

**Vermont Educational and Health Buildings Financing Agency**  
**Post-Issuance Tax Compliance Policy and Procedures**  
**For Tax-Exempt Bonds**  
**October, 2012**

The purpose of these Post-Issuance Tax Compliance Procedures (these “**Procedures**”) is to establish written policies and procedures in connection with the sale and issuance of tax-exempt bonds or other obligations (“**Bonds**”) by Vermont Educational and Health Buildings Financing Agency (the “**Agency**”) to provide for the continued maintenance of the Bonds’ tax-exempt status following their sale and issuance. These Procedures are intended to maximize the likelihood that the applicable post-issuance requirements of federal income tax law needed to preserve the tax-exempt status of the Bonds are met. These Procedures are intended to reflect best practices and may be revised periodically as circumstances warrant, including changes in federal tax law, and as the municipal bond market and Internal Revenue Service (“**IRS**”) enforcement each evolve. Failure to conform to any element of these Procedures, therefore, should not imply that the Agency is not in compliance with the provisions of the Internal Revenue Code applicable to its Bonds. In addition, the Agency, acting by and through its board, officers, or executive director, may deviate from strict compliance with these Procedures to the extent necessary to carry out the intent and purpose of the Procedures and provided such deviations do not jeopardize the tax-exempt status of any Bonds.

**General**

Inasmuch as the Agency is a responsible conduit issuer authorizing the issuance of Bonds for the benefit of qualified non-profit borrowers (each, a “**Borrower**”), the Agency recognizes that many, but not all, of these Procedures need to be delegated to a Borrower where the Borrower is in a position to exercise responsibility and control, *e.g.*, the use and ownership of property financed or refinanced with the Bonds (hereinafter collectively referred to as “**Bond-Financed/Refinanced Property**”). Such delegation should occur, in part, through the Agency’s communication to the Borrower of its expectations of the Borrower and, in turn, through the Borrower’s acknowledgement of and certification to comply with such requirements.

If the Agency is contacted by the Internal Revenue Service (“**IRS**”) regarding post-issuance compliance on the Bonds, the Agency shall then promptly contact the Borrower to request that the Borrower cooperate with the Agency in responding to the IRS. Similarly, upon the receipt of a notice of examination of any of the Bonds, the Agency shall then promptly contact the Borrower and request that the Borrower cooperate with the Agency in responding to such IRS examination.

The Agency shall obtain the acknowledgment of each Borrower that it is aware of the availability of the United States Treasury’s Tax-Exempt Bonds Voluntary Closing Agreement Program (“**TEB VCAP**”) and other remedial actions to resolve violations, and the Agency shall obtain the certification of each Borrower of its cooperation to take such corrective action when necessary and appropriate.

The Agency shall assure, through the documents executed in connection with the sale and issuance of a series of Bonds (*e.g.*, indemnification provisions in the Loan Agreement), that each Borrower shall be responsible for any and all costs associated with or related to post-issuance tax compliance, including but not limited to attorneys' fees and costs to respond to an IRS examination or for TEB VCAP.

## **Post-Issuance Compliance Requirements**

### External Advisors / Documentation

The Agency and the Borrower shall consult with bond counsel and other legal counsel and advisors, as needed, throughout the Bond issuance process to identify requirements and to establish procedures necessary or appropriate so that the Bonds will continue to qualify for tax-exempt status. Those requirements and procedures shall be documented in the tax certificate and agreement or other similar document executed by the Agency and the Borrower (the "**Tax Certificate**").

In addition, in connection with each issuance of Bonds, the Agency shall inquire of a Borrower whether such Borrower has adopted written policies and procedures designed to maintain the tax exemption of the Bonds issued for its benefit, whether by the Agency or another conduit issuer. Each Borrower shall be strongly encouraged to adopt and implement such policies and procedures independent of the documents pertaining to the Bonds. Depending on the circumstances, the Agency might deem it prudent to request a copy of the Borrower's procedures for review and evaluation. Such review and evaluation may affect the manner, and the degree to which, the Agency incorporates particular procedures in the Tax Certificate.

Attached hereto as **Attachment A** are Vermont Educational and Health Buildings Financing Agency Model Borrower Post-Issuance Tax Compliance Procedures for Tax-Exempt Bonds (the "**Model Procedures**"), which provide a basic template that Borrowers may be encouraged to use. Depending on the particular circumstances, the Agency in its discretion may modify such procedures to tailor them to a particular Borrower and may encourage the particular Borrower to use such Model Procedures as so revised by the Agency.

With respect to existing Borrowers, the Agency shall deliver to each such Borrower a copy of Model Procedures requesting each such Borrower to adopt and/or implement, on behalf of such Borrower, Post-Issuance Tax Compliance Procedures, the purpose of which is to maximize the likelihood that Post-Issuance Requirements of Federal Income Tax Law applicable to the various issues of bonds issued by the Agency for the benefit of the Borrower are met.

The requirements and procedures assumed by each Borrower shall include future ongoing compliance with applicable arbitrage rebate requirements and other applicable post-issuance requirements of federal tax law throughout (and in some cases beyond) the term of the Bonds.

The Borrower shall be required to consult with bond counsel and/or other legal counsel and advisors, as needed, following issuance of the Bonds, to ensure that all applicable post-issuance requirements in fact are met. This shall include, without limitation, consultation in connection with any potential changes in the use of Bond-Financed/Refinanced Property. This requirement shall ideally be documented in the Borrower's own written policies and procedures, to which reference should be made by the Tax Certificate and/or other documents pertaining to the Bonds that are finalized in connection with the issuance of the Bonds.

The Agency shall require the Borrower to engage expert advisors (each a "**Rebate Service Provider**") to assist in the calculation of arbitrage rebate payable in respect of the investment of Bond proceeds in the manner more fully set forth in the Model Procedures.

Unless otherwise provided by the indenture, trust agreement, bond purchase agreement or similar document relating to the Bonds, unexpended Bond proceeds shall be held by a trustee, fiscal agent or other financial institution (a "**Trustee**"), and the investment of Bond proceeds shall be managed by the Borrower. The Agency shall require the Borrower to prepare, or cause the Trustee to prepare, regular, periodic statements regarding the investments and transactions involving Bond proceeds, to be delivered to the Agency if it so requests and at least annually. The statements, if prepared by the Borrower, shall include a certification of compliance and a summary of information collected by the Borrower. The Agency will, as necessary and appropriate, address concerns raised or actions requested by the Borrower, and may request additional information from the Borrower.

#### Arbitrage Rebate and Yield Compliance

The Borrower shall be responsible for compliance with all requirements under the federal arbitrage regulations. As more fully set forth in the Model Procedures, the Borrower is responsible for:

1. restricting the yield on investment of bond proceeds not spent by the end of the applicable temporary periods set forth in the Tax Certificate or make yield reduction payments;
2. determining the likelihood of satisfying an exception to the arbitrage rebate requirement for all or a portion of the proceeds of the Bonds;
3. during the construction period of each capital project financed in whole or in part by Bonds, monitoring the investment and expenditure of Bond proceeds and consulting with the Rebate Service Provider to determine compliance with applicable exceptions from the arbitrage rebate requirements, including during each 6-month spending period up to 6 months, 18 months or 24 months, as applicable, following the issue date of the Bonds;
4. determining whether, at the end of the particular expenditure period, the Borrower has in fact satisfied an exception to the arbitrage rebate requirement for all or a portion of the proceeds of the Bonds;

5. engaging the services of a Rebate Service Provider and, prior to each rebate calculation date, causing the Trustee investing Bond proceeds to deliver periodic statements concerning the investment of Bond proceeds to the Rebate Service Provider;
6. providing to the Rebate Service Provider additional documents and information reasonably requested by the Rebate Service Provider;
7. monitoring the efforts of the Rebate Service Provider;
8. assuring the payment of required rebate amounts, if any, (i) no later than 60 days after the end of each “rebate computation period” selected by the Borrower (and communicated to the Agency, whether in the Tax Certificate or otherwise), the first of which must end no later than on the 5-year anniversary of the issue date of the Bonds, and (ii) no later than 60 days after the last Bond of each issue is redeemed;
9. retaining copies of all arbitrage reports and trustee statements as described below under “Record Keeping Requirements” and, upon request, providing such copies to the Agency; and
10. establishing procedures to ensure that investments that are acquired with Bond proceeds are so acquired at their fair market value.

#### Use of Bond Proceeds and Bond-Financed/Refinanced Property

The Borrower shall be responsible for:

1. maintaining records identifying the Bond-Financed/Refinanced Property, including a final allocation of Bond proceeds as described below under “Record Keeping Requirements;”
2. monitoring the use of Bond proceeds, including investment earnings, and the use of Bond-Financed/Refinanced Property (*e.g.*, facilities, furnishings or equipment) throughout the term of the Bonds to ensure compliance with covenants and restrictions set forth in the Tax Certificate relating to the Bonds;
3. maintaining records for any leases, contracts or arrangements involving the use of Bond-Financed/Refinanced Property as described below under “Record Keeping Requirements;”
4. consulting with bond counsel and other legal counsel and advisers in the review of any sale, disposition, or any other change in use, or potential change in use, of Bond-Financed/Refinanced Property to ensure compliance with all covenants and restrictions set forth in the Tax Certificate relating to the Bonds;
5. conferring at least annually with personnel responsible for Bond-Financed/Refinanced Property to identify and discuss any existing or planned use of Bond-Financed/Refinanced Property and to ensure that those uses are

consistent with all covenants and restrictions set forth in the Tax Certificate relating to the Bonds;

6. to the extent that the Borrower discovers that any applicable tax restrictions regarding use of Bond proceeds and Bond-Financed/Refinanced Property will or may be violated, including any use that may be an unrelated trade or business use within the meaning of Section 513(a) of the Code without regard to any exceptions for unrelated trade or business income, consulting promptly with bond counsel and other legal counsel and advisers to determine a course of action to remediate all nonqualified Bonds or take other remedial action, if such counsel advises that a remedial action is necessary, and, promptly following such consultation, communicating the analysis and conclusions of such consultation to the Agency.

### Record Keeping Requirement

The Borrower shall be responsible for maintaining the following documents for the term of each issue of Bonds (including refunding Bonds, if any), plus at least three years, in a manner that ensures complete access thereto for the applicable above-described period either in hard copy or electronic format. If the records are kept in electronic format, compliance is necessary with the requirements of Revenue Procedure 97-22, 1997-1 C.B. 652, which provides guidance for maintaining books and records by using an electronic storage system that either images their hardcopy books and records or transfers their computerized books and records to an electronic storage media (*e.g.*, an electronic data compression system).

1. General. All legal and closing documents relating to the Bonds, including indentures, trust agreements, resolutions, public notices, tax certificates, opinions of counsel (issued at the time of closing or subsequently), amendments to the foregoing documents and any and all documents included in the transcript with respect to the Bonds;
2. Project Expenditures. Documents evidencing the expenditure of proceeds from the sale of the Bonds and investment earnings thereon and the specific assets financed and refinanced with such proceeds, including any declarations of official intent to reimburse expenditures, feasibility studies, projected draw schedules, requisitions and closing flow of funds memoranda;
3. Funds and Accounts. Documents setting forth all funds and accounts relating to the Bonds, including debt service funds, reserve funds, sinking funds and pledged funds, and any agreements with respect thereto;
4. Investment of Gross Proceeds - General. Documents pertaining to the investment of the Gross Proceeds of the Bonds, including the purchase and sale of securities, Time and Demand Deposit SLGS subscriptions, yield calculations for each class of investments, actual investment income received from the investment of proceeds, projected investment income calculations expected to be received from the investment of proceeds, guaranteed investment contracts,

rebate calculations, credit enhancement, swap transactions and verification reports;

5. Investment of Gross Proceeds - Nonpurpose Investments. With respect to all Nonpurpose Investments acquired in any fund or account in connection with the Bonds, the following information will be recorded and retained: (i) purchase date, (ii) purchase price, (iii) information establishing that the purchase price is the fair market value as of such date (e.g., the published quoted bid by a dealer in such an investment on the date of purchase), (iv) any accrued interest paid, (v) face amount, (vi) coupon rate, (vii) periodicity of interest payments, (viii) disposition price, (ix) any accrued interest received, and (x) disposition date;
6. Economic Life Data. Documents supporting the economic life of the assets financed and refinanced with proceeds of the Bonds;
7. Allocations. Documents evidencing any allocations with respect to the Gross Proceeds of the Bonds;
8. Use of Financed Assets. Documents evidencing the use and ownership of the property financed and refinanced with proceeds of the Bonds, including leases, management contracts, service contracts and otherwise, with respect to the use and ownership of such property;
9. Payments or Security. Documents evidencing sources of payment or security for the Bonds, including liquidity covenants and negative covenants, and any agreements with respect thereto;
10. Tax Returns and Related Information. IRS Form 8038, 8038-T and 8038-R, as applicable, and information relating to the pricing of the Bonds, yield calculations, weighted average maturity calculations, other information included in the 8038 statistics report, verification reports and arbitrage rebate reports; and
11. Disposition Proceeds. Documents, if any, evidencing the sale or other disposition of the financed property.

#### Compliance Monitoring.

The Agency will designate an “**Issuer Compliance Officer**,” who shall monitor, for and on behalf of the Agency, compliance, as necessary, with these Procedures for the Bonds. The Issuer Compliance Officer shall review and be familiar with these Procedures and, at least annually, shall obtain a **Post Issuance Tax Compliance Annual Certification**, attached hereto as **Attachment B**, from each Borrower no later than \_\_\_\_\_. The Issuer Compliance Officer, if other than the Executive Director of the Agency, will promptly communicate to the Executive Director of the Agency any violation that has occurred or is expected to occur.

### Borrower Designation of Records Officer

The Borrower, in the Tax Certificate and/or other documents pertaining to the Bonds that are finalized in connection with the issuance of the Bonds, shall designate an officer or employee responsible for retaining the records listed under the Arbitrage Rebate and Yield Restrictions, Use of Bond Proceeds and Bond-Financed/Refinanced Property and Record Keeping Requirements above.

### Training and Education

The Issuer Compliance Officer and relevant staff of each the Agency and the Borrower shall be provided with education and training on federal tax requirements for post-issuance compliance applicable to the Bonds. The Agency and Borrower, respectively, will enable and encourage relevant personnel to attend and participate in educational and training programs offered by professional organizations and other entities with regard to monitoring compliance with federal tax requirements for the Bonds.

## MODEL PROCEDURES

### Vermont Educational and Health Buildings Financing Agency Borrower Post-Issuance Tax Compliance Procedures For Tax-Exempt Bonds

The purpose of these Post-Issuance Tax Compliance Procedures (these “**Procedures**”), established by \_\_\_\_\_ (“**Borrower**”), is to maximize the likelihood that post-issuance requirements of federal income tax law applicable to the various issues of bonds issued by Vermont Educational and Health Buildings Financing Agency (“**Agency**”) for the benefit of the Borrower (the “**Bonds**”) are met. These Procedures are intended to reflect best practices and may be revised periodically as circumstances warrant, including changes in federal tax law, and as the municipal bond market and Internal Revenue Service (“**IRS**”) enforcement each evolve. Failure to conform to any element of these Procedures, therefore, should not imply that the Borrower is not in compliance with the provisions of the Internal Revenue Code applicable to its Bonds. In addition, the Designated Compliance Officer (defined below) may deviate from strict compliance with these Procedures to the extent necessary to carry out the intent and purpose of the Procedures and provided such deviations do not jeopardize the tax-exempt status of any Bonds.

#### General

The Borrower recognizes that the Procedures herein will apply for all Bonds issued for the benefit of the Borrower by the Agency.

#### Designated Compliance Officer

These Procedures have been reviewed by the Board of the Borrower and discussed with the appropriate officers and employees to ensure compliance with said Procedures. In furtherance of such Procedures, the Board has appointed \_\_\_\_\_ [INSERT TITLE OF OFFICER] (the “**Designated Compliance Officer**”) to oversee compliance with such Procedures.

#### Post-Issuance Compliance Requirements

##### External Advisors / Documentation

The Borrower shall consult with bond counsel and other legal counsel and advisors, as needed, throughout the Bond issuance process to identify requirements and to establish procedures necessary or appropriate so that the Bonds will continue to qualify for tax-exempt status. The Borrower also shall consult with bond counsel and/or other legal counsel and advisors, as needed, following issuance of the Bonds to ensure that all applicable post-issuance requirements in fact are met. This shall include, without limitation, consultation in connection with any potential changes in the use of property financed or refinanced with the Bonds (hereinafter collectively referred to as “**Bond-Financed/Refinanced Property**”).



The Borrower shall determine, or obtain expert advice to determine, whether arbitrage rebate calculations have to be made for the Bond issue. If it is determined that such calculations are, or are likely to be required, the Borrower shall engage expert advisors (each a “**Rebate Service Provider**”) to assist in the calculation of arbitrage rebate payable in respect of the investment of Bond proceeds. The Borrower shall make any rebate payments required on a timely basis, and shall involve the Agency as necessary and appropriate, including the signing and filing of appropriate IRS forms (e.g., Form 8038-T).

Unless otherwise provided by the indenture, trust agreement, bond purchase agreement or similar document relating to the Bonds, unexpended Bond proceeds shall be held by a trustee or other financial institution (a “**Trustee**”), and the investment of Bond proceeds shall be managed by the Borrower. The Borrower shall prepare, or cause the Trustee to prepare, regular, periodic statements regarding the investments and transactions involving Bond proceeds and such statements shall be delivered to the Agency upon request.

#### Arbitrage Rebate and Yield Compliance

The Designated Compliance Officer shall be responsible for overseeing compliance with arbitrage rebate requirements under federal tax law:

1. Restricting the yield on investment of bond proceeds not spent by the end of the applicable temporary periods set forth in the Tax Certificate or make yield reduction payments;
2. If, at the time of Bond issuance, based on the Borrower’s reasonable expectations, it appears likely that the Bond issue will qualify for an exemption from the rebate requirement, the Borrower may defer taking any of the actions set forth in subsection (3) below. Not later than the time of completion of construction or acquisition of the capital projects financed with proceeds of the Bonds, and depletion of all funds from the project fund, the Borrower shall make, determine, or cause its Rebate Service Provider to determine, whether any of the Bond proceeds qualified for a spending exception or other exception from the rebate requirements. If a rebate exception is determined to be applicable for all of the proceeds of the Bonds, the Borrower shall prepare and keep in the permanent records of the Bond issue a memorandum evidencing this conclusion together with records of expenditure (or other records) to support such conclusion. If the transaction does not qualify for a rebate exception for all of the proceeds of the Bonds, the Borrower shall initiate the steps set forth in subsection (3) below.
3. If, at the time of Bond issuance it appears likely that arbitrage rebate calculations will be required, or upon determination that calculations are required pursuant to subsection (1) above, Borrower shall:
  - a. engage the services of a Rebate Service Provider and, prior to each rebate calculation date, cause the Trustee investing Bond proceeds to deliver periodic statements concerning the investment of Bond proceeds to the Borrower or the Rebate Service Provider;

- b. provide to the Rebate Service Provider additional documents and information reasonably requested by the Rebate Service Provider;
- c. monitor the efforts of the Rebate Service Provider;
- d. assure the payment of required rebate amounts, if any, (i) no later than 60 days after the end of each “rebate computation period” selected by the Borrower (and communicated to the Agency, whether in the Tax Certificate or otherwise), the first of which must end no later than on the 5-year anniversary of the issue date of the Bonds, and (ii) no later than 60 days after the last Bond of each issue is redeemed;
- e. during the construction period of each capital project financed in whole or in part by Bonds, monitor the investment and expenditure of Bond proceeds and consult with the Rebate Service Provider to determine compliance with any applicable exceptions from the arbitrage rebate requirements, including during each 6-month spending period up to 6 months, 18 months or 24 months, as and if applicable, following the issue date of the Bonds;
- f. determining whether, at the end of the particular expenditure period, the expenditure of Bond proceeds has in fact satisfied an exception the arbitrage rebate requirement for all or a portion of the proceeds of the Bonds;
- g. retain copies of all arbitrage reports and trustee statements as described below under “Record Keeping Requirements” and, upon request, provide such copies to the Agency; and
- h. establish procedures to ensure that investments that are acquired with Bond proceeds are so acquired at their fair market value.

#### Use of Bond Proceeds and Bond-Financed/Refinanced Property

The Designated Compliance Officer shall be responsible for:

1. maintaining records identifying the Bond-Financed/Refinanced Property of each issue of Bonds (including investment earnings and including reimbursement of expenditures made before Bond issuance), including a final allocation of Bond proceeds as described below under “Record Keeping Requirements;”
2. monitoring the use of Bond proceeds (including investment earnings) and the use of Bond-Financed/Refinanced Property (*e.g.*, facilities, furnishings or equipment) throughout the term of the Bonds to ensure compliance with covenants and restrictions set forth in the Tax Certificate relating to the Bonds;
3. maintaining records for any leases, contracts or arrangements involving the use of Bond-Financed/Refinanced Property as described below under “Record Keeping Requirements;”
4. consulting with bond counsel and other legal counsel and advisers in the review of any sale, disposition (including, but not limited to, leasehold of Bond-Financed/Refinanced Property to a third party) or change in use, or potential

change in use, of Bond-Financed/Refinanced Property to ensure compliance with all covenants and restrictions set forth in the Tax Certificate relating to the Bonds;

5. conferring at least annually with personnel responsible for Bond-Financed/Refinanced Property to identify and discuss any existing or planned use of Bond-Financed/Refinanced Property and to ensure that those uses are consistent with all covenants and restrictions set forth in the Tax Certificate relating to the Bonds; and
6. to the extent that the Borrower discovers that any applicable tax restrictions regarding use of Bond proceeds and Bond-Financed/Refinanced Property will or may be violated, including any use that may be an unrelated trade or business use within the meaning of Section 513(a) of the Code without regard to any exceptions for unrelated trade or business income, consulting promptly with bond counsel and other legal counsel and advisers to determine a course of action to remediate all nonqualified Bonds or take other remedial action, if such counsel advises that a remedial action is necessary.

#### Record Keeping Requirement

The Designated Compliance Officer shall be responsible for maintaining the following documents for the term of each issue of Bonds (including refunding Bonds, if any) plus at least three years, in a manner that ensures complete access thereto for the applicable above-described period either in hard copy or electronic format. If the records are kept in electronic format, compliance is necessary with the requirements of Revenue Procedure 97-22, 1997-1 C.B. 652, which provides guidance for maintaining books and records by using an electronic storage system that either images their hardcopy books and records or transfers their computerized books and records to an electronic storage media (*e.g.*, an electronic data compression system):

1. General. All legal and closing documents relating to the Bonds, including indentures, trust agreements, resolutions, public notices, tax certificates, opinions of counsel (issued at the time of closing or subsequently), amendments to the foregoing documents and any and all documents included in the transcript with respect to the Bonds;
2. Project Expenditures. Documents evidencing the expenditure of proceeds from the sale of the Bonds and investment earnings thereon and the specific assets financed and refinanced with such proceeds, including any declarations of official intent to reimburse expenditures, feasibility studies, projected draw schedules, requisitions and closing flow of funds memoranda;
3. Funds and Accounts. Documents setting forth all funds and accounts relating to the Bonds, including debt service funds, reserve funds, sinking funds and pledged funds, and any agreements with respect thereto;
4. Investment of Gross Proceeds - General. Documents pertaining to the investment of the Gross Proceeds of the Bonds, including the purchase and sale of securities, Time and Demand Deposit SLGS subscriptions, yield calculations for each class of investments, actual investment income received from the

investment of proceeds, projected investment income calculations expected to be received from the investment of proceeds, guaranteed investment contracts, rebate calculations, credit enhancement, swap transactions and verification reports;

5. Investment of Gross Proceeds - Nonpurpose Investments. With respect to all Nonpurpose Investments acquired in any fund or account in connection with the Bonds, the following information will be recorded and retained: (i) purchase date, (ii) purchase price, (iii) information establishing that the purchase price is the fair market value as of such date (e.g., the published quoted bid by a dealer in such an investment on the date of purchase), (iv) any accrued interest paid, (v) face amount, (vi) coupon rate, (vii) periodicity of interest payments, (viii) disposition price, (ix) any accrued interest received, and (x) disposition date;
6. Economic Life Data. Documents supporting the economic life of the assets financed and refinanced with proceeds of the Bonds;
7. Allocations. Documents evidencing any allocations with respect to the Gross Proceeds of the Bonds;
8. Use of Financed Assets. Documents evidencing the use and ownership of the property financed and refinanced with proceeds of the Bonds, including leases, management contracts, service contracts and otherwise, with respect to the use and ownership of such property;
9. Payments or Security. Documents evidencing sources of payment or security for the Bonds, including liquidity covenants and negative covenants, and any agreements with respect thereto;
10. Tax Returns and Related Information. IRS Form 8038, 8038-T and 8038-R, as applicable, and information relating to the pricing of the Bonds, yield calculations, weighted average maturity calculations, other information included in the 8038 statistics report, verification reports and arbitrage rebate reports; and
11. Disposition Proceeds. Documents, if any, evidencing the sale or other disposition of the financed property.

DATED: \_\_\_\_\_

**[BORROWER]**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**POST ISSUANCE TAX COMPLIANCE  
ANNUAL CERTIFICATION OF THE BORROWER  
QUALIFIED PRIVATE ACTIVITY BONDS**



**POST-ISSUANCE TAX COMPLIANCE  
ANNUAL CERTIFICATION OF THE BORROWER  
QUALIFIED PRIVATE ACTIVITY BONDS**

**Date of this Form of Certification (for internal purposes only):** \_\_\_\_\_

Name of Borrower: \_\_\_\_\_

Name of Bond Issue: \_\_\_\_\_

Issue Date: \_\_\_\_\_

Name of Borrower Official Responsible for Monitoring Post-Issuance Compliance (the “**Designated Compliance Officer**”): \_\_\_\_\_

This Certificate is furnished by the Designated Compliance Officer on behalf of the Borrower to Vermont Educational and Health Buildings Financing Agency (the “**Agency**”) to assist the Agency in monitoring post-issuance compliance with the requirements that must be satisfied in order for the interest on the Bond Issue to remain excludable from gross income for federal income tax purposes.

The Designated Compliance Officer **DOES HEREBY CERTIFY** as follows:

1. The Designated Compliance Officer has made due inquiry with respect to the use of the property financed or refinanced with the proceeds of the Bond Issue (hereinafter referred to as the “**Bond-Financed/Refinanced Property**”) and the investment of the proceeds of the Bond Issue necessary to make the certifications contained herein.

2. The Borrower certifies and acknowledges responsibility for monitoring post-issuance tax compliance with respect to the Bond Issue, including, but not limited to:

(a) Qualified use of bond proceeds and Bond-Financed/Refinanced Property, including the requirement that, in the event proceeds of the Bond Issue and/or the Bond-Financed/Refinanced Property are used in a manner so as to require that a “remedial action” be taken, the Borrower complies with applicable federal tax law; and

(b) Arbitrage yield restriction and rebate requirements, such as

(i) limiting the investment of bond proceeds;

(ii) complying with applicable “temporary period” exceptions;

(iii) monitoring amounts pledged directly or indirectly to secure the payment of debt service on the Bond Issue; and

(iv) compliance with any applicable requirements to rebate excess investment earnings to the Federal Government.

## Annual Certification of the Borrower

Vermont Education and Health Buildings Financing Agency

Page 2 of 3

---

3. The Borrower acknowledges that it has received a copy from the Agency of its Post-Issuance Tax Compliance Procedures For Tax-Exempt Bonds and Model Borrower Post-Issuance Tax Compliance Procedures for Tax- Exempt Bonds.

4. The Borrower acknowledges that it is aware of the availability of the United States Treasury's Tax-Exempt Bonds Voluntary Closing Agreement Program ("TEB VCAP") and other "remedial actions" to resolve violations of the Federal Income Tax Regulations arising out of the Borrower's failure to use the proceeds of the Bond Issue and/or the property financed thereby in a qualifying manner, including but not limited to a sale, disposition or other change in use or use that is unrelated trade or business use and/or the failure to satisfy the arbitrage yield restriction and rebate requirements. The Borrower certifies that it shall act promptly to take such corrective action when necessary or appropriate so that interest on the Bond Issue remains excludable from gross income for federal income tax purposes.

5. The Borrower acknowledges that it shall consult with the Agency in the event that an action is taken (or is not taken) that results in the need to take a "remedial action" pursuant to the Federal Income Tax Regulation.

6. The Borrower has adopted written post-issuance tax compliance procedures for tax-exempt bonds.

YES  NO

7. The Borrower is, and has been since the Issue Date, in compliance with the terms and conditions described in the Tax Certificate (Arbitrage Certificate, Tax Regulatory Agreement or other similarly-named document) executed by the Borrower in connection with the issuance of the Bond Issue, including but not limited to, use of the Bond-Financed/Refinanced Property and arbitrage yield and rebate requirements.

YES  NO

8. The Borrower is in compliance with the applicable arbitrage yield restriction and rebate requirements with respect to the Bond Issue, including:

[a] Investment of sale proceeds of the Bond Issue at the applicable permissible yield  
 YES  NO

[b] Monitoring and investment of "replacement proceeds" of the Bond Issue at the applicable permissible yield  YES  NO

[c] Payment of any yield reduction payments owed with respect to the Bond Issue to the Internal Revenue Service  YES  NO

[d] Compliance with the arbitrage rebate requirement, including the payment to the Internal Revenue Service of any arbitrage rebated owed with respect to the Bond Issue  
 YES  NO

9. The Borrower maintains, and will continue to maintain, sufficient records to establish compliance with applicable federal tax law, including but not limited to the matters described in the representations, certifications and acknowledgements above.

YES  NO

# Annual Certification of the Borrower

Vermont Education and Health Buildings Financing Agency

Page 3 of 3

The Borrower acknowledges that a failure to maintain such material records described above may result in the loss of the exclusion of interest on the Bond-Issue from gross income for federal tax purposes and could cause additional arbitrage rebate to be owed.

10. The Borrower has prepared or has caused the trustee, fiscal agent or other financial institution acting in its capacity as a trustee to prepare, regular, periodic statements regarding the investments and transactions involving proceeds of the Bond Issue and shall deliver such statements to the Agency upon request.

YES  NO

11. Upon the 5<sup>th</sup> anniversary date of the Bond Issue date, and every 5<sup>th</sup> anniversary date thereafter, and the final payment of the Bond Issue, as applicable, the Borrower has retained expert advisors (each a "Rebate Service Provider") to assist in the calculation of arbitrage rebate payable in respect of the investment of Bond Issue.

YES  NO  N/A

If N/A, please explain: \_\_\_\_\_

Name of Rebate Service Provider: \_\_\_\_\_

Amount of Rebate Due: \_\_\_\_\_

Attach Copy of Form 8038-T.

*This Annual Certification of the Borrower is utilized by Vermont Educational and Health Buildings Financing Agency to assist the Agency in monitoring post-issuance tax compliance with respect to the Bond Issue. Nothing contained in this Annual Certification of the Borrower is intended to, or will, modify the Borrower's representations, certifications or warranties made under the Tax Certificate entered into by the Borrower in connection with the issuance of the Bond Issue or otherwise modify or limit the Borrower's post-issuance tax compliance monitoring requirements.*

Signature : \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date : \_\_\_\_\_

**PLEASE COMPLETE CERTIFICATION AND RETURN TO:**

Vermont Educational and Health Buildings Financing Agency  
20 Winooski Falls Way  
Winooski, VT 05404

**DUE NO LATER THAN:** \_\_\_\_\_