchase Agreement.

(b) The financial statements provided directly to the Bank are correct and complete in all material respects and fairly represent the financial condition of the Company as of the date indicated, and have been prepared in conformity with G.A.A.P., consistently applied.

(c) Neither the Company nor anyone acting on its behalf has, directly or indirectly, offered the Bonds for sale to, or solicited any offer to buy the same from, anyone other than the Bank except for offers made to any "accredited investor", as such term is defined in Rule 501(a) as promulgated under the Securities Act of 1933, as amended, or any "qualified institutional buyer", as such term is defined in Rule 144A as promulgated under the Securities Act of 1933, as amended.

(d) Each of the Company Documents, when executed and delivered by the respective parties thereto, will constitute valid and binding obligations of the Company enforceable in

accordance with their terms, except as such enforcement may be limited by applicable state or federal laws affecting the enforcement of creditors' rights generally. The execution and delivery by the Company of the Company Documents and the performance by the Company of its obligations thereunder will not conflict with, or result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, bank loan or credit agreement or any other agreement or instrument to which the Company is a party or by which it or any of its property may be bound or affected for which a valid consent has not been secured; nor is any approval nor any action by any Governmental Authority required in connection with the execution and performance thereof by the Company.

(e) There has been no Material Adverse Change in the business, properties or financial condition of the Company from that shown on the financial statements submitted to the Bank.

(f) There is no litigation or proceeding pending or, to the Company's knowledge, threatened against the Company challenging the validity of any of the Company Documents or seeking to enjoin the performance of the obligations of the Company. There are no actions, suits, proceedings or investigations pending or, to the Company's knowledge, threatened against the Company at law or equity before any Governmental Authority that individually or in the aggregate could reasonably be expected to result in any Material Adverse Change. The Company is not aware of information, nor been advised (after consultation with its counsel) or received notice that, it is in violation of any order, writ, injunction or any decree of any Governmental Authority that could reasonably be expected to result in any Material Adverse Change. The Company is not involved in any Act of Bankruptcy.

(g) The Company is presently not in default under any indenture, mortgage, deed of trust, bank loan, credit agreement or any other agreement or instrument to which the Company is a party in any respect that is material in light of the financial condition of the Company and, to the Company's knowledge, there exists no condition, event or act which constitutes, or after notice or lapse of time or both would constitute such a default thereunder.

(h) The Company will apply the proceeds from the sale of the Bonds for the sole purpose of providing funds for paying the Project Costs in accordance with Article IV of this Bond Purchase Agreement.

(i) To the Company's knowledge, all authorizations, certificates and permits necessary for the Project, if any, in accordance with applicable building codes and Environmental Laws have been obtained and are in full force and effect, and all site preparation and construction work, if any, done to date has been done in accordance with said authorizations, certificates, permits, codes and laws and that the proposed or actual use of the Facility will comply with all applicable laws, statutes, codes, ordinances, rules and regulations, including Environmental Laws and that there is no action or proceeding pending before any court, quasi-governmental body or administrative agency relating to the validity of this Bond Purchase Agreement or the transactions contemplated hereby.

(j) The Company has or will have good fee simple title to the Facility free and clear of all liens, pledges, mortgages, security interests, charges, claims and other encumbrances, except the Permitted Encumbrances.

(k) The Company has good and marketable fee title to its real properties in accordance with the laws of the jurisdiction where located, and good and marketable title to substantially all its other property and assets, subject, however, in the case of real property, to title defects and restrictions which do not materially interfere with the operations conducted thereon by the Company. Except for liens in favor of the Bank or the Issuer and except for Permitted Encumbrances, the real property and all other property and assets of the Company are free from any liens or encumbrances of any kind. Each lease to which the Company is a party is in full force and effect, no material default on the part of any party thereto exists, and, as to each of such leases to which the Company is party as lessee, the Company enjoys peaceful and undisturbed possession of the property affected thereby.

(l) No Reportable Event or Prohibited Transaction (as defined in Section 4975 of the Code) has occurred and is continuing with respect to any Plan and the Company has not incurred any "accumulated funding deficiency" as such term is defined in Section 302 of ERISA.

(m) The Company has filed all tax returns which are required to be filed and has paid, or has made adequate provision for the payment of, all taxes which have or may become due pursuant to said returns or to assessments received by them. The Company knows of no deficiency assessment or proposed deficiency assessment of taxes against the Company, except as may be otherwise disclosed in writing to the Bank prior to the date hereof.

(n) The Company does not have outstanding on the date hereof any indebtedness for borrowed money, except (a) indebtedness permitted under Section 4.39(c) hereof and in existence as of the Closing Date and (b) (i) an equipment lease with KeyBank for a BK117 helicopter, (ii) a loan with the United States Department of Agriculture for a Ball 429 helicopter an approximately \$2,352,000 outstanding balance, (iii) an equipment lease with Kansas State Bank for Zoll monitors with an approximately \$94,000 outstanding balance, (iv) an equipment lease with NEC Financial for a phone system with an approximately \$41,000 outstanding balance, (v) an equipment lease with Kubota Financial for a tractor with an approximately \$13,000 outstanding balance and (vi) an anticipated additional \$23,000,000 loan or equipment lease for the acquisition of three (3) helicopters.

(o) The Company has no subsidiaries.

(p) The Company has no knowledge of any pending assessments or adjustments of its income tax for any year and all taxes due have been paid, except as have been disclosed in writing to the Bank. All assessed deficiencies, if any, resulting from IRS examinations of the federal income tax returns of the Company have been discharged or reserved against. The Company has filed or caused to be filed all federal, state and local tax returns which are required to be filed, and has paid or have caused to be paid all taxes as shown on said returns or on any assessment received by them, to the extent that such taxes have become due, except any such

taxes that are immaterial in amount or are being contested in good faith with appropriate reserves set aside therefor.

(q) The Company, to its knowledge, is in compliance with all federal and State health care regulations.

(r) The Company is not (i) in violation of the Trading with the Enemy Act of the United States of America (50 U.S.C. App. §§ 1 et seq.), as amended; (ii) on the Specially Designated National and Blocked Person List maintained by the OFAC, Department of the Treasury, and/or any other similar lists maintained by OFAC pursuant to any authorizing statute, Executive Order or regulation; (iii) in violation of the USA Patriot Act, as amended; (iv) a Person designated under Section 1(b), (c) or (d) of Executive Order No. 13224 (September 23, 2001), any related enabling legislation or any other similar Executive Orders; or (v) to the best of its knowledge, engaging in any dealings or transactions, or is otherwise associated, with any of the foregoing blocked Persons.

(s) The Plans and Specifications have been delivered to, reviewed by, and approved by the Architect and, to the extent required, delivered to, reviewed by, and approved by any Governmental Authority or other Person, and the construction of the Improvements and the development and planned use of the Project complies with all applicable statutes, regulations and laws (including, but not limited to, all applicable zoning laws, ordinances and environmental laws) and all applicable deed restrictions.

(t) All Utility Services are available at a reasonable expense and located at the title lines of the Land.

(u) The Construction Documents have been delivered to, reviewed by and approved by the Bank and the Engineer.

#### Section 2.04. Covenants of the Company.

(a) The Company agrees to provide or cause to be provided insurance or evidence of insurance as required by Section 4.14 hereof. The original policies of insurance or certificates thereof shall be deposited with the Bank.

(b) The Bank and its agents shall, at all times during the term of the Bonds, have the right of entry and free access to the Facility, upon reasonable notice to the Company, except in cases of emergency, to inspect the Facility, and to inspect all books and records of the Company kept in connection therewith; provided the exercise of such rights shall be during business hours at times reasonably convenient to the Company and the Bank and shall not interfere in a material way with the Company's operations.

(c) So long as any of the Bonds shall remain outstanding, the Company shall furnish or cause to be furnished to the Bank:

(i) annually, within one hundred twenty (120) calendar days after the close of each Fiscal Year, its consolidated and consolidating audited financial statements,

including, without limitation, balance sheets, income statements and cash flow statements, each examined and reported upon by an independent certified public accounting firm satisfactory to the Bank, and prepared in accordance with G.A.A.P., and the report of such accountants shall not contain any qualification or disclaimer of opinion by reason of audit limitations imposed by the Company, together with a compliance certificate, signed by the Executive Vice President/Chief Financial Officer or the Vice President – Finance, certifying that the Company is in compliance with all covenants contained in this Bond Purchase Agreement and the Bond Documents;

(ii) within forty-five (45) calendar days after the close of each fiscal quarter in each Fiscal Year, its interim, internally-prepared consolidated and consolidating financial statements, including, without limitation, balance sheets, income statements and cash flow statements, prepared by the Company's accounting staff in accordance with G.A.A.P.;

(iii) on or before June 30<sup>th</sup> of each Fiscal Year, the proposed annual budgets for the Company for the next succeeding Fiscal Year;

(iv) immediately upon receipt thereof, any notice or finding of deficiency with respect to any applicable charter, license, registration or accreditation, including, but not limited to, the Company's status as 501(c)(3) organization; and

(v) promptly upon the Bank's request, such other books, records, statements, lists of property and accounts, budgets, forecasts or reports as to the Company as the Bank may reasonably request.

(d) The Company shall maintain in good repair, working order and condition (ordinary wear and tear excepted) in accordance with the general practice of other businesses of similar character and size, all of those properties useful or necessary to its business, and from time to time, the Company will make or cause to be made all appropriate repairs, renewals or replacements thereof.

(e) The Company shall execute and deliver to the Bondholder all such documents and instruments and do all such other acts and things as may be reasonably necessary or required by the Bondholder to enable the Bondholder to exercise and enforce its rights under the Financing Documents and to record and file and re-record and re-file all such documents and instruments, at such time or times, in such manner and at such place or places, all as may be necessary or required by the Bondholder to validate, preserve and protect the position of the Bondholder under the Financing Documents.

(f) Promptly upon acquiring reason to know of (i) any Event of Default, (ii) any event or condition that might have a Material Adverse Change upon the Company or (iii) any litigation in which the dollar amount claimed for which the Company may be liable is, in any one instance, greater than \$500,000.00, the Company shall provide to the Bondholder a certificate executed by an Authorized Representative of the Company, specifying the date(s) and nature of

the event or the litigation and what action the Company has taken or proposes to take with respect to it.

Section 2.05. Representations by and Covenants of the Bank. The Bank represents to and covenants and agrees with the Issuer that:

(a) The Bank has had an opportunity to make such investigations and has had access to such information with respect to the Company and its affairs and condition, financial and otherwise, which the Bank has deemed necessary in connection with and as a basis for the purchase of the Bonds, and any and all information relating to the Company and its affairs which the Bank has requested has been provided to the Bank.

(b) The Bank has approved the Bonds, the Bond Resolution and each of the Bond Documents, and such documents contain the terms agreed to by the Bank.

(c) The Bank is an "accredited investor", as such term is defined in Rule 501(a) as promulgated under the Securities Act of 1933, as amended, and a "qualified institutional buyer", as such term is defined in Rule 144A as promulgated under the Securities Act of 1933, as amended, and is purchasing the Bonds (i) for its own account, for the purpose of investment and not with a present view to the distribution or resale thereof and (ii) not for the account of others. The Bank has not offered, offered to sell, offered for sale or sold the Bonds by means of any form of general solicitation or general advertising and will not sell the Bonds without registration under the applicable federal and state securities laws or an exemption therefrom. The Bank presently has no arrangement, written or oral, with any Person for the distribution, transfer or resale of the Bonds. Except in connection with a transfer or resale of the Bonds (or any portion thereof) to any "accredited investor", as such term is defined in Rule 501(a) as promulgated under the Securities Act of 1933, as amended, or any "qualified institutional buyer", as such term is defined in Rule 144A as promulgated under the Securities Act of 1933, as amended, the Bank agrees to notify the Issuer and the Company at least thirty (30) days in advance in writing of any proposed transfer or resale of the Bonds or any portion thereof and to furnish to them prior to any such transfer or resale (i) an opinion of Bond Counsel that such transfer or resale does not and will not require registration of the Bonds under any applicable federal and state securities laws and (ii) a certificate of the purchaser of the Bonds to the effect that such purchaser has been provided with all requested disclosure information by the Company. In the event such transfer is at the request of the Company, the Company shall pay all expenses incurred by the Bank, including reasonable attorneys' fees, in connection with such transfer or resale and the cost of obtaining the opinion of Bond Counsel referred to above. If the proposed transfer of the Bonds is other than at the request of the Company, the Bank will bear such costs and expenses.

(d) The Bank understands that (i) the Bonds being purchased shall be special obligations of the Issuer payable solely from certain of the revenues and receipts derived by the Issuer pursuant to this Bond Purchase Agreement and the other security given for the payment of the Bonds, (ii) the Issuer has no power of taxation, and (iii) that the Issuer makes no representation or warranty, express or implied, with respect to the merchantability, condition or workmanship of any part of the Facility or the suitability of the Facility for the Company's

purposes or needs or the extent to which the proceeds derived from the sale of the Bonds will be sufficient to pay the Projects Costs.

(e) The Bank has not requested or received from the Issuer any information which it, as a reasonable investor, deems important in reaching its investment decision to purchase the Bonds. It has received from the Company and not the Issuer whatever information requested with respect to the Company and the Facility which it deems as a reasonable investor important in reaching its investment decision to purchase the Bonds. The Bank acknowledges that neither the Issuer nor its counsel nor Bond Counsel have made any investigation or inquiry with respect to the affairs or condition, financial or otherwise, of the Company and that the Issuer, its counsel and Bond Counsel do not make any representations to the Bank with respect to the adequacy, sufficiency or accuracy of any financial statements and information or other information provided to the Bank or with respect to the ability of the Company to pay the Bonds or fulfill its obligations with respect to the transactions contemplated in connection therewith. The Bank is not relying on any statements or representations by the Issuer with respect to: (i) the financial condition of the Company, (ii) the creditworthiness of the Company, (iii) the competency or integrity of the management of the Company, or (iv) the suitability of the Facility for the Company's business. The Bank has made an independent evaluation of the facts listed above without reliance upon any evaluation or investigation by the Issuer, its counsel or Bond Counsel as to any of them, except to the extent such facts are specifically opined upon by the Issuer's counsel or Bond Counsel in their respective opinion letters to be delivered to the Bank on the Closing Date.

(f) The Bank has not relied upon the determination of the Issuer to issue the Bonds to finance the Project for any purpose in connection with its evaluation of the Company's financial condition, creditworthiness and competency, or of the integrity of the Company's management, or of the suitability of the Facility for the Company's business.

The representations and covenants made by the Bank in this Section 2.05 are for the benefit of the Issuer only and no other party, including, without limitation, the Company, may rely on or benefit therefrom, notwithstanding any other provision of this Bond Purchase Agreement.



## ARTICLE III

### CLOSING AND PURCHASE AND SALE OF BONDS

Section 3.01. Closing Date; Loan of Bond Proceeds. On the Closing Date, or on such other date as the Issuer, the Bank and the Company may mutually agree upon, the Bank agrees to provide to the Issuer the Bond Proceeds in the aggregate principal amount of \$50,001.00, (i) upon receipt of the Bonds in such principal amounts and (ii) subject to the terms and conditions of this Bond Purchase Agreement.

The Issuer agrees to loan the proceeds of the Bonds to the Company and the Company agrees to pay to the Bank the principal of and interest on the Bonds and all other amounts due hereunder in accordance with the terms of this Bond Purchase Agreement and the Bonds.

Section 3.02. Conditions Precedent to Closing. The obligation of the Issuer to make the loan contemplated by this Bond Purchase Agreement, and the obligation of the Bank to purchase the Bonds, shall be subject to receipt by the Bank of all documents and assurances required by the Commitment and receipt by the Bank of each of the following in form and substance reasonably satisfactory to the Bank and its counsel:

- (a) The original, executed typewritten Bonds, executed originals of all of the other Bond Documents and Form 8038.
- (b) Evidence satisfactory to the Bank and its counsel as to:
  - (i) the valid corporate existence of the Issuer and the Company;
  - (ii) the due authorization and execution by, and the valid and binding affect upon, the respective parties thereof of each of the Bond Documents; and
  - (iii) no litigation materially affecting the business, operations, properties, assets or business prospects of the Issuer or the Company; and no required consents and no defaults by the Issuer or the Company.
- (c) A certified copy of the Bond Resolution and proof of due corporate action by the Issuer.
- (d) Evidence that the issuance of the Bonds has been approved by the Applicable Elected Representative (as defined in the Code) of Genesee County, New York, after a public hearing is held.
- (e) An opinion of counsel to the Issuer as to the valid corporate existence of the Issuer, the due authorization, execution and delivery by the Issuer of the Bonds and the other Issuer Documents, the absence of material litigation involving the Issuer and such other matters as the Bank, its counsel or Bond Counsel may reasonably request.

(f) An opinion of counsel to the Company as to the valid corporate existence of the Company, the due authorization, execution and delivery by the Company of the Company Documents, the absence of material litigation involving the Company or the Facility and such other matters as the Bank, its counsel or Bond Counsel may reasonably request.

(g) An opinion of Harris Beach PLLC as Bond Counsel, as to the due existence and authority of the Issuer; the valid issuance of the Bonds under the Bond Resolution and the Act; the exclusion from gross income for federal income tax purposes of interest payable on the Bonds and the exemption from registration of the Bonds under the Securities Act of 1933, as amended.

(h) Evidence of insurance providing coverage required by Article IV.

(i) Evidence satisfactory to the Bank that the available Bond Proceeds and other funds available to the Company are sufficient to pay Project Costs.

(j) Payment to the Bank of its commitment fee in the amount of \$20,000.

(k) Receipt and satisfactory review by the Bank of all licenses, approvals and certifications necessary for the operation of the Facility.

(l) Receipt and satisfactory review by the Bank of all licenses, approvals and authorizations necessary for the construction of the Improvements.

(m) Receipt and satisfactory review by the Bank of all necessary approvals and consents from each agency or regulatory authority having jurisdiction over the Company and the Facility.

(n) Receipt and satisfactory review by the Bank of the executed Construction Contract and a pre-cost analysis, prepared by the Engineer, which verifies that the Project Costs are in accordance with the Construction Contract.

(o) Such other documents, instruments, certificates, opinions, assurances, consents or approvals as the Bank or its counsel may otherwise request.

### Section 3.03. Provisions Relating to Exchange of Bonds.

(a) The Bonds shall be issued in fully registered form, shall be payable in accordance with the provisions of the Bonds to the registered owner thereof as shown on the records maintained by the Issuer for the registration and transfer of the Bonds and shall be substantially in the forms set forth in **Exhibit A** attached hereto.

(b) So long as the Bonds shall be outstanding, the Issuer shall maintain, at the Bank's office, books for the registration and transfer of the Bonds. The Bank is hereby appointed, and by executing this Bond Purchase Agreement hereby accepts such appointment, as bond registrar

(the "Bond Registrar"). The Bank, as Bond Registrar, shall register in such books and permit to be transferred thereon, under such reasonable regulations as the Bank may prescribe, the Bonds.

(c) The Bonds shall be transferable only on the books of the Issuer, maintained by the Bond Registrar, upon surrender thereof at the main office of the Bank, together with such instruments, opinions, if any, and certificates as may be required by the provisions of the Bonds pertaining to the transfer thereof. No such transfer of the Bonds shall be valid unless the Issuer shall execute and deliver new Bonds registered in the name of the transferee, together with the receipt by the Issuer of payment of the reasonable fees and expenses of the Issuer.

(d) The Issuer and the Bank may deem and treat the Person in whose name the Bonds shall be registered upon the books of the Issuer, maintained by the Bond Registrar, as the absolute owner thereof, whether the Bonds shall be overdue or not, for the purpose of receiving payment of the principal of, premium, if any, and interest on the Bonds and for all other purposes. All such payments so made to any such Holder or upon his order shall be valid and effectual to satisfy and discharge the liability of the Issuer upon such Bonds to the extent of the sum or sums so paid. Neither the Issuer nor the Bank shall be affected by any notice to the contrary.

Section 3.04. Loss, Theft, Destruction or Mutilation of the Bonds. In the event the Bonds are mutilated, lost, stolen or destroyed, the Issuer may execute and deliver new Bonds of like maturity, interest rate and principal amount, bearing the same number, if any, as the mutilated, destroyed, lost or stolen Bonds and bearing a notation indicating the principal amount outstanding, in exchange for the mutilated bond, or in substitution for a bond so destroyed, lost or stolen. In every case of exchange or substitution, the applicant shall furnish to the Issuer (i) such security or indemnity as may be required by it to save the Issuer and its members, servants, agents and employees harmless from all risks, however remote, reasonably related to such exchange or transfer, (ii) evidence to its satisfaction of the mutilation, destruction, loss or theft of the Bonds and of the ownership thereof and (iii) in the case of mutilation, the mutilated Bonds. Upon the issuance of a bond upon such exchange, or substitution, the Issuer may require the Holder of the Bonds to make the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses, including counsel fees, of the Issuer. In case the Bonds shall become mutilated or be destroyed, lost or stolen, the Issuer may, instead of issuing a bond in exchange or substitution therefor, pay or authorize the payment of the same (without surrender thereof except in the case of the mutilation of the Bonds) if the applicant for such payment shall furnish to the Issuer such security or indemnity as it may require to save the Issuer and its members, servants, agents and employees harmless from all risks, however remote, and evidence satisfactory to the Issuer of the mutilation, destruction, loss or theft of the Bonds and of the ownership thereof.

Section 3.05. Commitment. The parties agree that the terms and conditions of the Commitment are incorporated herein and, except as otherwise provided in the Commitment, the terms and conditions of the Commitment shall not survive the making of the loan by the Issuer and the purchase of the Bonds by the Bank. In the event of any variation between the provisions of this Bond Purchase Agreement and the Commitment with respect to the making of the loan by the Issuer and the purchase of the Bonds by the Bank, the provisions hereof shall govern.



## ARTICLE IV

### THE DISBURSING AGENT; BOND PROCEEDS AND APPLICATION THEREOF; OTHER OBLIGATIONS OF COMPANY; INSURANCE PROVISIONS

#### Section 4.01. Appointment of Disbursing Agent and Acceptance of Duties.

(a) The Bank is hereby appointed as Disbursing Agent. The Disbursing Agent shall signify its acceptance of the duties and obligations of the Disbursing Agent, subject to the terms and conditions set forth in subsection (b) of this Section, by executing this Bond Purchase Agreement.

(b) The acceptance by the Disbursing Agent of the duties imposed upon it by this Article and its agreement to perform said duties is subject to the following express terms and conditions, and no implied covenants or obligations shall be read into this Article against the Disbursing Agent:

(i) The Disbursing Agent undertakes to perform such duties and only such duties as are specifically set forth in this Article.

(ii) The Disbursing Agent may execute any of the powers conferred upon it in this Article and perform any of its duties hereunder by or through attorneys, agents or employees and may in all cases pay such reasonable compensation to all such attorneys and agents as may reasonably be employed in connection herewith.

(iii) The Disbursing Agent shall be protected in acting in good faith upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document believed by it to be genuine and to have been signed or sent by the proper Person or Persons.

(iv) The permissive right of the Disbursing Agent to do things enumerated in this Article shall not be construed as a duty and the Disbursing Agent shall not be answerable for other than its gross negligence or willful misconduct.

(v) For so long as the Bank is both Holder and Disbursing Agent, the Disbursing Agent shall be deemed to have notice of any Event of Default of which the Holder has notice.

(vi) All monies received by the Disbursing Agent shall be held in the funds herein provided for the purpose for which they were received, but need not be segregated from other monies held by the Disbursing Agent except to the extent required by this Article or by law. Except as provided in this Article IV, the Disbursing Agent shall not be liable for interest on any monies received hereunder.

(vii) The Disbursing Agent shall not be required to give any bond or surety in respect of the execution of the duties and powers intended to be conferred upon it in this Article or otherwise in respect of the Facility.

(viii) The Disbursing Agent shall not make any assignment or transfer of the interests granted to the Disbursing Agent under this Article, except as specifically provided for herein.

(ix) A disbursement hereunder shall not be deemed to be an approval by the Disbursing Agent or the Bank of any work or labor performed with respect to the Facility, or approval or acceptance by the Disbursing Agent as to the fitness of such work or materials. All sums disbursed pursuant to any provision of this Bond Purchase Agreement shall be deemed to be building loan advances secured by the Collateral Documents.

(c) In consideration of the acceptance by the Disbursing Agent of its duties hereunder, the Company hereby agrees to defend, indemnify and hold harmless the Disbursing Agent against all claims, actions, suits, proceedings, costs, expenses (including reasonable attorneys' fees) losses, damages and liabilities of any kind, including, in tort, penalties and interest, which the Disbursing Agent may incur in its capacity as Disbursing Agent in any manner other than the gross negligence or willful misconduct of the Disbursing Agent by reason of any matter existing, directly or indirectly, hereto or to the performance of the Disbursing Agent's obligations hereunder, and such defense, indemnity and hold harmless provisions shall survive this Bond Purchase Agreement and the payment of all obligations to the Holder evidenced by the Bonds.

Section 4.02. Merger or Consolidation of Disbursing Agent. Any corporation or association into which the Disbursing Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its assets as a whole or substantially as a whole, or any corporation or association resulting from any conversion, sale, merger, consolidation or transfer to which it is a party, ipso facto, shall be and become the successor Disbursing Agent hereunder and shall be vested with all the powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto.

Section 4.03. Resignation by the Disbursing Agent. The Disbursing Agent and any successor Disbursing Agent may, at any time, resign as Disbursing Agent and be discharged of its duties and obligations under this Article by giving not less than sixty (60) days written notice to the Company, who shall designate a successor Disbursing Agent within fifteen (15) days of receipt of such notice; provided, however, that in no event shall such a resignation take effect until a successor Disbursing Agent has been appointed. Any successor Disbursing Agent appointed hereunder shall be a banking association, trust company or bank which is authorized to undertake the duties and to exercise the rights and powers intended to be conferred upon it by this Article.

Section 4.04. Establishment of Funds; Disbursement of Bond Proceeds.

(a) A special fund entitled "The Genesee County Funding Corporation Project Fund – Mercy Flight Inc. Project" (referred to herein as the "Project Fund") shall be created with the Disbursing Agent and shall be held, maintained and administered by the Disbursing Agent on behalf of the Issuer in accordance with the terms of this Article IV.

(b) The Disbursing Agent shall deposit in the Project Fund, the Bond Proceeds.

(c) So long as no Event of Default exists hereunder, the Issuer hereby authorizes the Disbursing Agent to disburse monies in the Project Fund on its behalf solely for the purposes set forth in Section 4.05 hereof.

(d) The Company agrees to use Bond Proceeds (i) only as provided in Section 4.05 hereof and (ii) in accordance with its covenants respecting the use of the Bond Proceeds contained in the Tax Compliance Agreement.

Section 4.05. Use of Monies in the Project Fund.

(a) Subject to compliance by the Issuer and the Company with the terms and conditions of this Bond Purchase Agreement, the Bank shall deposit Bond Proceeds into the Project Fund on a draw-down basis as requested by the Company which deposits shall be advanced by the Bank, as Disbursing Agent for the purpose of acquiring, constructing and equipping the Facility or reimbursement to the Company for expenditures incurred for such costs, subject to and in compliance with the Tax Compliance Agreement. Bond Proceeds drawn down for deposit into the Project Fund and advanced to pay for the Project Costs shall be advanced to the Company or the Company's designee upon the Bank being furnished with:

(1) A written requisition therefor in form attached hereto as **Exhibit B**, and in substance acceptable to the Bank, received by the Bank at least ten (10) days prior to the date the disbursement is sought, but in no event more frequently than once every thirty (30) days (provided, however, that the Bank on the Closing Date may advance Bond Proceeds for disbursements, based on any requisition received on or before the Closing Date and otherwise complying with this Section 4.05), certified to by the Authorized Representative of the Company in form and substance satisfactory to the Bank, stating: (A) the name of the Person to whom payment is to be made; (B) the amount of the payment; (C) that the disbursement is for a proper expenditure of Bond Proceeds; (D) the classification and the nature and purpose of the expenditure; (E) that there are no vendor's, mechanic's, or other liens, bailment leases, conditional sale contracts, security interests or laborer's liens which should be satisfied or discharged before the payments as requisitioned are made or which will not be discharged by such payment; (F) that none of the items for which the requisition is made has been the basis for any prior disbursement of Bond Proceeds; (G) that all Persons furnishing materials to, or performing work on, the Facility have been paid or will be fully paid to date from the proceeds of the requisition; and (H) that the undisbursed Bond Proceeds are sufficient to complete the acquisition, construction and equipping of the Facility in accordance with the Plans and Specifications;

(2) For construction items, at the request of the Bank on reasonable notice, a certificate of payment of the Engineer on the Company's requisition and on AIA Documents G-701 and G-703 certifying: (A) the Engineer's approval of the requisition; (B) that the obligation was properly incurred; (C) that the amount requisitioned has been paid or is due and unpaid and shall be paid from the amount of monies requisitioned; (D) the value of the work, labor and services and of materials, supplies and equipment being paid from such requisition; (E) the value of the completed portion of the Facility; (F) that insofar as the payment is to be made for the work, materials, supplies or equipment, the work has been performed and the materials, supplies or equipment have been installed in the Facility or have been delivered either at the Facility or at a proper place for fabrication and are covered by adequate insurance insuring the Bank as secured party; and (G) that all work, materials, supplies and equipment for which payment is to be made are in accordance with the Plans and Specifications;

(3) For non-construction items, copies of all invoices, bills, receipts and other information relating to the amount being requisitioned and substantiating the actual incurrence by the Company of said items;

(4) Prior to each draw hereunder, lien waivers signed by all contractors who enter into construction contracts with the Company for work done or to be done and for materials supplied or to be supplied that are included in the requisition;

(5) A certificate executed by an Authorized Representative of the Company stating that the representations, covenants and warranties of the Company in the Bond Documents are true on the date of such disbursement and that no Event of Default has occurred and is continuing as of such date; and

(6) Such other or further documents, data or information as the Bank shall reasonably request.

(b) From time to time during the construction of the Project, the Engineer and/or other representatives of the Bank, in conjunction with construction advances made hereunder, shall monitor and inspect the progress of the construction of the Project, including examinations of the Improvements, the materials used or to be used in the construction, all plans and shop drawings, all work done, labor performed and materials furnished, all books, contracts and records with respect to the construction and any other documents relating to the construction. The Company will promptly comply with the Bank's requirements and remove or remedy any item identified by the Bank, or its representatives, regarding the construction or the progress thereof.

(c) In no event shall any requisition for construction items under this Bond Purchase Agreement exceed ninety percent (90%) of the available monies in the Project Fund. It is understood that the respective ten percent (10%) retainage from the available monies in the Project Fund is intended to provide a contingency fund protecting the Bank against failure by the Company to fulfill any obligations under this Bond Purchase Agreement or the other Bond Documents, and



that the Bank may charge amounts against such retainage in the event the Bank is required or elects to expend its own funds to cure any Event of Default. No portion of the aforementioned retainage will be released prior to the Completion Date without the Bank's prior written consent.

(d) The Bank shall not be obligated to make any advances of monies from the Project Fund hereunder unless the Bank is satisfied in its sole discretion that the conditions precedent to the making of such advance have been satisfied by the Company. Further, and notwithstanding anything in subsection (a) of this Section 4.05 to the contrary, the Bank may in its sole discretion withhold any disbursement of monies from the Project Fund pursuant to a requisition for construction items, if, within the ten (10) day period following the Bank's receipt of the documentation required by such subsection (a), the Bank causes its duly authorized representative, employee or agent to conduct an inspection of the applicable portion of the Facility and, based upon such inspection, the Bank determines that the construction items in such requisition are not properly payable. In addition, the Company authorizes the Bank, at the Bank's discretion, to engage at the Company's expense, the Engineer to review on behalf of the Bank the Plans and Specifications, all permits and approvals, and to conduct on-site inspections on behalf of the Bank in order to determine whether construction of such portion of the Facility has been in accordance with the Plans and Specifications, whether the necessary percentage or work has been completed in order to justify the advance requested, to review the progress, quality and completion of the construction of such portion of the Facility, to approve all requests for payment, to determine whether other work shall be deemed necessary and/or appropriate in order to complete the construction of such portion of the Facility in accordance with the Plans and Specifications and to determine the amount of time from the date of inspection which will be required to complete construction of such portion of the Facility in accordance with the Plans and Specifications.

(e) The final disbursement of monies from the Project Fund shall not be paid to the Company until the Bank has received the following, in addition to the other items described above:

(1) Evidence satisfactory to the Bank that the Facility is in compliance with all applicable zoning ordinances, laws, regulations and building codes of the governmental authorities having jurisdiction over the Facility, which evidence shall include a final unconditional certificate of occupancy for the Facility and such other permits and approvals as may be required by any governmental authority for the use and occupancy of the Facility;

(2) At the request of the Bank, a "Certificate of Substantial Completion" signed by the Architect, the Engineer, the Contractor and the Company;

(3) Such waivers of Lien and other documents as may be required to insure that there are no mechanics' or materialmen's liens for labor furnished or materials supplied in connection with the construction, reconstruction and equipping of the Facility;

(4) A certificate of completion, as set forth below (the "Certificate of Completion"); and

(5) An "as-built" survey with respect to the Facility.

The Company shall proceed with due diligence to complete the acquisition, construction and equipping of the Facility and shall complete such acquisition, construction and equipping on or before the Completion Date. At the request of the Bank, completion of the Facility shall be evidenced by one or more certificates signed by an Authorized Representative of the Company and the Engineer stating that (A) the acquisition, construction and equipping of the Facility has been completed in accordance with the Plans and Specifications therefor and (B) the payment of all labor, services, materials and supplies used in such acquisition, construction and equipping has been made or provided for.

Section 4.06. Establishment of Redemption Fund; Use of Monies in the Redemption Fund.

(a) A special fund entitled "The Genesee County Funding Corporation – Mercy Flight Inc. Redemption Fund" (referred to herein as the "Redemption Fund") shall be created with the Disbursing Agent and shall be held, maintained and administered by the Disbursing Agent on behalf of the Issuer in accordance with the terms of this Article IV. Upon receipt of any moneys under the Mortgage and/or the Supplemental Mortgage, the Disbursing Agent shall deposit such monies in the Redemption Fund.

(b) Upon deposit of any moneys as described in Section 4.06(a) above, the Disbursing Agent shall apply such monies on the next ensuing Bond Payment Date on which interest shall be payable on Series 2017 Bonds and applied to the partial redemption of the Series 2017 Bonds in accordance with Section 5.02(a) hereof, with such redemption being credited against scheduled principal payments (with respect to the Series 2017 Bonds) in direct chronological order.

Section 4.07. Compliance with Section 13 of the Lien Law. The Company and the Issuer covenant and agree that the Company shall receive the advances to be made hereunder to pay the Project Costs and will hold the same, together with the right to receive such advances, as a trust fund to be applied first for the purposes of paying the "cost of the improvements" (as such term is defined in the Lien Law), and the Company will apply the same first to the payment of the cost of the improvements before using any part thereof for any other purpose. A true statement verified by an Authorized Representative of the Company as required by Section 22 of the Lien Law is attached hereto as Exhibit C and made a part hereof. If so indicated in such affidavit, a portion of the Bond Proceeds will be used for reimbursement for payments made prior to the date of the first advance hereunder, for items constituting a portion of the "cost of the improvements".

Section 4.08. Installation of Additional Equipment. The Company from time to time may install any machinery, equipment and other personal property not constituting part of the Facility on or in the Facility (which may be attached or affixed to the Facility) as it may deem

desirable. The Company from time to time may remove or permit the removal of such machinery, equipment and other personal property from the Facility and may create or permit to be created any Lien on such machinery, equipment or other personal property; provided that any such removal of such machinery, equipment or other personal property shall not impair the overall operating efficiency of the Facility for the purpose for which it is intended; and provided further that if any damage is occasioned to the Facility by such removal, the Company shall at its own expense promptly repair such damages. The Issuer or the Bank shall not be responsible for any loss or damage to any property installed pursuant to this Section 4.08.

Section 4.09. Taxes, Assessments and Utility Charges.

(a) The Company agrees to pay, as the same respectively become due, (i) all taxes and governmental charges of any kind (if any) whatsoever which may at any time be lawfully assessed or levied against or with respect to the Facility and any machinery, equipment or other property installed or bought by the Company therein or thereon, including, without limitation, any taxes levied upon or with respect to the income or revenues of the Company from the Facility, (ii) all utility and other charges, including "service charges", incurred or imposed for the operation, maintenance, use, upkeep and improvement of the Facility and (iii) all assessments and charges of any kind whatsoever lawfully made by any governmental body for public improvements, provided that, with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Company shall be obligated under this Bond Purchase Agreement to pay only such installments as are required to be paid during the term of the Bonds.

(b) The Company may in good faith contest any such taxes, assessments and other charges (if any). In the event of any such contest the Company may permit the taxes, assessments and other charges so contested, to remain unpaid during the period of such contest and any appeal therefrom, unless the Issuer, the Bank or their respective members, officers, agents or servants may be liable for prosecution for such nonpayment in which event the Company shall promptly take such action as shall be satisfactory to the Issuer.

Section 4.10. Deficiency. The Bank shall not be obligated to make any advance of monies from the Project Fund to the Company if, in the sole opinion of the Bank, the balance of the monies on deposit in the Project Fund is at any time less (the amount by which it is less being hereinafter referred to as the "Deficiency") than the actual sum, as estimated by the Bank and, if requested by the Bank, the Engineer, which will be required to complete the Project in accordance with the Plans and Specifications and this Bond Purchase Agreement, and to pay all other costs and expenses of any nature whatsoever which will be incurred in connection with the completion of the Facility. The Company shall, within ten (10) days after being notified by the Bank that there is or will be a Deficiency, either (and the failure of the Company to timely do either of the following shall, at the Bank's option, be an Event of Default): (i) invest in the Facility in a manner satisfactory to the Bank an amount equal to the Deficiency and deliver to the Bank evidence satisfactory to the Bank of such investment, which investment shall remain invested in the Facility until the Bonds, plus interest, and all other sums which may or shall become due under the Bonds or the other Bond Documents (hereinafter referred to as the "Debt") have been paid in full, or (ii) deposit into the Project Fund an amount equal to the Deficiency.

Any amounts deposited by the Company into the Project Fund shall be advanced by the Bank in accordance with this Article IV. If an Event of Default shall occur and be continuing, the Bank, in addition to all other rights which it has hereunder and under the other Bond Documents, shall have the unconditional right, at its option, to apply, in whole or in part, any amounts deposited by the Company into either Project Fund with respect to the Deficiency, to the payment of the Debt in such order and priority as the Bank shall deem appropriate.

Section 4.11. Disbursement of Balance in Project Fund Upon Completion of Project or in Event of Default. Upon (i) completion of the Project or (ii) the occurrence and continuance of any Event of Default hereunder, any balance remaining in the Project Fund, except for amounts retained for the payment of incurred but unpaid items of the Project Costs, shall be applied by the Disbursing Agent as follows:

(a) Unless an Event of Default shall have occurred hereunder and the Bank shall have heretofore declared the outstanding principal of the Bonds to be due and payable in accordance with Section 6.02 hereof, the balance in the Project Fund, including any income earned on the investment of monies in the Project Fund pursuant to Section 4.12 hereof, shall be applied to prepay the Bonds as provided in Section 5.02 hereof.

(b) If an Event of Default shall have occurred and the outstanding principal amount of the Bonds shall have been declared due and payable, the entire balance remaining in the Project Fund, including any income earned on the investment of monies in the Project Fund pursuant to Section 4.12 hereof, shall be applied to the payment of the outstanding principal of and interest on the Bonds.

Section 4.12. Investment of Monies.

(a) After the Closing Date, any monies held in the Project Fund established pursuant to Section 4.04 hereof shall be invested and reinvested by the Disbursing Agent in Authorized Investments in compliance with the Tax Compliance Agreement. In making any such investment, the Disbursing Agent may rely conclusively on the written directions of the Company delivered to it pursuant to this Section 4.12, and the Disbursing Agent shall be relieved of all liability with respect to the making of such investments in accordance with such directions. Such investments shall mature in such amounts and have maturity dates or be subject to redemption at the option of the holder thereof on or prior to the date on which the amounts invested therein will be needed for the purposes of the Project Fund. The Disbursing Agent may at any time sell or otherwise reduce to cash a sufficient amount of such investments whenever the cash balance in the Project Fund is insufficient in the sole reasonable judgment of the Disbursing Agent for the purposes thereof. Any such investments shall be held by or under control of the Disbursing Agent and shall be deemed at all times a part of the Project Fund and the interest accruing thereon and any profit realized from such investments shall be credited to and held in and any loss shall be charged to the Project Fund.

(b) The Disbursing Agent shall not be liable for any depreciation in the value of any investment made pursuant to this Section 4.12 or for any loss arising from any such investment.

Section 4.13. Reserved.

Section 4.14. Insurance Required. At all times throughout the terms of the Bonds (except as specifically provided for in this Section) the Company shall maintain insurance against such risks and for such amounts as are customarily insured against by businesses of like size and type, and as required by the Bank and agreed to by the Company's insurance agent(s), paying, as the same become due and payable, all premiums in respect thereto, including, but not necessarily limited to:

(a) Insurance against loss or damage by fire, lightning and other casualties customarily insured against by similar businesses in the area, on "all risks" or "special perils" basis, reasonably satisfactory to the Bank and its counsel, such insurance to be in an amount equal to the greater of (i) the replacement value of the Facility, exclusive of excavations and foundations, as determined by a recognized appraiser or insurer selected by the Company or (ii) the principal amount of the Bonds then outstanding.

(b) Workers' Compensation insurance, disability benefits insurance, and each other form of insurance which the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company who are located at or assigned to the Facility.

(c) Commercial General Liability Insurance, including the Bank and the Issuer, respectively, as additional insureds, with limits of not less than \$3,000,000 per each occurrence, a \$3,000,000 Product/Completed Operations aggregate limit, a \$3,000,000 each person or organization Personal Injury & Advertising Injury limit, and a \$3,000,000 General Aggregate limit, excluding liability imposed upon the Company by any applicable worker's compensation law

(d) Umbrella/Excess Liability in excess of Commercial General Liability, Automobile Liability and Employer's Liability coverages which is at least as broad as these underlying policies with a limit of liability of \$5,000,000 per occurrence and in the aggregate.

(e) The coverage limits required under (c) and (d) above combined can be achieved through any combination of primary and excess insurance.

Section 4.15. Additional Provisions Respecting Insurance. All insurance required by Section 4.14. hereof shall be procured and maintained with insurance companies selected by the entity required to procure the same and authorized to write such insurance in the State and reasonably acceptable to the Bank. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the Company is engaged. All policies evidencing insurance coverages required by subsections (c) and (d) of Section 4.14 hereof shall name the Company as insured, and the Issuer and the Bank as additional insureds. All policies evidencing insurance coverages required by Section 4.14(a) hereof shall name the Company as insured and shall provide for thirty (30) days' written notice to the Company, the Issuer and the Bank of cancellation, reduction in policy limits or material change in coverage thereof; provided

that insurance limits must be in at least the outstanding principal amount of the Bonds outstanding regardless of deductible amounts. All insurance required hereunder shall be in form, content and coverage reasonably satisfactory to the Issuer and the Bank and shall not contain any coinsurance provisions. The original policy, or a certificate evidencing insurance as provided in the Commitment, of all insurance required hereby shall be delivered to the Issuer and the Bank on or before the Closing Date. No later than five (5) business days after the expiration of any such policy, the Company shall furnish to the Issuer and the Bank, evidence that the policy has been renewed or replaced or is no longer required by this Bond Purchase Agreement.

THE PARTIES HERETO ACKNOWLEDGE THAT THE ISSUER AND THE BANK DO NOT IN ANY WAY REPRESENT THAT THE INSURANCE SPECIFIED HEREIN, WHETHER IN SCOPE OF COVERAGE OR LIMITS OF COVERAGE, IS ADEQUATE OR SUFFICIENT FOR THE PURPOSES CONTEMPLATED HEREUNDER OR TO PROTECT THE OPERATION OF THE FACILITY OR THE BUSINESS, OPERATIONS OR FINANCIAL CONDITION OF THE COMPANY.

Section 4.16. Application of Net Proceeds of Insurance. The Net Proceeds of the insurance carried pursuant to the provisions of Section 4.14 hereof shall be applied as follows: (i) the Net Proceeds of the insurance required by Section 4.14(a) hereof shall be applied as provided in Section 4.19 hereof, and (ii) the Net Proceeds of the insurance required by Sections 4.14(b) and 4.14(c) hereof shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid.

Section 4.17. Right of Bank or the Issuer to Pay Taxes, Insurance Premiums and Other Charges. If the Company fails (i) to pay any tax, assessment or other governmental charge required to be paid by Section 4.09 hereof or (ii) to maintain any insurance required to be maintained by Section 4.14 hereof, the Bank or the Issuer, may, but are not required to, pay such tax, assessment or other governmental charge or for such insurance. The Company shall reimburse the Bank or the Issuer, as the case may be, for any amount so paid by the Bank or the Issuer pursuant to this Section 4.17, together with interest thereon from the date of payment by the Bank or the Issuer, as the case may be, at the rate of interest equal to three percent (3.00%) in excess of the rate at which interest accrues on the Bonds, or the maximum rate permitted by law, whichever is less. Notwithstanding anything in this Section to the contrary, prior to paying any such tax, assessment, governmental charge or insurance premium, the Bank and/or the Issuer, as applicable, shall give the Company twenty (20) days' notice of its intent to make such payment, provided, however, that the failure of the Bank or the Issuer to provide such notice shall not discharge the Company's obligation to make reimbursements therefor under this Section.

Section 4.18. Exempt from Taxation. It is recognized that, as of the Closing Date, the Company is required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities.

Section 4.19. Damage or Destruction. The provisions of this Section 4.19 shall apply in the event the Facility, or any part thereof, is damaged or destroyed during the term of the Bonds.

(a) If the Facility, or any part thereof, shall be damaged or destroyed (in whole or in part) at any time during the term of the Bonds:

(i) the Issuer and the Bank shall have no obligation to replace, repair, rebuild or restore the Facility, or such part thereof,;

(ii) there shall be no abatement or reduction in the amounts payable by the Company under this Bond Purchase Agreement and the Bonds (whether or not the Facility is replaced, repaired, rebuilt or restored);

(iii) the Company shall promptly give notice thereof to the Bank and the Issuer; and

(iv) unless the Company makes an election pursuant to subsection (b) of this Section 4.19, the Company shall promptly replace, repair, rebuild or restore the Facility to substantially the same (or comparable) condition and value as an operating entity as existed prior to such damage or destruction, with such changes, alterations and modifications as may be required by then-applicable law, or as may be desired by the Company and consented to by the Bank in writing (such consent not to be unreasonably withheld, conditioned or delayed), provided that the Company delivers or causes to be delivered to the Bank (A) an estimate in all respects satisfactory to the Bank, prepared by the Engineer indicating that the Net Proceeds of insurance, taken together with additional proceeds deposited by the Company with the Bank, are sufficient to replace, repair, rebuild or restore the Facility, or such part thereof, to substantially the same (or comparable) condition and value as an operating entity as existed prior to such damage or destruction, (B) such Net Proceeds and any additional funds needed to satisfy (A) above shall be deposited into the Reconstruction Fund (as defined in Section 4.21 hereof), (C) the Company shall submit to the Bank executed and binding contracts for repairs, replacements and restoration and plans and specifications, each of which must be in all respects reasonably satisfactory to the Bank, and (D) the repair, restoration or rebuilding must, subject to the requirements of then-applicable law, be substantially comparable in size, quality and value to the Facility immediately before repair, restoration or rebuilding.

The Net Proceeds of insurance resulting from claims for such losses, together with any additional funds necessary to complete the replacement, repair, rebuilding or restoration of the Facility shall be deposited into the Reconstruction Fund as set forth above. Any balance of such Net Proceeds remaining after payment of all the costs of such replacement, repair, rebuilding or restoration shall be paid to the Bank as prepayment of the Bonds.

(b) The Company shall not be obligated to replace, repair, rebuild or restore the Facility, or any part thereof, and the Net Proceeds of the insurance shall not be applied as provided in subsection (a) of this Section 4.19, if within ninety (90) days of the event causing damage or destruction to the Facility, or such part thereof, the Company shall notify the Issuer and the Bank that, in its sole judgment, it does not deem it practical or desirable to so replace, repair, rebuild or restore the Facility, or such part thereof. In such event, the Bonds shall be prepaid up to the amount of the Net Proceeds including all amounts payable to the Issuer and the Bank, with all interest accrued thereon and with any applicable prepayment penalty.

(c) If the principal amount of the Bonds and interest thereon and all other amounts due to the Issuer and the Bank under the Bond Documents have been fully paid, all such Net Proceeds shall be paid to the Company for its purposes.

(d) Provided no Event of Default has occurred and is continuing, the Company, with the prior written consent of the Bank (such consent not to be unreasonably withheld, conditioned or delayed), may adjust all claims under any policies of insurance required by Section 4.14(a) hereof.

Section 4.20. Condemnation of Facility. The provisions of this Section 4.20 shall apply in the event that title to all or any part of the Facility is taken by Condemnation during the term of the Bonds.

(a) If at any time during the term of the Bonds, the whole or any part of title to, or the use of, the Facility shall be taken by Condemnation:

(i) the Issuer and the Bank shall have no obligation to replace or restore the Facility, or such part thereof;

(ii) there shall be no abatement or reduction in the amounts payable by the Company under this Bond Purchase Agreement or the Bonds (whether or not the Facility is replaced or restored);

(iii) the Company shall promptly give notice thereof to the Issuer and the Bank; and

(iv) unless the Bank makes an election pursuant to subsection (b) of this Section 4.20, the Company shall promptly replace or restore the Facility (excluding any part of the Land taken by Condemnation) to substantially the same condition and value as an operating entity as existed prior to such Condemnation with such changes, alterations and modifications as may be desired by the Company and consented to by the Bank in writing.

The Net Proceeds of any award in any Condemnation proceeding shall be deposited into the Reconstruction Fund (as defined in Section 4.21 hereof) to be applied to the payment of the costs of the restoration or replacement of the Facility. In the event such Net Proceeds of any Condemnation award are not sufficient to pay in full the costs of such restoration or replacement of the Facility, the Company shall nonetheless complete such restoration or replacement and shall pay from its own monies (including bank or other loans or other similar financing) that portion of the costs thereof in excess of such Net Proceeds. Any balance of such Net Proceeds of any Condemnation award remaining after payment of all costs of such restoration or replacement shall be paid to the Bank and applied as provided in this Bond Purchase Agreement.

(b) The Company shall not be obligated to restore the Facility, and the Net Proceeds of any Condemnation award shall not be applied as provided in Section 4.20(a) hereof, if within ninety (90) days of the act of Condemnation, the Company shall notify the Issuer and the Bank



that, in its sole judgment, it does not deem it practical or desirable to so replace or restore the Facility. In such event, the Bonds shall be prepaid up to the amount of the Net Proceeds including all amounts payable to the Issuer and the Bank with all interest accrued thereon and any applicable prepayment penalty.

(c) If the principal amount of the Bonds and interest and premium, if any, thereon and all other amounts due the Issuer and the Bank under the Bond Documents have been fully paid, all such Net Proceeds shall be paid to the Company for its purposes.

(d) Provided no Event of Default shall have occurred and be continuing, the Company shall, with the prior written consent of the Bank (such consent not to be unreasonably withheld, conditioned or delayed), have control of any Condemnation proceeding with respect to the Facility or any part thereof and may negotiate the settlement of any such proceeding. The Issuer shall, with prior written consent of the Bank, at the sole expense of the Company, cooperate fully with the Company in the handling and conduct of any such condemnation proceeding. In no event shall the Issuer voluntarily settle, or consent to the settlement of, any Condemnation proceeding without the prior written consent of the Company and the Bank.

Section 4.21. Escrowing of Net Proceeds. The Net Proceeds referred to in Sections 4.19 or 4.20 hereof shall be remitted to the Bank for deposit into a new account known as the "The Genesee County Funding Corporation Reconstruction Fund – Mercy Flight Inc. Project" (the "Reconstruction Fund"). Provided no Event of Default has occurred and is continuing, the monies in the Reconstruction Fund shall be administered in accordance with the Bank's then current requirements for building loan advances.

Section 4.22. Condemnation of Company-Owned Property. The Company shall be entitled to the proceeds of any Condemnation award or portion thereof made for damage to or taking of any Property which, at the time of such damage or taking, is owned by the Company and is not part of the Facility.

Section 4.23. No Warranty of Condition or Suitability by the Issuer and the Bank; Acceptance "As Is". THE ISSUER AND THE BANK MAKE NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, TITLE, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS OF THE FACILITY OR ANY PORTION THEREOF OR THAT THE FACILITY OR ANY PORTION THEREOF IS OR WILL BE SUITABLE FOR THE COMPANY'S PURPOSES OR NEEDS. NO WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY ARE MADE. IN THE EVENT OF ANY DEFECT OR DEFICIENCY OF ANY NATURE, WHETHER LATENT OR PATENT, THE ISSUER AND THE BANK SHALL HAVE NO RESPONSIBILITY OR LIABILITY WHATSOEVER WITH RESPECT THERETO.

Section 4.24. Hold Harmless Provisions.

(a) The Company agrees that the Issuer and the Bank and their respective members, officers, directors, employee or agents shall not be liable for, and agrees to defend, indemnify, release and hold the Issuer and the Bank and their members, officers, directors, employees and

agents harmless from and against, any and all (i) liability for loss or damage to Property or injury to or death of any and all Persons that may be occasioned by, directly or indirectly, any cause whatsoever in connection with the occupation or the use thereof or the presence of any person or property on, in or about the Facility or (ii) liability arising from or expense incurred by the Issuer's and the Bank's financing of the Facility, including without limiting the generality of the foregoing, all claims arising from the breach by the Company of any of the covenants contained herein, all claims, causes of action, judgments, liabilities, losses, damages, costs and expenses (including attorneys' fees) arising out of an Event of Default hereunder or under any of the other Bond Documents or an occurrence, which with the giving of notice or the passage of time, would ripen into an Event of Default, and all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing, provided that any such losses, damages, liabilities or expenses of the Issuer or the Bank or their respective members, officers, directors, employees or agents are not incurred or do not result from the gross negligence or the intentional or willful wrongdoing of the Issuer or the Bank or their respective members, officers, directors, employees or agents, as the case may be. Except as otherwise provided, the foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Issuer or the Bank or any of their respective members, officers, directors, employees or agents and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability.

(b) In the event of any claim against the Issuer or the Bank or any of their officers, members, employees, servants or agents by any employee of the Company or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the obligations of the Company hereunder shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefits payable by or for the Company or such contractor under Workers' Compensation acts, disability benefits or other employee benefit acts.

(c) To effectuate the provisions of this Section 4.24, the Company agrees to provide for and insure, in the liability policies required in Section 4.14(c) hereof, its liabilities assumed pursuant to this Section 4.24, to the extent such liabilities are insurable.

(d) Notwithstanding any other provisions of this Bond Purchase Agreement, the obligations of the Company pursuant to this Section 4.24 shall remain in full force and effect after the payment in full of the Bonds until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought and the payment in full or the satisfaction of such claim, cause of action or prosecution and the payment of all expenses and charges incurred by the Issuer and the Bank and any of their respective officers, members, employees, servants or agents, relating to the enforcement of the provisions herein specified.

Section 4.25. Agreement to Provide Information. The Company agrees, whenever requested by the Issuer or the Bank, to comply with reasonable requests by the Issuer or the Bank for information concerning the Company, its finances and other topics as the Issuer or the Bank, from time to time considers reasonably necessary or appropriate, including, but not limited to, such information as to enable the Issuer or the Bank to make any reports required by law, governmental regulation or this Bond Purchase Agreement.

Section 4.26. Compliance With Orders, Ordinances, Etc.

(a) The Company agrees that it will, until the Bonds are paid in full, promptly materially comply with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all federal, state, county, municipal and other governments, departments, commissions, boards, companies or associations insuring the premises, courts, authorities, officials and officers, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Facility or any part thereof, or to any use, manner of use or condition of the Facility or any part thereof.

(b) Notwithstanding the provisions of subsection (a) of this Section 4.26, the Company may in good faith contest the validity or the applicability of any requirement of the nature referred to in subsection (a) above, provided that the Company shall have first notified the Issuer and the Bank of such contest. In such event, the Company may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom, unless the Issuer or the Bank shall notify the Company that, in its commercially reasonable judgment, by failure to comply with such requirement or requirements the Issuer or the Bank or any of their respective members, officers, agents or servants may be liable for prosecution for failure to comply therewith in, which event the Company shall promptly take such action with respect thereto as shall be reasonably satisfactory to the Issuer or the Bank.

Section 4.27. Books of Record and Account; Financial Statements. The Company agrees to maintain proper accounts, records and books in which full and correct entries shall be made, in accordance with G.A.A.P., of all business and affairs of the Company and to permit the Bank or its duly authorized representative to inspect such accounts, records or books pursuant to and in accordance with Section 2.04(b) hereof, and to make extracts from and copies of such accounts, records or books.

Section 4.28. Discharge of Liens and Encumbrances.

(a) The Company shall not permit or create or suffer to be permitted or created any Lien (except for Permitted Encumbrances) upon the Facility or any part thereof.

(b) Notwithstanding the provisions of subsection (a) of this Section 4.28, the Company may in good faith contest any such Lien, provided that the Company shall have first notified the Issuer and the Bank of such contest. In such event, the Company may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, unless the Issuer or the Bank shall notify the Company that by nonpayment of any such item or items the Facility or any part of the Facility may be subject to loss or forfeiture, in which event the Company shall promptly secure payment of all such unpaid items by filing the requisite bond, in form and substance satisfactory to the Issuer and the Bank, thereby causing such Lien to be removed.

Section 4.29. Performance by Issuer or Bank of Company's Obligations. Should the Company fail to make any payment or to do any act as herein provided for a period of seven (7) days after receiving written notice of such failure to pay or act (and without releasing the Company from any obligation herein), the Issuer or the Bank may make or do the same, including without limitation, appearing in and defending any action purporting to affect the rights or powers of the Company, the Bank or the Issuer, and paying all expenses, including, without limitation, reasonable attorneys' fees; and the Company will pay immediately upon demand all sums so expended by the Issuer or the Bank under the authority hereof, together with interest thereon at a per annum rate of interest equal to (i) three percent (3.00%) in excess of the rate of interest accruing on the Bonds, or (ii) the maximum rate permitted by law, whichever is less. Notwithstanding anything in this Section to the contrary, prior to making any payment, the Bank and/or the Issuer, as applicable, shall give the Company ten (10) days' notice of its intent to make such payment; provided, however, that the failure of the Bank or the Issuer to provide such notice shall not discharge the Company's obligation to make reimbursements therefor under this Section.

Section 4.30. Covenant Against Arbitrage Bonds. So long as the Bonds shall be outstanding, neither the Issuer nor the Company shall use, or direct or permit the use of, the proceeds of the Bonds or any other monies within their respective control (including, without limitation, the proceeds of any insurance settlement or any Condemnation award with respect to the Facility) in any manner which, if such use had been reasonably expected on the date of issuance of the Bonds, would have caused the Bonds to be "arbitrage bonds" within the meaning ascribed to such quoted term in Section 148 of the Code. The Company agrees that it will comply with all of its covenants in the Tax Compliance Agreement relating to the restrictions contained in Section 148 of the Code. The Issuer authorizes the Company, on the Issuer's behalf, to calculate and make the rebate payments required by Section 148(f) of the Code. Notwithstanding the foregoing, there shall be no such obligation upon the Issuer with respect to the use or investment of its administrative fee; provided, however, that if the Company is required to rebate any amount with respect to such administrative fee, the Issuer shall provide, upon the reasonable request of the Company, such information concerning the investment of such administrative fee as shall be requested by the Company and as shall be reasonably available to the Issuer.

Section 4.31. Depreciation, Deductions and Investment Tax Credits. The parties agree that, as between themselves, the Company shall be entitled to all depreciation or cost recovery deductions with respect to any depreciable property of the Facility pursuant to Section 167 or 168 of the Code and to any investment credit pursuant to Section 38 of the Code with respect to any portion of the Facility which constitutes "Section 38 Property" as defined in the Code.

Section 4.32. Company to Maintain its Corporate Existence; Conditions Under Which Exceptions Permitted. The Company agrees that during the term of the Bonds it will maintain its corporate existence (including its status as a 501(c)(3) organization), will not dissolve or liquidate or otherwise dispose of all or substantially all of its assets, and will not merge or be consolidated with or into any other Person or permit one or more Persons to consolidate with or merge into it without the prior written consent of the Issuer and the Bank.

Section 4.33. Reserved.

Section 4.34. Employment Opportunities. The Company shall insure that all employees and applicants for employment with regard to the Project are afforded equal employment opportunities without discrimination.

Section 4.35. Restriction on Transfer of Facility.

(a) Except as otherwise specifically provided in this Section 4.35 and except for Permitted Encumbrances, the Company shall not during the term of the Bonds sell, convey, transfer, encumber or otherwise dispose of the Facility or any part thereof or any of its rights hereunder, without the prior written consent of the Issuer and the Bank. Prior to each proposed transfer, encumbrance or disposition of the Facility, the Company shall provide the Issuer and the Bank with the following:

(1) A copy of the proposed instruments transferring such title to or interest in the Facility or part of the Facility;

(2) A certificate of the Company stating that the Company is not then in default under this Bond Purchase Agreement and that the transfer is made in the ordinary course of business or made in return for other property of equal or greater value;

(3) Evidence satisfactory to the Issuer and the Bank, that the transferee will be assuming the obligations of the Company hereunder;

(4) An unqualified opinion of Bond Counsel to the effect that the exclusion from gross income for federal income tax purposes of the interest on the Bonds shall not be adversely affected thereby; and

(5) Such other documents and information as the Bank may reasonably request.

(b) No conveyance of all or any portion of the Facility or interest therein affected under the provisions of this Section 4.35 shall entitle the Company to any abatement or diminution of any amounts payable under this Bond Purchase Agreement and the Bonds. No assignment, sale or other disposition of the Facility shall relieve the Company from primary liability for any of its obligations hereunder.

Section 4.36. Removal of Equipment.

(a) In any instance where the Company reasonably determines that any item of Equipment has become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary, the Company may remove such item of Equipment from the Facility and may sell, trade-in, exchange or otherwise dispose of the same, as a whole or in part, provided that such removal will not materially impair the efficient operation of the Facility for the purpose for which it is intended and the aggregate value of all Equipment removed and not replaced in any Fiscal Year

is less than \$100,000.

(b) The removal of any item of Equipment pursuant to this Section 4.36 shall not entitle the Company to any abatement or diminution of any amounts payable under this Bond Purchase Agreement or the Bonds. At the request of the Company, the Issuer and the Holder shall execute and deliver to the Company all instruments necessary or appropriate to enable the Company to sell or otherwise dispose of any such item of Equipment free from the Liens of the Bond Documents. The Company shall pay all costs and expenses (including attorneys' fees) incurred in transferring title to and releasing from the Liens of the Bond Documents any item of Equipment removed pursuant to this Section 4.36.

Section 4.37. Merger of Issuer.

(a) Nothing contained in this Bond Purchase Agreement shall prevent the consolidation of the Issuer with, or merger of the Issuer into, any other not-for-profit corporation or other entity, provided that:

(1) the exclusion from gross income for federal income tax purposes of the interest on the Bonds shall not be adversely affected thereby and the Issuer provides the Holder with an opinion of Bond Counsel as to the same; and

(2) upon any such consolidation, merger or transfer, the due and punctual performance and observance of all the agreements and conditions of this Bond Purchase Agreement to be kept and performed by the Issuer shall be expressly assumed in writing by the not-for-profit corporation or entity resulting from such consolidation or surviving such merger and shall have no effect on obligations of Company hereunder.

(b) As of the date of any such consolidation, or merger, the Issuer shall give notice thereof in reasonable detail to the Company and the Bank. The Issuer promptly shall furnish such additional information with respect to any such transaction as the Company or the Bank may reasonably request.

Section 4.38. Litigation. The Company shall promptly notify the Bank in writing as soon as the Company has knowledge thereof, and furnish or cause to be furnished to the Bank such information regarding the same as the Bank may request of (a) the instituting or filing of any litigation, action, suit, claim or counterclaim to which the Company is a party, or (b) any administrative proceeding against, or investigation of, the Company by or before any regulatory body or Governmental Authority, where (i) the outcome of such litigation, action, suit, claim, counterclaim, administrative proceeding or investigation is likely to have a Material Adverse Change, or (ii) such litigation, action, suit, claim, counterclaim, administrative proceeding or investigation questions the validity of the Bond Documents, or any action taken or to be taken pursuant to the foregoing; and furnish or cause to be furnished to the Bank such information regarding the same as the Bank may reasonably request.

Section 4.39. Negative Covenants. The Company, without the prior written consent of the Bank (except as otherwise provided in this Section 4.39), covenants and agrees that it will not:

(a) Become a guarantor, surety or otherwise liable for the debts or other obligations of any other Person, whether by agreement to purchase the indebtedness of any other Person, or agreement for the furnishing of funds to any other Person through the purchase of goods, supplies or services (or by way of stock purchase, capital contribution, advance or loan) for the purpose of paying or discharging the indebtedness of any other Person, or otherwise, except as an endorser of instruments for the payment of money deposited to its bank account for collection in the ordinary course of business.

(b) Except for investments made by the Company of its restricted and Unrestricted Net Assets, make or suffer to exist any investments in, or loans or advances to, any other Person except (i) advance payments or deposits against purchases made in the ordinary course of the Company's regular business; (ii) direct obligations of the United States of America or other Authorized Investments of amounts held in the Project Fund, the Reconstruction Fund or any other fund or account established in accordance with any of the Bond Documents; (iii) any existing investments in, or existing advances to, any affiliate and (iv) temporary advances to employees to cover expenses incurred in the ordinary course of the Company's business.

(c) Merge with, consolidate with and/or acquire any entity without prior written consent of Issuer and Bank.

Section 4.40. Financial Covenants. The Company shall maintain a minimum Debt Service Coverage Ratio (as defined below) of at least 1.15:1. The term "Debt Service Coverage Ratio" shall mean the Company's net profits plus depreciation, amortization and interest expense divided by the Company's combined interest expense and principal payments on the Company's total outstanding indebtedness. The Debt Service Coverage Ratio shall be measured semi-annually in each June 30 and December 1, commencing June 30, 2018.

## ARTICLE V

### PAYMENT BY ISSUER

#### Section 5.01. Payment of Principal and Interest.

(a) The Company, on behalf of the Issuer, shall pay or cause to be paid to the Bondholder interest, premium, if any, and the principal of the Bonds in accordance with the terms thereof and herein. If any payment is not made to the Bondholder within five (5) days after the date which it is due, the Company, shall pay to the Bondholder a late penalty fee in an amount equal to five percent (5.00%) of such unpaid payment. In addition to the late payment fee, the interest rate on the Bonds shall be increased to a rate of interest equal to three hundred (300) basis points plus the interest rate then in effect under the Bonds upon the occurrence and continuation of an Event of Default hereunder, and such rate shall continue to apply and be calculated on a daily basis until such time as the Event of Default has been cured or waived by the Bank. Thereafter, the rate on the Bonds shall automatically be reinstated to the Bank Rate or the Taxable Rate, whichever is then applicable to the then outstanding Bonds pursuant to this Bond Purchase Agreement.

(b) If there shall occur an Event of Taxability, the rate of interest on the Bonds shall be adjusted, to the extent permitted by law, to the Taxable Rate, commencing with the first (1<sup>st</sup>) day of the calendar month immediately succeeding the calendar month in which notification is given by the Holder to the Issuer and the Company that an Event of Taxability has occurred. In addition, there shall be paid to the Holder or former Holders upon demand by any such Holder or former Holders (i) an amount equal to (A) the aggregate amount which would have been payable as interest on the Bonds if interest on the Bonds had accrued at the Taxable Rate during the period commencing with the Tax Incidence Date and ending on the earlier of (1) the maturity of the Bonds or (2) the date of payment of the amount described in this clause (i), less (B) the amount of the interest on the Bonds previously received by the Holder or former Holders for such period; and (ii) any Additions to Tax paid or payable by any such Holder or former Holders as a consequence of the failure of such Holder or former Holders to include the interest on or any amount in respect of interest on the Bonds held by such Holder or former Holder as gross income in its federal tax return for any relevant period. In the event of an Event of Taxability following the payment in full of the principal of and interest on the Bonds and all other amounts payable by the Issuer under this Bond Purchase Agreement, the Bank shall give notice to the Company of such Event of Taxability, and within thirty (30) days after receipt thereof, the Company shall pay to the Bank an amount equal to one hundred percent (100%) of all amounts payable to the Bank, such amount to be determined in accordance with this Section 5.01(b).

(c) If the Bank becomes subject to any reserve, special deposit, insurance premium, capital adequacy, liquidity requirement or similar requirement, including by any change in any law, regulation, or official directive of any international, federal, state or local governmental authority and specifically including Basel III regulations governing the Bank (whether or not having the force of law), or by the interpretation thereof by any court or administrative agency, or by compliance by the Bank with any lawful request, law, regulation or directive from any



applicable fiscal or monetary authority, whether or not having the force of law, against assets of, deposits with, or for the account of, or credit extended by, the Bank, or any other condition is imposed upon the Bank, which imposes a cost upon the Bank, and the result, in the determination of the Bank, is to increase, directly, the cost to the Bank of maintaining the Bonds, to reduce the amount of any sum received or receivable by the Bank under the Bonds, or to reduce the Bank's rate of return on its capital (which increase in cost or reduction in yield shall be the result of the Bank's reasonable allocation, in a nondiscriminatory manner among borrowers having obligations to the Bank similar to those of the Company, of the aggregate of such cost increases or yield reductions resulting from such event), the Company will pay to the Bank within thirty (30) days following demand therefor such amount in respect of such increased cost or reduction as the Bank may determine to be the additional amount required to compensate the Bank for such increased cost or reduction. In determining such additional amounts, the Bank may make such reasonable estimates, assumptions, allocations and the like which the Bank in good faith determines to be its actual cost of funds, spread over its entire scope of business so affected, but the Bank's selection thereof and the Bank's determination based thereon shall be final, binding and conclusive upon the Company absent manifest error. The Bank shall provide the Company with written documentation of such estimates, assumptions and allocations.

(d) If the maximum marginal statutory rate of federal tax imposed upon income of corporations generally (whether or not the Bondholder is actually taxed at said maximum marginal statutory rate) decreases for any period during which the Bonds are outstanding and bear interest at the Bank Rate, the factor of 72% used in calculating the interest rate on the Bonds bearing interest at the Bank Rate shall be increased, effective upon the effective date of such decrease, to equal the product of:

$$\frac{[\text{Original Tax} - \text{Effective Factor}]}{[1 - \text{Original Tax Rate}]} \times [1 - \text{New Tax Rate}]$$

where (1) "Original Tax-Effective Factor" means 72%, the factor stated in the Bonds bearing interest at the Bank Rate, (2) "Original Tax Rate" means the maximum marginal statutory rate of federal tax, expressed as a decimal, which may be imposed upon income of corporations generally at the date of original issuance of the Bonds bearing interest at the Bank Rate, and (3) "New Tax Rate" means a maximum marginal statutory rate of federal tax, expressed as a decimal, which may be imposed upon income of corporations generally which (a) is less than the Original Tax Rate and (b) comes into effect after the date the Bank Rate first became effective relating to the Bonds, in order to maintain the same taxable equivalent yield to the Bondholder.

Section 5.02. Prepayment of the Bonds.

(a) Optional Prepayment. The Bonds are subject to prepayment by the Issuer at the option of the Company, in whole or in part, at any time (upon written notice received by the Bank at least thirty (30) days prior to making such prepayment), at the redemption price of one hundred percent (100%) of the principal thereof plus accrued interest to the redemption date and subject to any applicable LIBOR breakage fees and any requirements and/or provisions of any agreement for a derivative or hedging product, including, without limitation, interest rate or equity swaps, futures, options, caps, floors, collars or forwards now or hereafter executed by and

between the Company and the Bondholder.

(b) Mandatory Prepayment Without Prepayment Premium. The Bonds shall be subject to mandatory prepayment, without prepayment premium, penalty or fee whatsoever, in whole or in part on any Business Day, in an amount equal to (i) in accordance with Section 4.11(a) hereof, the amount, if any, of the balance in the Project Fund after completion of the Project, (ii) in accordance with Section 4.19 hereof, the amount, if any, by which the Net Proceeds of any insurance with respect to the Facility exceed the cost of repairing or restoring the Facility, as provided herein or (iii) in accordance with Section 4.20 hereof, the amount, if any, of the Net Proceeds of any condemnation award with respect to the Facility. In addition, accrued interest, if applicable, to the date of such prepayment shall be paid on the amount of such prepayment.

Section 5.03. Purchase of the Bonds on Demand; Mandatory Purchase. Notwithstanding anything to the contrary in this Bond Purchase Agreement, the Bonds shall be subject to tender for mandatory purchase in whole on November 1, 2027 (the "Mandatory Tender Date") unless such tender is waived by the Bondholder not less than one hundred and eighty (180) days prior to such Mandatory Tender Date. In lieu of tendering the Bonds, the Company and the Bondholder may agree no later than ninety (90) days prior to the Purchase Date on a new Bond Rate, which new Bond Rate shall take effect on the first day of the first month following the Mandatory Tender Date.

Section 5.04. Defeasance. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, the principal of, premium, if any, and interest on the Bonds and all other amounts payable by the Issuer under this Bond Purchase Agreement, then all covenants, agreements and other obligations of the Issuer hereunder shall thereupon terminate and be discharged and satisfied, and thereupon all the monies and properties of the Issuer then subject to such security interests shall be free and clear thereof. In such event, the Bank shall execute and record or file, at the expense of the Company, all documents requested by the Issuer to effect such discharge and satisfaction.

## ARTICLE VI

### DEFAULT PROVISIONS AND REMEDIES

Section 6.01. Events of Default. The following shall be "Events of Default" under this Bond Purchase Agreement, and the terms "Event of Default" or "Default" shall mean, when they are used in this Bond Purchase Agreement, any one or more of the following events:

(a) The Issuer or the Company fails to pay (or cause to be paid) the principal of, or redemption premium or interest on the Bonds within ten (10) days following the date the same shall become due and payable;

(b) The Issuer or the Company fails to observe and perform any covenant, condition or agreement set forth in Sections 2.04(c), 4.14 4.39 or 7.13 hereof or the loss of the Company's status as a 501(c)(3) organization, which failure continues for thirty (30) days after the Bank has given written notice thereof to the Company;

(c) The occurrence of an Event of Default under any of the other Bond Documents, for a period of thirty (30) days after written notice, specifying the failure and requesting that it be remedied, is given to the Company or the Issuer, as the case may be, by the Bank;

(d) The Company's failure to complete construction of the Improvements on or before the Completion Date, or the Company's failure to deliver to the Bank on or before the Completion Date, the Certificate of Completion;

(e) The Issuer, the Company or an authorized representative of any of them, shall have made, in any certificate, statement, representation, warranty or financial statement furnished to the Bank in connection with the financing of the Facility, a material representation which proves to have been false or misleading as of the time such statement was made, or any such certificate, statement, representation, warranty or financial statement shall omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, for a period of thirty (30) days after written notice, specifying the failure and requesting that it be remedied, is given to the Company or the Issuer as the case may be, by the Bank;

(f) If the Company (i) fails to pay any other indebtedness (other than with respect to the Bonds) owing by the Company when due (or, if permitted by the terms of the applicable document, within any applicable grace period) to the Bank, whether such other indebtedness shall become due by scheduled maturity, by required prepayment, by acceleration, by demand or otherwise or (ii) fails to perform any material term, covenant or agreement on its part to be performed under any agreement or instrument (other than the Bonds) evidencing or securing or relating to any indebtedness owing by the Company to the Bank when required to be performed if the effect of such failure is to permit the Bank, as the case may be, to accelerate the maturity of such indebtedness;

(g) If any of the following events occur: (i) any Reportable Event which the Bank determines in good faith might constitute grounds for the termination of any Plan or for the appointment by the appropriate United States district court of a trustee to administer any Plan, continues for thirty (30) days after the Bank has given written notice thereof to the Company, (ii) any Plan incurs any "accumulated funding deficiency" (as such term is defined in ERISA) whether waived or not, (iii) the Company engages in any Prohibited Transaction (as defined in Section 4975 of the Code), (iv) a trustee is appointed by an appropriate United States district court to administer any Plan, or (v) the Pension Benefit Guaranty Corporation, or any successor thereto institutes proceedings to terminate any Plan or to appoint a trustee to administer any Plan;

(h) If the Company (i) is adjudicated a debtor or insolvent, or ceases, is unable, or admits in writing its inability, to pay its debts as they mature, or makes an assignment for the benefit of creditors; (ii) applies for, or consents to, the appointment of any receiver, trustee, or similar officer for it or for all or any substantial part of its property, or any such receiver, trustee, or similar officer is appointed without the application or consent of the Company; (iii) institutes, or consents to the institution of, by petition, application, or otherwise, any bankruptcy reorganization, arrangement, readjustment of debt, dissolution, liquidation, or similar proceeding relating to it under the laws of any jurisdiction; (iv) has any such proceeding described in clause (iii) instituted against it and such proceeding remains thereafter undismissed for a period of sixty (60) days; or (v) has any judgment, writ, warrant of attachment or execution or similar process issued or levied against its property in an amount of \$50,000 or greater and such judgment, writ, or similar process is not released, or fully bonded within thirty (30) days after its issue or levy;

(i) If the Company shall merge or consolidate with any other corporation or entity or sell, lease, transfer, or otherwise dispose of a substantial part of its property or assets, or permit any subsidiary to do so (except that any subsidiary may merge into or consolidate with, or sell or otherwise dispose of its assets to the Company) without first having obtained the Bank's written consent;

(j) If the Company, or any other Person providing collateral support for the Company's obligations hereunder directly or indirectly, shall challenge, or indicate their intention to challenge, the validity and binding effect of any provision of this Bond Purchase Agreement or any document evidencing or securing the Company's indebtedness under the Bonds (each a "Collateral Document" and collectively, the "Collateral Documents") or the Collateral Documents shall for any reason (except to the extent permitted by their express terms) cease to be effective or cease to have the priority lien position required by the terms thereof or the collateral is no longer available, for any reason;

(k) If there is a change in Control of the Company;

(l) Nonpayment by the Company of any other indebtedness owing by the Company to any third party (other than the Bank) when due (or, if permitted by the terms of the applicable document, within any applicable grace period), whether such indebtedness shall become due by scheduled maturity, by required prepayment, by acceleration, by demand or otherwise, or failure of the Company to perform any material term, covenant or agreement on its part to be performed under any agreement or instrument evidencing or securing or relating to any other indebtedness

owing by the Company to any third party (other than the Bank) when required to be performed if the effect of such nonpayment or failure is to permit the holder to accelerate the maturity of such indebtedness;

(m) The Company terminates its business or ceases to operate as a going concern;

(n) There shall occur any event or condition in the Company's business, operations or financial condition (including, but not limited to, loss of any license and/or accreditation which now or at any time hereafter may be applicable to the Facility or any part thereof, or to any use, manner of use or condition of the Facility or any part thereof) that has, or in the Bank's commercially reasonable judgment, is likely to result in a Material Adverse Change, for a period of thirty (30) days after written notice, specifying the failure and requesting that it be remedied, is given to the Company or the Issuer as the case may be, by the Bank; or

(o) Failure of the Company or the Issuer to perform any other covenant, condition or agreement hereunder on its part to be performed and the continuance of such failure for a period of thirty (30) days after written notice from the Bank (or such longer period of time as Bank may, upon written request of the Company, agree), specifying the failure and requesting that it be remedied.

Section 6.02. Acceleration; Annulment of Acceleration.

(a) Upon the occurrence and continuance of an Event of Default (other than under Section 6.01(h) hereof), the Bank may by notice in writing delivered to the Issuer and the Company declare the Bonds immediately due and payable without protest, presentment, any further notice or demand, all of which to the extent permitted by law, are expressly waived by the Issuer and the Company. In such event, there shall be due and payable the total principal amount of the Bonds, all interest accrued thereon and which will accrue thereon to the date of payment and all other amounts due thereunder. Upon the happening of one or more Events of Default under Section 6.01(h) hereof, the Bank's obligations hereunder shall be cancelled immediately, automatically and without notice, and all amounts outstanding under the Bonds, and all other sums payable at the time of, or as the result of, such declaration under the Bonds or any other document securing the Bonds, shall become immediately due and payable without presentation, demand or notice of any kind to the Company. Neither the acceptance by the Bank of any payment hereunder which is less than payment in full of all amounts due and payable at the time of such payment, or any negotiation or discussion with the Company, shall constitute a waiver of the right to exercise one or more of such remedies at that time or at any subsequent time or nullify any prior exercise of any remedy, except as and to the extent otherwise provided by law.

(b) At any time after the principal of the Bonds shall have been so declared to be due and payable and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy under this Bond Purchase Agreement, the Bank may, at its sole option, annul in writing such declaration and its consequences if (i) monies shall have been paid to the Bank in an amount sufficient to pay all matured installments of interest and principal (other than principal

then due only because of such declaration) of the Bonds and all other amounts due thereunder; (ii) monies shall have been paid to the Bank sufficient to pay the reasonable charges, compensation, expenses, disbursements, advances and liabilities of the Bank; (iii) monies shall have been paid to the Bank sufficient to pay the cost of attorneys' fees including attorney's fees due to default; (iv) all other amounts then payable by the Issuer hereunder shall have been paid; and (v) every other Event of Default known to the Bank (other than a default in the payment of the principal of the Bonds then due only because of such declaration) shall have been remedied to the satisfaction of the Bank. No such annulment shall extend to or affect any subsequent Event of Default or impair any right or remedy consequent thereto.

Section 6.03. Enforcement of Remedies.

(a) Upon the occurrence and continuance of any Event of Default or event which but for the passage of time, the giving of notice or both would constitute an Event of Default, the Bank may cease to make any further advances of Bond Proceeds under this Bond Purchase Agreement.

(b) Upon the occurrence and continuance of any Event of Default, the Bank may proceed forthwith to protect and enforce its rights under the Act, the Bonds, this Bond Purchase Agreement, and each of the other Bond Documents by such suits, actions or proceedings as the Bank, being advised by counsel, shall deem necessary, expedient or desirable.

(c) The Bank may sue for, enforce payment of and receive any amounts due or becoming due from the Issuer or the Company for principal, interest or otherwise under any of the provisions of the Bonds, this Bond Purchase Agreement, or any of the other Bond Documents, without prejudice to any other right or remedy of the Bank.

(d) The Bank may, with or without entry upon the Land, cause construction of the Project to be completed in accordance with the Plans and Specifications with such changes therein as the Bank may deem appropriate, and for such purpose, the Bank may use all available materials and equipment located upon the Land and purchase all other materials and employ contractors and other employees as necessary, all at the cost and expense of the Company.

Section 6.04. Application of Monies. The Net Proceeds received by the Bank pursuant to any right given or action taken under the provisions of this Article VI shall, during the continuance of an Event of Default, be applied to the payment of the fees (including reasonable attorneys' fees) incurred by the Bank, late charges and expenses of the Bank and then to the payment of interest on the Bonds then due and payable and all other amounts due thereunder, and the balance thereof to be applied in reduction of principal then due and payable.

Section 6.05. Remedies Not Exclusive. No remedy conferred upon or reserved to the Bank by this Bond Purchase Agreement is intended to be exclusive of any other remedy. Each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Bank now or hereafter existing at law or in equity or by statute.

Section 6.06. Termination of Proceedings. In case any proceeding taken by the Bank on account of any Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Bank, then the Issuer, the Company, and the Bank shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Bank shall continue as if no such proceeding had been taken.

Section 6.07. Waivers; No Additional Waiver Implied by One Waiver.

(a) The Bank may at its discretion, by a written instrument executed by its duly authorized representative, waive any Event of Default hereunder and its consequences and annul any acceleration in accordance with Section 6.02 hereof. No such waiver shall extend to or affect any other existing or any subsequent Event of Default.

(b) No delay or omission of the Bank to exercise any right or power accruing upon any Event of Default shall impair any such right or power nor shall be construed to be a waiver of any such Event of Default or an acquiescence therein. Every power and remedy given by this Article VI to the Bank may be exercised from time to time and as often as may be deemed necessary, expedient or desirable.

## ARTICLE VII

### MISCELLANEOUS

Section 7.01. Company to Pay Expenses. The Company agrees to pay, upon demand, the following: (a) the reasonable fees and expenses of the Bank and its counsel, the Issuer and its counsel, and all other reasonable costs and expenses incidental to the financing hereunder, the issuance of the Bonds and the costs of producing the documents referred to herein, including the fees and expenses of Bond Counsel plus disbursements; (b) all taxes, if any, upon all documents and transactions pursuant to, or contemplated by, this Bond Purchase Agreement; (c) all expenses of all recordings and filings pursuant to or contemplated by this Bond Purchase Agreement; (d) appraisal and environmental review fees and expenses, if any; and (e) all costs of collection in the event of the occurrence of an Event of Default under this Bond Purchase Agreement including, without limitation, principal, interest and fees, or in connection with the enforcement of, or realization on, any security for the Bonds, including, without limitation, to the extent permitted by applicable law, reasonable attorneys' fees and expenses.

Section 7.02. Recording and Filing.

(a) The Issuer shall cause to be recorded or filed, as the case may be, in the appropriate office all security instruments and financing statements under the Uniform Commercial Code of the State in such manner and in such places as may be required by law to perfect the security interests contemplated herein and therein.

(b) The Bank shall cause to be filed all continuation statements under the Uniform Commercial Code of the State in such manner and in such places as may be required by law to protect and maintain in force all such security interests.

(c) The Issuer shall cause to be filed the Mortgage in the Genesee County Clerk's Office and the Supplemental Mortgage in the Erie County Clerk's Office, and Issuer shall provide a mortgage tax exemption affidavit for each of the filings, as well as a subsequent assignment of the Mortgage and the Supplemental Mortgage to the Bank.

Section 7.03. Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Bond Purchase Agreement or the Bonds is intended or shall be construed to give to any Person, other than the parties hereto, and their successors and assigns, any right, remedy or claim under or with respect to this Bond Purchase Agreement or any covenants, conditions and provisions herein contained. This Bond Purchase Agreement and all of the covenants, conditions and provisions hereof are intended to be for the sole and exclusive benefit of the parties hereto and their successors and assigns as herein provided.

Section 7.04. Severability.

(a) If any provision of this Bond Purchase Agreement shall, for any reason, be held or shall, in fact, be inoperative or unenforceable in any particular case, such circumstance shall not



render the provision in question inoperative or unenforceable in any other case or circumstance or render any other provision herein contained inoperative or unenforceable.

(b) The invalidity of any one or more phrases, sentences, clauses, paragraphs or sections in this Bond Purchase Agreement shall not affect the remaining portion of this Bond Purchase Agreement or any part thereof.

Section 7.05. Notices. All notices, certificates or other communications hereunder shall be in writing and shall be (a) delivered personally, or (b) sent by United States Postal Service prepaid, first-class mail, or by registered or certified mail, return receipt requested, or (c) sent overnight via substantial national delivery service, addressed as set forth immediately following this paragraph, or at such other addresses as the Issuer, the Company or the Bank shall otherwise have given notice as herein provided:

TO THE ISSUER:

The Genesee County Funding Corporation  
99 MedTech Drive  
Batavia, New York 14020  
Attn: Chairman

WITH A COPY TO:

Harris Beach PLLC  
99 Garnsey Road  
Pittsford, New York 14534  
Attn: Russell E. Gaenzle, Esq.

TO THE BANK:

M&T Bank  
One Fountain Plaza  
Buffalo, New York 14203  
Attn: Andrew Cohn, Vice President

WITH A COPY TO:

Harris Beach PLLC  
99 Garnsey Road  
Pittsford, New York 14534  
Attn: Rachel Endress, Esq.

TO THE COMPANY:

Mercy Flight Inc.  
100 Amherst Villa Road  
Buffalo, New York 14225  
Attn: Scott Wooton, Vice-President - Finance

WITH A COPY TO:

Biltekoff Law Office, LLC  
43 Court Street, Suite 930  
Buffalo, NY 14202  
Attn: Robert A. Biltekoff, Esq.

All notices shall be deemed given on the date of personal delivery or, if mailed, five (5) days after mailing, or if given by overnight service, on the date of receipt as indicated by the records of the overnight delivery service.

A duplicate copy of each notice, certificate or other communication given hereunder by any of the parties hereto to the addressee of such notice, certificate or other communication, shall be given to the remaining party hereto. The Issuer, the Company and the Bank may by notice hereunder designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. At such time, if any, as the Bank is no longer the Holder, the party hereto giving the notice, certificate, or other communication, shall send a duplicate thereof to the Holder at the address shown on the books of the Issuer.

Section 7.06. Counterparts. This Bond Purchase Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument. Any executed counterpart may be introduced into evidence in any action or proceeding without having to produce any of the other counterparts.

Section 7.07. Applicable Law; Indemnity. This Bond Purchase Agreement shall be governed exclusively by the applicable laws of the State of New York without regard or reference to its conflict of laws principles. The parties irrevocably and voluntarily waive any right they may have to a trial by jury in respect of causes of action arising hereunder or under the Bonds. **WHETHER THE CLAIM IS DECIDED BY ARBITRATION OR BY TRIAL BY A JUDGE, THE PARTIES AGREE AND UNDERSTAND THAT THE EFFECT OF THIS AGREEMENT IS THAT THEY ARE GIVING UP THE RIGHT TO TRIAL BY JURY TO THE EXTENT PERMITTED BY LAW.**

The Company will defend (with counsel of the Company's choosing) indemnify and hold the Bank and the Issuer harmless from any loss, liability, damages, judgments, and costs of any kind relating to or arising directly or indirectly out of (a) this Bond Purchase Agreement, the Bonds or any document required hereunder, (b) any credit extended or committed by the Bank to the Company hereunder and under the Bonds, and (c) any litigation or proceeding related to or arising out of this Bond Purchase Agreement, the Bonds or any such document, or any such credit other than the Bank's own active gross negligence or willful misconduct, by reason of any matter relating, directly or indirectly, to this Bond Purchase Agreement. This indemnity includes but is not limited to attorneys' fees (including the allocated cost of in-house counsel). This indemnity extends to the Bank, the Issuer, the Bank's parent, subsidiaries and all of their directors, officers, employees, agents, successors, attorneys, and assigns. This indemnity will survive repayment of the Bonds and of the Company's obligations to the Bank until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought and the payment in full or the satisfaction of such claim, cause of action or prosecution and the payment of all expenses and charges incurred by the Bank, the Issuer, the Bank's parent or subsidiaries, and all of their respective directors, officers, employees, agents, successors, attorneys, and assigns, relating to the enforcement of the provisions herein specified. All sums due to the Bank hereunder and under the Bonds shall be obligations of the Company, due and payable immediately without demand.

Section 7.08. Additional Charges. If, at any time, the rate of interest, together with all amounts which constitute interest and which are reserved, charged or taken by the Bank as compensation for fees, services or expenses incidental to the making, negotiating or collection of the loan evidenced hereby, shall be deemed by any competent court of law, governmental agency or tribunal to exceed the maximum rate of interest permitted to be charged by the Bank to the Issuer and/or the Company under applicable law, then, during such time as such rate of interest would be deemed excessive, that portion of each sum paid attributable to that portion of such interest rate that exceeds the maximum rate of interest so permitted shall be deemed a voluntary prepayment of principal. As used herein, the term "applicable law" shall mean the law in effect as of the date hereof; provided, however, that in the event there is a change in the law which results in a higher permissible rate of interest, then this Bond Purchase Agreement shall be governed by such new law as of its effective date.

Section 7.09. Amendment. This Bond Purchase Agreement may not be amended, changed, modified, altered or terminated except by written instrument duly executed and delivered by the parties hereto.

Section 7.10. No Recourse; Special Obligation of Issuer.

(a) All covenants, stipulations, promises, agreements and obligations (collectively, the "Obligations") of the Issuer contained in the Bond Documents or in any other instruments in connection therewith and any amendments or supplements thereto shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Issuer and not of any member, officer, servant or employee of the Issuer (collectively, an "Employee of the Issuer") in his individual capacity, and no recourse under or upon any Obligation in the Bond Documents contained or otherwise based upon or in respect of this Bond Purchase Agreement or the other Bond Documents, or for the Bonds, or for any claim based thereon or otherwise in respect hereof or thereof, shall be had against any past, present or future Employee of the Issuer, as such, or of any successor not-for-profit corporation or entity or any person executing any of the Bond Documents, either directly or through the Issuer or any successor not-for-profit corporation or entity or any person so executing the Bonds or any other of such Bond Documents on behalf of the Issuer, it being expressly understood that the Bond Documents and the Bonds issued thereunder are solely corporate obligations, and that no such personal liability whatever shall attach to, or is or shall be incurred by any such Employee of the Issuer or of any successor not-for-profit corporation or entity or any person so executing the Bond Documents because of the creation of the indebtedness thereby authorized, or under or by reason of the Obligations contained in the Bond Documents or implied therefrom; and that any and all such personal liability of, and any and all such rights and claims against, every such Employee of the Issuer because of the creation of the indebtedness authorized by the Bond Documents, or under or by reason of the Obligations contained in any of the Bond Documents or implied therefrom, are, to the extent permitted by law, expressly waived and released as a condition of, and as a consideration for, the execution of the Bond Documents and the issuance of the Bonds.

(b) The Obligations of the Issuer contained herein shall not constitute or give rise to an Obligation of the State of New York or Genesee County, New York, and neither the State of New York nor Genesee County, New York shall be liable thereon, and further such Obligations shall not constitute or give rise to a general obligation of the Issuer, but rather shall constitute limited obligations of the Issuer payable solely from the revenues of the Issuer derived and to be derived from this Bond Purchase Agreement and the Bonds.

(c) Notwithstanding any provision of this Bond Purchase Agreement to the contrary, the Issuer shall not be obligated to take any action pursuant to any provision hereof unless (i) the Issuer shall have been requested to do so in writing by the Company or the Bank and (ii) if compliance with such request is reasonably expected to result in the incurrence by the Issuer (or any member, officer, agent, servant or employee of the Issuer) of any liability, fees, expenses or other costs, the Issuer shall have received from the party making such request security, or indemnity satisfactory to the Issuer for protection against all such liability and for the reimbursement of all such fees, expenses and other costs. The failure to provide such indemnity,

however, shall not prevent the occurrence or continuance of an Event of Default hereunder or the full force and effect of any of the remedies or actions authorized hereunder to be taken by the Bank as a result of such Event of Default.

Section 7.11. Table of Contents and Section Headings Not Controlling. The Table of Contents and the Headings of the several Articles and Sections of this Bond Purchase Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of, or be taken as an interpretation of any provision of this Bond Purchase Agreement.

Section 7.12. Survival. This Bond Purchase Agreement shall survive the purchase and sale of the Bonds and shall remain in full force and effect until the Bonds together with interest thereon and all amounts payable under this Bond Purchase Agreement and all of the other Bond Documents shall have been paid in full.

Section 7.13. Reserved.

Section 7.14. USA Patriot Act. The Bank hereby notifies the Company that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107 56), as amended, the Bank is required to obtain, verify and record information that identifies the Company, which information includes the name and address of the Company and other information that will allow the Bank to identify the Company in accordance with the USA Patriot Act. The Company agrees to, promptly following a request by the Bondholder, provide all such other documentation and information that the Bondholder requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act.

Section 7.15. Assignment and Participation

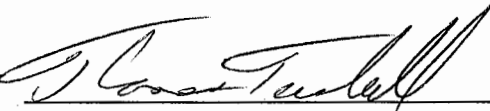
(a) Any Bondholder may, at its own cost, make assignments of or sell participations in its rights and obligations under this Bond Purchase Agreement and the other Bond Documents, in whole or in part, at any time subject to the provisions of Sections 2.05 and 3.03(c) hereof. In the case of any such assignment, the Bondholder shall be appointed to act as administrative agent pursuant to the terms of an administrative agent agreement to be entered into by the bondholders and the administrative agent, and the assignee of such Bondholder's rights and/or obligations shall be entitled, to the extent of such assignment, to the full benefit of this Bond Purchase Agreement to the same extent as if it were an original party in respect of the rights or obligations assigned to it. In the case of any such participation, the Bondholder shall be appointed to act as administrative agent pursuant to the terms of an administrative agent agreement to be entered into by the bondholders and the administrative agent, and all of such Bondholder's rights and/or obligations under this Bond Purchase Agreement and the other Bond Documents shall remain unchanged, and all amounts payable by the Company hereunder shall be determined as if such Bondholder had not sold such participating interest(s). In each case, the Issuer and the Company shall continue to deal solely and directly with such administrative agent, on behalf of such bondholders, in connection with such bondholder's rights and obligations under the Bond Documents.

**[Signature Page Follows]**


**[Signature Page to Bond Purchase, Building Loan and Loan Agreement]**

IN WITNESS WHEREOF, the parties hereto have caused this Bond Purchase, Building Loan and Loan Agreement to be executed in their respective names by their duly Authorized Representatives, and have caused this Bond Purchase, Building Loan and Loan Agreement to be dated as the date first set forth above.

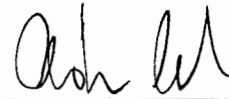
**THE GENESEE COUNTY FUNDING CORPORATION**

By:   
Thomas Turnbull, Secretary

**MERCY FLIGHT INC.**

By:   
Scott P. Wooton  
Vice-President – Finance

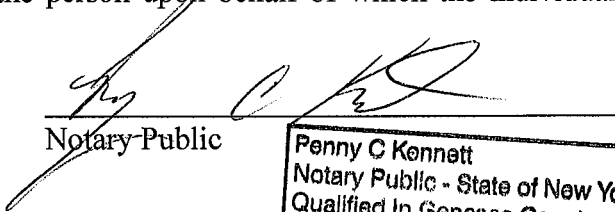
**M&T BANK**

By:   
Andrew Cohn, Vice President

[Acknowledgment Page to Bond Purchase, Building Loan and Loan Agreement]

STATE OF NEW YORK )  
COUNTY OF GENESEE ) ss:

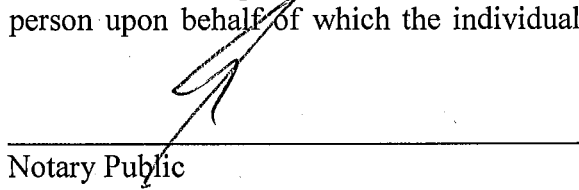
On the 3<sup>rd</sup> day of November the year 2017 before me, the undersigned, personally appeared **THOMAS TURNBULL**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to in the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
Notary Public

Penny C Kennett  
Notary Public - State of New York  
Qualified in Genesee County  
Reg #01KE6134587  
My Commission Expires 10/3/21

STATE OF NEW YORK )  
COUNTY OF MONROE ) ss:

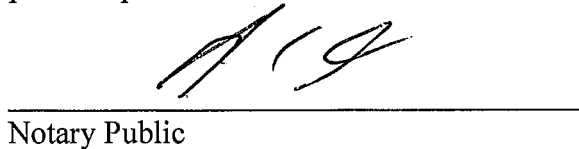
On the 8<sup>th</sup> day of November the year 2017 before me, the undersigned, personally appeared **SCOTT P. WOOTON**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to in the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
Notary Public

AMY C. ABBINK  
Notary Public, State of New York  
No. 01AB5057993  
Qualified in Ontario County  
Commission Expires April 1, 2018

STATE OF NEW YORK )  
COUNTY OF MONROE ) ss:

On the 8<sup>th</sup> day of November the year 2017 before me, the undersigned, personally appeared **ANDREW COHN**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to in the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
Notary Public

AMY C. ABBINK  
Notary Public, State of New York  
No. 01AB5057993  
Qualified in Ontario County  
Commission Expires April 1, 2018

**EXHIBIT A**

**BOND FORM**

THIS BOND HAS NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND IT MAY NOT BE TRANSFERRED OR PLEDGED EXCEPT UPON EITHER SUCH REGISTRATION OR AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE ISSUER THAT SUCH REGISTRATION IS NOT REQUIRED AND THAT SUCH TRANSFER OR PLEDGE WILL NOT RESULT IN A VIOLATION OF THE SECURITIES ACT OF 1933, AS AMENDED.

The Genesee County Funding Corporation  
\$2,000,000 Principal Amount  
Tax-Exempt Housing Revenue Bond  
(Mercy Flight Inc. Project), Series 2017

THE GENESEE COUNTY FUNDING CORPORATION, a not-for-profit local development corporation of the State of New York (the "Issuer"), acknowledges itself indebted and for value received does hereby promise to pay, but solely from the sources and revenues as hereinafter provided, to the order of M&T Bank (the "Bondholder", "Holder" or the "Bank"), or its registered assigns, the principal sum of \$2,000,000, plus interest as set forth herein.

Principal Amount: \$2,000,000

Dated Date: November 9, 2017

Maturity Date: November 1, 2043

Interest Rate: Bank Rate

Any capitalized word or term not otherwise defined herein shall have the meaning given such word or term in the Bond Purchase Agreement (as defined herein).

Interest shall be computed on the basis of a 360-day year for the actual number of days elapsed (365 or 366, as applicable) on the outstanding principal amount of the Bonds.

Principal and interest on this Bond shall amortize based on a twenty-five (25) year bond amortization schedule (attached hereto as Schedule A). The Bank shall invoice the Company for the principal and interest payments due on this Bond payable by the Company, on behalf of the Issuer, directly to the Bank (i) with respect to interest due on the Bonds, monthly on each Interest Payment Date, commencing December 1, 2017, and (ii) with respect to principal due on the Bonds, monthly commencing December 1, 2018. All payments shall be applied first to the payment of interest in arrears and then to the payment of principal.



If the Bank becomes subject to any reserve, special deposit, insurance premium, capital adequacy, liquidity requirement or similar requirement including by any change in any law, regulation, or official directive of any international, federal, state or local governmental authority and specifically including Basel III regulations governing the Bank (whether or not having the force of law) or by the interpretation thereof by any court or administrative agency or by compliance by the Bank with any lawful request, law, regulation or directive from any applicable fiscal or monetary authority, whether or not having the force of law, against assets of, deposits with, or for the account of, or credit extended by, the Bank, or any other condition is imposed upon the Bank, which imposes a cost upon the Bank, and the result, in the determination of the Bank, is to increase, directly or indirectly, the cost to the Bank of maintaining the Bonds to reduce the amount of any sum received or receivable by the Bank under the Bonds, or to reduce the Bank's rate of return on its capital (which increase in cost or reduction in yield shall be the result of the Bank's reasonable allocation, in a nondiscriminatory manner among borrowers having obligations to the Bank similar to those of the Company, of the aggregate of such cost increases or yield reductions resulting from such event), the Company will pay to the Bank upon demand such amount in respect of such increased cost or reduction as the Bank may determine to be the additional amount required to compensate the Bank for such increased cost or reduction. In determining such additional amounts, the Bank may make such reasonable estimates, assumptions, allocations and the like which the Bank in good faith determines to be its actual cost of funds, but the Bank's selection thereof and the Bank's determinations based thereon shall be final and binding and conclusive upon the Company absent manifest error.

If the maximum marginal statutory rate of federal tax imposed upon income of corporations generally (whether or not the Bondholder is actually taxed at said maximum marginal statutory rate) decreases for any period during which the Bonds are outstanding and bear interest at the Bank Rate, the factor of 72% used in calculating the interest rate on the Bonds bearing interest at the Bank Rate shall be increased, effective upon the effective date of such decrease, to equal the product of:

$$\frac{[\text{Original Tax} - \text{Effective Factor}]}{[1 - \text{Original Tax Rate}]} \times [1 - \text{New Tax Rate}]$$

where (1) "Original Tax-Effective Factor" means 72%, the factor stated in the Bonds bearing interest at the Bank Rate, (2) "Original Tax Rate" means the maximum marginal statutory rate of federal tax, expressed as a decimal, which may be imposed upon income of corporations generally at the date of original issuance of the Bonds bearing interest at the Bank Rate, and (3) "New Tax Rate" means a maximum marginal statutory rate of federal tax, expressed as a decimal, which may be imposed upon income of corporations generally which (a) is less than the Original Tax Rate and (b) comes into effect after the date the Bank Rate first became effective relating to the Bonds, in order to maintain the same taxable equivalent yield to the Bondholder.

#### OPTIONAL PREPAYMENT WITHOUT PREPAYMENT PREMIUM

Optional Prepayment. Except for during the Draw Period, this Bond is subject to prepayment by the Issuer at the option of the Company, in whole or in part, at any time (upon

written notice received by the Bank at least thirty (30) days prior to making such prepayment), at the redemption price of one hundred percent (100%) of the principal thereof plus accrued interest to the redemption date and subject to any applicable LIBOR breakage fees and any requirements and/or provisions of any agreement for a derivative or hedging product, including, without limitation, interest rate or equity swaps, futures, options, caps, floors, collars or forwards now or hereafter executed by and between the Company and the Bondholder.

#### MANDATORY PREPAYMENT WITHOUT PREPAYMENT PREMIUM

This Bond shall be subject to mandatory prepayment, without prepayment premium, penalty or fee whatsoever, in whole or in part on any Business Day, in an amount equal to (i) in accordance with Section 4.11(a) of the Bond Purchase Agreement, the amount, if any, of the balance in the Project Fund after completion of the Project, (ii) in accordance with Section 4.19 of the Bond Purchase Agreement, the amount, if any, by which the Net Proceeds of any insurance with respect to the Facility exceed the cost of repairing or restoring the Facility, as provided in the Bond Purchase Agreement or (iii) in accordance with Section 4.20 of the Bond Purchase Agreement hereof, the amount, if any, of the Net Proceeds of any condemnation award with respect to the Facility. In addition, accrued interest, if applicable, to the date of such prepayment shall be paid on the amount of such prepayment.

#### MANDATORY TENDER

This Bond is subject to tender for mandatory purchase in accordance with the Indenture, for a purchase price equal to one hundred percent (100%) of the principal amount of the Bond plus accrued interest to the Mandatory Tender Date. The Holder of the Bond may not elect to retain its Bond. Mandatory Tender Date means November 1, 2027. The Bondholder may waive said tender by written notice to the Company and the Issuer not less than one hundred and eighty (180) days prior to the Mandatory Tender Date.

In lieu of tendering the Bonds, the Company and the Holder may agree no later than ninety (90) days prior to the Mandatory Tender Date a new Bond Rate, which new Bond Rate shall take effect on the first day of the first month following the Mandatory Tender Date.

#### INCREASE IN INTEREST RATE IF AN EVENT OF TAXABILITY OCCURS

If there shall occur an Event of Taxability (as hereafter defined), the rate of interest on this Bond shall be adjusted, to the extent permitted by law to the Taxable Rate (as hereinafter defined) commencing with the first (1<sup>st</sup>) day of the calendar month immediately succeeding the calendar month in which notification is given by the Holder to the Issuer and the Company that an Event of Taxability has occurred. In addition, there shall be paid to the Holder or former Holders of this Bond upon demand by any such Holder or former Holders of this Bond (i) an amount equal to (A) the aggregate amount which would have been payable as interest on this Bond if interest on this Bond had accrued at the Taxable Rate during the period commencing with the Tax Incidence Date (as hereinafter defined) and ending on the earlier of (1) the maturity of this Bond or (2) the date of payment of the amount described in this clause (i), less (B) the

amount of the interest on this Bond previously received by the Holder or former Holders of this Bond for such period; and (ii) any Additions to Tax (as hereinafter defined) paid or payable by any such Holder or former Holders as a consequence of the failure of such Holder or former Holders to include the interest on or any amount in respect of interest on this Bond held by such Holder or former Holder as gross income in its federal tax return for any relevant period.

For the purposes of the preceding paragraph the following terms have the following defined meanings:

"Additions to Tax" means any penalties, fines, additions to tax, interest and additional amount described in Chapter 68 of the Internal Revenue Code of 1986, as amended, and in any similar state statute with respect to state income or franchise tax.

"Event of Taxability" means:

(A) a final determination by any court of competent jurisdiction or a final determination by the Internal Revenue Service (the "IRS") to which the Company shall consent or from which no timely appeal shall be taken to the effect that interest on the Bonds is includable in the gross income of the Holders thereof for federal income tax purposes;

(B) ninety (90) days after receipt by the Issuer, the Bank or the Company of written notice that the IRS has issued a "notice of deficiency" or similar notice to any present or former Holder of a Bond assessing a tax in respect of any interest on the Bonds as a result of such interest being includable in gross income for federal income tax purposes, provided that such notice has not been withdrawn by the IRS and from which such Holder (or the Issuer, the Company or the Bank on behalf of the Holder, if allowable) has not filed a timely petition in the United States Tax Court contesting the same; or

(C) the delivery to the Company, the Bank and the Issuer of an opinion of Bond Counsel to the effect that interest on the Bonds is includable in the gross income of a Holder thereof for federal income tax purposes.

Nothing in this definition of "Event of Taxability" shall be construed to mean that the Issuer, the Company or any Holder of any Bond shall have any obligation to contest or appeal any assertion or decision that any interest payable under the Bonds is subject to taxation.

Notwithstanding the foregoing, in no event shall the imposition of an alternative minimum tax or preference tax or environmental tax or branch profits tax on any Bondholder, the calculation of which included the interest on the Bonds, be considered an Event of Taxability.

"Taxable Rate" means a floating rate equal to the sum of LIBOR, plus three hundred and sixty-five basis points (3.65%).

"Tax Incidence Date" means the first date on which, as a result of the occurrence of an Event of Taxability, interest on the Bond is includable in the gross income of the recipient thereof for federal income tax purposes.

## LATE PAYMENT FEE IN EVENT OF LATE PAYMENT

In the event that the Holder has not received an interest or principal payment payable under this Bond on or before the fifth (5<sup>th</sup>) day after such payment is due, then there shall be a late penalty fee to the Issuer equal to five percent (5.00%) of any such unpaid payment and payable by the Company.

In addition to the late payment fee, the interest rate on this Bond shall be increased to a rate of interest equal to three hundred (300) basis points plus the interest rate then in effect under this Bond upon the occurrence and continuation of Event of Default under the Bond Purchase Agreement, and such rate shall continue to apply and be calculated on a daily basis until such time as the Event of Default has been cured or waived by the Bank. Thereafter, the rate on this Bond shall automatically be reinstated to the Bank Rate or the Taxable Rate, whichever is then applicable to the then outstanding Bonds pursuant to the Bond Purchase Agreement.

If the Issuer fails to pay or cause to be paid any late charge, the Holder may add such charge to the amount owing on any future payment. The Holder's assessment and/or collection of late charges hereunder shall in no way impair its right to pursue other remedies upon default.

Payment of the principal of this Bond, including any amounts prepaid, and interest thereon, shall be made at the office of M&T Bank at One Fountain Plaza, Buffalo, New York 14203, or at such other place as the Holder, or its registered assigns, from time to time, have designated in writing sent to the Issuer and the Company by certified or registered mail, return receipt requested. The principal of and interest on this Bond are payable in lawful money of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Bond is one of a duly authorized issue of bonds limited in the aggregate principal amount of \$2,000,000, or so much as may be advanced hereunder, authorized by a bond resolution, duly adopted by the Issuer on August 16, 2017 (the "Bond Resolution") and is issued in accordance with a Bond Purchase, Building Loan and Loan Agreement, dated as of November 1, 2017 (the "Bond Purchase Agreement"), by and among the Issuer, Mercy Flight Inc. (the "Company") and the Bank, for the purpose of assisting in financing and/or refinancing, together with any other funds of the Company, all or a portion of the costs of a certain Project as defined in the Bond Purchase Agreement.

This Bond is secured as set forth in the Bond Purchase Agreement.

The Bond Purchase Agreement, among other things, provides that Bond Proceeds (as defined in the Bond Purchase Agreement) shall be disbursed to pay the Project Costs (as defined in the Bond Purchase Agreement), but only upon satisfaction of the requirements set forth in the Bond Purchase Agreement for making such disbursements.

The Issuer and the Company have entered into a certain Tax Compliance Agreement (the "Tax Compliance Agreement"), dated November 9, 2017, pursuant to which the Issuer and the

Company, for the benefit of the Holders from time to time of this Bond, have made certain representations and covenants, established certain conditions and limitations and made certain expectations, relating to compliance with the requirements imposed by the Internal Revenue Code of 1986, as amended, and the regulations and rulings of the United States Treasury Department promulgated thereunder (collectively, the "Code") in order to ensure that the interest accruing on this Bond is and remains excluded from gross income for federal income tax purposes.

Reference is hereby made to the Bond Purchase Agreement and to all amendments and supplements thereto (copies of which are on file at the office of the Issuer) for the provisions, among others, with respect to the nature and extent of the security, the rights, duties and obligations of the Issuer, the Company and the Holder and the terms upon which this Bond is or may be secured. By acceptance of this Bond, the Holder assents to all the provisions of such documents and all amendments and supplements thereto made in accordance with the provisions thereof. By acceptance of this Bond, the Holder assents to, and shall be entitled to the benefits of, all the provisions of such documents and all amendments and supplements thereto made in accordance with the provisions thereof.

This Bond is a special obligation of the Issuer and it is understood and agreed that the Holder shall look exclusively to the Company for payment of obligations arising out of this Bond and the Bond Purchase Agreement, and that any judgment rendered on this Bond, the Bond Purchase Agreement and any such other security so given for the satisfaction thereof, and that no deficiency or personal judgment shall be sought or rendered against the Issuer, its successors or assigns, or its members, officers, agents or employees in any action or proceeding brought on this Bond, or judgment, order or decree rendered pursuant to any such action or proceeding.

THIS BOND IS NOT AND SHALL NOT BE A DEBT OR LOAN OF CREDIT OF THE STATE OF NEW YORK OR GENESEE COUNTY, NEW YORK AND NEITHER THE STATE OF NEW YORK NOR GENESEE COUNTY, NEW YORK SHALL BE LIABLE HEREON.

The Issuer may deem and treat the person in whose name this Bond is registered as the absolute owner hereof, whether this Bond shall be overdue or not, for the purpose of receiving payment, including prepayment, of the principal of and interest on this Bond and for all other purposes. All such payments so made to the registered owner shall be valid and effectual to satisfy and discharge the liability upon this Bond to the extent of the sum or sums so paid, and the Issuer shall not be affected by any notice to the contrary. Notwithstanding anything to the contrary herein contained, "Holder" means, whenever used herein, the registered owner of this Bond.

This Bond shall be transferable only upon the books of the Issuer at the office of the Bond Registrar by the Holder in person or by his attorney duly authorized in writing, upon surrender thereof together with (i) a written instrument of transfer satisfactory to the Bond Registrar and duly executed by the Holder or such duly authorized attorney, (ii) if requested by the Issuer or the Company, the delivery to the Issuer and the Company (at the sole expense of the Company) of an opinion of Bond Counsel (as defined in the Bond Purchase Agreement) that

such transfer does not and will not require registration of the Bond under any securities laws, (iii) the delivery to the Issuer by the Holder of a certificate signed by the proposed transferee to the effect that such proposed transferee has been provided with all requested disclosure information by the Company and has affirmed the representations and covenants of Section 2.05 of the Bond Purchase Agreement, and (iv) if requested by the Issuer or the Company, payment of all sums due the Holder under the Bond Documents. No such transfer of this Bond shall be valid unless made on such books and similarly noted by endorsement of the Bank on such Bond, or unless, at the expense of the Company, the Issuer shall execute and deliver a new Bond registered in the name of the transferee, together with the receipt by the Issuer of payment of any reasonable fees and expenses of the Issuer.

No covenant or agreement contained in this Bond, the Tax Compliance Agreement, or the Bond Purchase Agreement shall be deemed to be the covenant or agreement of any member, officer, agent or employee of the Issuer in his individual capacity. No recourse shall be had for the payment of the principal of or the interest on this Bond or for any claim based hereon or on the Bond Purchase Agreement or the Tax Compliance Agreement against any member, officer, agent or employee, past, present or future, of the Issuer, or of any successor corporation, as such, either directly or through the Issuer or any such successor corporation, whether by virtue of any constitutional provision, statute, or rule of law, or by the enforcement of any assessment or penalty, or otherwise, all such liability of such members, officers, agents, or employees being waived and released to the extent permitted by law as condition of, and as consideration for, the execution and delivery of this Bond, the Tax Compliance Agreement, and the Bond Purchase Agreement.

It is the intention of the Issuer and the Holder to conform strictly to the usury laws, whether state or federal, applicable to this Bond. All agreements between the Issuer and the Holder, whether now existing or hereafter arising and whether oral or written, are hereby expressly limited so that in no contingency or event whatsoever, whether by acceleration of maturity hereof or otherwise, shall the amount paid or agreed to be paid to the Holder, or collected by the Holder, for the use, forbearance or detention of the money to be loaned hereunder or otherwise, or for the payment or performance of any covenant or obligation contained herein, or in any of the Bond Documents, exceed the maximum amount permissible under applicable federal or state usury laws. If under any circumstances whatsoever fulfillment of any provision hereof or of the Bond Documents, at the time performance of such provision shall be due, shall involve exceeding the limit of validity prescribed by law, then the obligation to be fulfilled shall be reduced to the limit of such validity; and if under any circumstances the Holder shall ever receive an amount deemed interest by applicable law, which would exceed the highest lawful rate, such amount that would be excessive interest under applicable usury laws shall be applied to the reduction of the principal amount owing hereunder or to other indebtedness secured by the Bond Documents and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of principal and such other indebtedness, the excess shall be deemed to have been a payment made by mistake and shall be refunded to the Issuer or to any other person making such payment on the Issuer's behalf. All sums paid or agreed to be paid to the Holder hereof for the use, forbearance or detention of the indebtedness of the Issuer evidenced hereby, outstanding from time to time shall, to the extent permitted by applicable law, and to the extent necessary to preclude exceeding the limit of validity prescribed

by law, be amortized, pro-rated, allocated and spread from the date of disbursement of the proceeds of this Bond until payment in full of the obligation evidenced hereby, and thereby so that the actual rate of interest on account of such indebtedness is uniform throughout the term hereof and thereof.

This Bond may not be waived, changed, modified or discharged orally, but only by agreement in writing, signed by the party against whom any enforcement of any waiver, change, modification or discharge is sought. Modifications, amendments or alterations of the Bond Purchase Agreement or of any supplements thereto, may be made only to the extent and under the circumstances permitted by the Bond Purchase Agreement. It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen or be performed precedent to and in the issuance, execution and delivery of the Bond Purchase Agreement, and the issuance of this Bond and the adoption of the Bond Resolution do exist, have happened and have been performed in due time, form and manner as required by law; and that the issuance of this Bond together with all other obligations of the Issuer, does not exceed or violate any constitutional, statutory or corporate limitations.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, THE GENESEE COUNTY FUNDING CORPORATION has caused this Bond to be executed in its name by the manual signature of its Executive Director, its corporate seal, if any, or a facsimile thereof to be hereunto affixed, impressed, imprinted or otherwise reproduced hereon.

THE GENESEE COUNTY FUNDING  
CORPORATION

By: \_\_\_\_\_  
Thomas Turnbull, Secretary



(Form of Assignment)

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

\_\_\_\_\_  
(please print or typewrite name and address of transferee) the within bond and all rights and title thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_, attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

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

\_\_\_\_\_

In the presence of:

Schedule A

**Bond Amortization Schedule**

DATE	PRINCIPAL
12/01/2017	-
01/01/2018	-
02/01/2018	-
03/01/2018	-
04/01/2018	-
05/01/2018	-
06/01/2018	-
07/01/2018	-
08/01/2018	-
09/01/2018	-
10/01/2018	-
11/01/2018	-
12/01/2018	3,890.07
01/01/2019	3,903.04
02/01/2019	3,916.05
03/01/2019	3,929.10
04/01/2019	3,942.20
05/01/2019	3,955.34
06/01/2019	3,968.52
07/01/2019	3,981.75
08/01/2019	3,995.02
09/01/2019	4,008.34
10/01/2019	4,021.70
11/01/2019	4,035.11
12/01/2019	4,048.56
01/01/2020	4,062.05
02/01/2020	4,075.59
03/01/2020	4,089.18
04/01/2020	4,102.81
05/01/2020	4,116.48
06/01/2020	4,130.21
07/01/2020	4,143.97
08/01/2020	4,157.79
09/01/2020	4,171.65

10/01/2020	4,185.55
11/01/2020	4,199.50
12/01/2020	4,213.50
01/01/2021	4,227.55
02/01/2021	4,241.64
03/01/2021	4,255.78
04/01/2021	4,269.96
05/01/2021	4,284.20
06/01/2021	4,298.48
07/01/2021	4,312.81
08/01/2021	4,327.18
09/01/2021	4,341.61
10/01/2021	4,356.08
11/01/2021	4,370.60
12/01/2021	4,385.17
01/01/2022	4,399.78
02/01/2022	4,414.45
03/01/2022	4,429.16
04/01/2022	4,443.93
05/01/2022	4,458.74
06/01/2022	4,473.60
07/01/2022	4,488.52
08/01/2022	4,503.48
09/01/2022	4,518.49
10/01/2022	4,533.55
11/01/2022	4,548.66
12/01/2022	4,563.83
01/01/2023	4,579.04
02/01/2023	4,594.30
03/01/2023	4,609.62
04/01/2023	4,624.98
05/01/2023	4,640.40
06/01/2023	4,655.87
07/01/2023	4,671.39
08/01/2023	4,686.96
09/01/2023	4,702.58
10/01/2023	4,718.25
11/01/2023	4,733.98
12/01/2023	4,749.76
01/01/2024	4,765.59

02/01/2024	4,781.48
03/01/2024	4,797.42
04/01/2024	4,813.41
05/01/2024	4,829.45
06/01/2024	4,845.55
07/01/2024	4,861.70
08/01/2024	4,877.91
09/01/2024	4,894.17
10/01/2024	4,910.48
11/01/2024	4,926.85
12/01/2024	4,943.27
01/01/2025	4,959.75
02/01/2025	4,976.29
03/01/2025	4,992.87
04/01/2025	5,009.52
05/01/2025	5,026.21
06/01/2025	5,042.97
07/01/2025	5,059.78
08/01/2025	5,076.64
09/01/2025	5,093.57
10/01/2025	5,110.54
11/01/2025	5,127.58
12/01/2025	5,144.67
01/01/2026	5,161.82
02/01/2026	5,179.03
03/01/2026	5,196.29
04/01/2026	5,213.61
05/01/2026	5,230.99
06/01/2026	5,248.43
07/01/2026	5,265.92
08/01/2026	5,283.47
09/01/2026	5,301.09
10/01/2026	5,318.76
11/01/2026	5,336.49
12/01/2026	5,354.27
01/01/2027	5,372.12
02/01/2027	5,390.03
03/01/2027	5,407.99
04/01/2027	5,426.02
05/01/2027	5,444.11

06/01/2027	5,462.26
07/01/2027	5,480.46
08/01/2027	5,498.73
09/01/2027	5,517.06
10/01/2027	5,535.45
11/01/2027	5,553.90
12/01/2027	5,572.41
01/01/2028	5,590.99
02/01/2028	5,609.63
03/01/2028	5,628.32
04/01/2028	5,647.09
05/01/2028	5,665.91
06/01/2028	5,684.80
07/01/2028	5,703.75
08/01/2028	5,722.76
09/01/2028	5,741.83
10/01/2028	5,760.97
11/01/2028	5,780.18
12/01/2028	5,799.44
01/01/2029	5,818.78
02/01/2029	5,838.17
03/01/2029	5,857.63
04/01/2029	5,877.16
05/01/2029	5,896.75
06/01/2029	5,916.40
07/01/2029	5,936.12
08/01/2029	5,955.91
09/01/2029	5,975.76
10/01/2029	5,995.68
11/01/2029	6,015.67
12/01/2029	6,035.72
01/01/2030	6,055.84
02/01/2030	6,076.03
03/01/2030	6,096.28
04/01/2030	6,116.60
05/01/2030	6,136.99
06/01/2030	6,157.45
07/01/2030	6,177.97
08/01/2030	6,198.56
09/01/2030	6,219.23

10/01/2030	6,239.96
11/01/2030	6,260.76
12/01/2030	6,281.63
01/01/2031	6,302.57
02/01/2031	6,323.57
03/01/2031	6,344.65
04/01/2031	6,365.80
05/01/2031	6,387.02
06/01/2031	6,408.31
07/01/2031	6,429.67
08/01/2031	6,451.10
09/01/2031	6,472.61
10/01/2031	6,494.18
11/01/2031	6,515.83
12/01/2031	6,537.55
01/01/2032	6,559.34
02/01/2032	6,581.21
03/01/2032	6,603.14
04/01/2032	6,625.15
05/01/2032	6,647.24
06/01/2032	6,669.40
07/01/2032	6,691.63
08/01/2032	6,713.93
09/01/2032	6,736.31
10/01/2032	6,758.77
11/01/2032	6,781.30
12/01/2032	6,803.90
01/01/2033	6,826.58
02/01/2033	6,849.33
03/01/2033	6,872.17
04/01/2033	6,895.07
05/01/2033	6,918.06
06/01/2033	6,941.12
07/01/2033	6,964.25
08/01/2033	6,987.47
09/01/2033	7,010.76
10/01/2033	7,034.13
11/01/2033	7,057.58
12/01/2033	7,081.10
01/01/2034	7,104.70

02/01/2034	7,128.39
03/01/2034	7,152.15
04/01/2034	7,175.99
05/01/2034	7,199.91
06/01/2034	7,223.91
07/01/2034	7,247.99
08/01/2034	7,272.15
09/01/2034	7,296.39
10/01/2034	7,320.71
11/01/2034	7,345.11
12/01/2034	7,369.60
01/01/2035	7,394.16
02/01/2035	7,418.81
03/01/2035	7,443.54
04/01/2035	7,468.35
05/01/2035	7,493.24
06/01/2035	7,518.22
07/01/2035	7,543.28
08/01/2035	7,568.43
09/01/2035	7,593.65
10/01/2035	7,618.97
11/01/2035	7,644.36
12/01/2035	7,669.84
01/01/2036	7,695.41
02/01/2036	7,721.06
03/01/2036	7,746.80
04/01/2036	7,772.62
05/01/2036	7,798.53
06/01/2036	7,824.53
07/01/2036	7,850.61
08/01/2036	7,876.78
09/01/2036	7,903.03
10/01/2036	7,929.38
11/01/2036	7,955.81
12/01/2036	7,982.33
01/01/2037	8,008.93
02/01/2037	8,035.63
03/01/2037	8,062.42
04/01/2037	8,089.29
05/01/2037	8,116.25

06/01/2037	8,143.31
07/01/2037	8,170.45
08/01/2037	8,197.69
09/01/2037	8,225.01
10/01/2037	8,252.43
11/01/2037	8,279.94
12/01/2037	8,307.54
01/01/2038	8,335.23
02/01/2038	8,363.01
03/01/2038	8,390.89
04/01/2038	8,418.86
05/01/2038	8,446.92
06/01/2038	8,475.08
07/01/2038	8,503.33
08/01/2038	8,531.67
09/01/2038	8,560.11
10/01/2038	8,588.65
11/01/2038	8,617.28
12/01/2038	8,646.00
01/01/2039	8,674.82
02/01/2039	8,703.74
03/01/2039	8,732.75
04/01/2039	8,761.86
05/01/2039	8,791.06
06/01/2039	8,820.37
07/01/2039	8,849.77
08/01/2039	8,879.27
09/01/2039	8,908.87
10/01/2039	8,938.56
11/01/2039	8,968.36
12/01/2039	8,998.25
01/01/2040	9,028.25
02/01/2040	9,058.34
03/01/2040	9,088.53
04/01/2040	9,118.83
05/01/2040	9,149.23
06/01/2040	9,179.72
07/01/2040	9,210.32
08/01/2040	9,241.02
09/01/2040	9,271.83



10/01/2040	9,302.73
11/01/2040	9,333.74
12/01/2040	9,364.85
01/01/2041	9,396.07
02/01/2041	9,427.39
03/01/2041	9,458.82
04/01/2041	9,490.34
05/01/2041	9,521.98
06/01/2041	9,553.72
07/01/2041	9,585.56
08/01/2041	9,617.52
09/01/2041	9,649.57
10/01/2041	9,681.74
11/01/2041	9,714.01
12/01/2041	9,746.39
01/01/2042	9,778.88
02/01/2042	9,811.48
03/01/2042	9,844.18
04/01/2042	9,877.00
05/01/2042	9,909.92
06/01/2042	9,942.95
07/01/2042	9,976.10
08/01/2042	10,009.35
09/01/2042	10,042.71
10/01/2042	10,076.19
11/01/2042	10,109.78
12/01/2042	10,143.48
01/01/2043	10,177.29
02/01/2043	10,211.21
03/01/2043	10,245.25
04/01/2043	10,279.40
05/01/2043	10,313.66
06/01/2043	10,348.04
07/01/2043	10,382.54
08/01/2043	10,417.15
09/01/2043	10,451.87
10/01/2043	10,486.71
11/01/2043	10,521.66
Total	\$2,000,000.00

**EXHIBIT B**

**FORM OF REQUISITION**

[Date]

Mercy Flight Inc.  
100 Amherst Villa Road  
Buffalo, New York 14225  
Attention: Scott Wooton, Vice President-Finance

M&T Bank, as Disbursing Agent  
One Fountain Plaza  
Buffalo, New York 14203  
Attention: [ \_\_\_\_\_ ]

Re: Certificate of Requisition Number: R-\_\_\_\_\_  
Committed Disbursement Amount: \$ \_\_\_\_\_  
Loan Number [ \_\_\_\_\_ ]  
[Project Fund Account Name, Account Number \_\_\_\_\_]

Ladies and Gentlemen:

This Certificate of Requisition is made pursuant to the Bond Purchase, Building Loan and Loan Agreement, dated as of November 1, 2017 (the "Bond Purchase Agreement"), among M&T Bank, as disbursing agent (the "Agent"), the The Genesee County Funding Corporation (the "Issuer") and Mercy Flight Inc. (the "Company") to make payment in accordance with the Bond Purchase Agreement to the following party or parties, at the addresses indicated. All definitions in the Bond Purchase Agreement are hereby incorporated by reference.

All of the Company's representations, covenants and warranties contained in the Bond Purchase Agreement were true and accurate in all material respects as of the date made, and remain true and accurate in all material respects as of the date of this Requisition Form, and the Company has fully and satisfactorily performed all of its covenants and obligations to date required under the Bond Purchase Agreement. No Default or Event of Default has occurred under the Bond Purchase Agreement. All of the conditions contained in Sections 3.02 (Conditions Precedent to Closing) and 4.04 (Establishment of Funds; Disbursement of Bond Proceeds) of the Bond Purchase Agreement have been satisfied.

We hereby request that the above referenced sum be disbursed by the Agent to us in accordance with the Bond Purchase Agreement.

[Remainder of Page Intentionally Left Blank; Signature Page to Follow]

[Signature Page to Requisition]

We hereby request that the above-referenced sum be disbursed by you to us in accordance with the Bond Purchase Agreement.

MERCY FLIGHT INC.

By: \_\_\_\_\_  
Scott Wooten  
Vice President - Finance

Approved:

M&T BANK, AS AGENT

By: \_\_\_\_\_  
Andrew Cohn, Vice President

**LIEN LAW AFFIDAVIT**

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

**SCOTT WOOTON**, being duly sworn, deposes and says: I am the Vice President - Finance of **MERCY FLIGHT INC.** (the ""Company"), mentioned in that certain Bond Purchase, Building Loan and Loan Agreement, dated as of November 1, 2017 (the "Bond Purchase Agreement"), by and among **THE GENESEE COUNTY FUNDING CORPORATION** (the "Issuer"), the Company and **M&T BANK**, as agent and purchaser (the "Bank"). The Company is undertaking the acquisition, installation, and equipping of the Facility described in the foregoing Bond Purchase Agreement. I am making and I do verify this affidavit in the name and behalf of the Company which is the borrower under the Bond Purchase Agreement and the ultimate beneficiary of the proceeds of the Bonds.

The Bond Purchase Agreement is intended to be filed in the office of the County Clerk of Genesee County, New York in accordance with Section 22 of the Lien Law of the State of New York. All capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Bond Purchase Agreement.

The aggregate proceeds of the Bonds is **\$2,000,000.00**. The Bonds are being issued pursuant to the Bond Purchase Agreement.

The cost of the Land and other non-cost of improvement costs to be funded out of the proceeds of the Bonds is **\$0.00**.

The consideration paid for the building loan described in the Bond Purchase Agreement is as set forth below, and all other expenses, if any, incurred or to be incurred in connection with the Bonds are as follows:

Preconstruction Consultant Fees	\$97,921.06
Bank's Commitment Fee for obtaining building loan financing	\$20,000.00
Bank's Monitor Fees for building loan	[\$ _____ ]
Appraisal and Independent Engineer's fees	\$3,500.00
Issuer's administrative fee	\$27,362.00

Legal fee and disbursements of Issuer and Bond Counsel	\$39,000.00
Legal fee and disbursements of Bank's counsel	\$6,000.00
Bank's Preconstruction Plan and Cost Review	\$1,025.00
Cost of title examination and UCC searches, mortgagee title insurance premiums and title continuation charges	\$11,307.00
Cost of surveys	N/A
Recording and filing fees	\$896.00
Payment and performance bond premiums	N/A
Interest due on the Bond during the construction period	\$17,500.00
Insurance premiums accruing during the construction of the Facility	\$2,500
Soils, materials and environmental testing	\$8,598.00
Workforce Diversity Monitor Fees	N/A
Site Equipment Costs	N/A
Special Site Inspection Fees	N/A
<b>TOTAL AMOUNT OF ABOVE ITEMS</b>	<b>\$235,609.06</b>

Certain of the foregoing amounts are based upon good faith estimates of costs or expenses not yet incurred and certain items listed above may cost more or less than such estimates. The Company reserves the right to use unexpended amounts from any of said items to defray increases incurred in any other item or items listed above so long as the total amount of monies expended on said items does not exceed the total amount of said items shown above.

After payment of the above items, the net sum available to the Company for the remaining improvements (monies which will be available to the Company to pay for the cost of constructing and equipping the Facility) will be \$1,765,286.94, which amount will be advanced, pursuant to the terms and conditions of the Bond Purchase Agreement, for the purpose of paying

"cost of improvement" items pursuant to Section 22 of the Lien Law (the "Building Loan Proceeds").

**The Building Loan Proceeds, which is the subject of this Affidavit is \$2,000,000 or such lesser amount thereof as may be advanced pursuant to the terms of the Bond Purchase Agreement.**

Certain of the foregoing amounts are based upon good faith estimates of costs or expenses not yet incurred and certain items listed above may cost more or less than such estimates. The Company reserves the right to use unexpended amounts from any of said items to defray increases incurred in any other item or items listed above so long as the total amount of Building Loan Proceeds expended on said items does not exceed the total amount of said items shown above.

The Company is to be reimbursed from the net sum available for the Facility for the following payments made in connection with the Facility prior to the date of the first advance but subsequent to the commencement of the Facility: \$50,000.01.

**The net sum available to the Issuer and the Company for the Facility is: \$1,949,999.99.**

All monies disbursed by the Bank to the Company under the Bond Purchase Agreement shall be subject to the trust fund provisions of Section 13 of the Lien Law.


This affidavit is made pursuant to and in compliance with Section 22 of the Lien Law by the Company as an "owner" of the Facility within the meaning of subdivision 3 of Section 2 of the Lien Law, as the party actually benefitted by the borrowing, and in its capacity as agent of the Issuer for the purposes of constructing and equipping the Facility pursuant to the terms of the Bond Purchase Agreement.

This statement is rendered for the purposes of complying with Section 22 of the Lien Law of the State of New York. If an Event of Default occurs under the Bond Purchase Agreement, the Mortgage or the Supplemental Mortgage, or in the discretion of Bank, advances may not be made under the Bond Purchase Agreement. SUCH SUMS WOULD THEREFORE NOT BE AVAILABLE TO THE COMPANY FOR THE IMPROVEMENT.

The representations set forth herein are made with the understanding that the Issuer shall have no liability as the principal of the Company under the foregoing Bond Purchase Agreement to any third party.

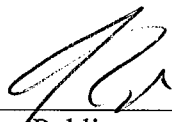
[Signature Page to Lien Law Section 22 Affidavit]

MERCY FLIGHT INC.

By:   
Scott Wooton  
Vice President - Finance

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

On the 8<sup>th</sup> day of November in the year 2017, before me, the undersigned, personally appeared **SCOTT WOOTON**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within Affidavit, and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person or entity on behalf of which the individual acted, executed the instrument.

  
Notary Public

AMY C. ABBINK  
Notary Public, State of New York  
No. 01AB5057993  
Qualified in Ontario County (18)  
Commission Expires April 1, 20\_\_