

Loan Agreement – UNC Pembroke

The Board of Governors is authorized to issue special obligation bonds for capital improvements projects that have been approved by the General Assembly. Although a specific source of funding is used by a campus when retiring these bonds, special obligation bonds are generally payable from all campus revenues excluding tuition, State appropriations, and restricted reserves.

UNC Pembroke has requested that the Board enter into a loan for the purpose of (1) financing the cost of constructing and equipping a new student health services building on campus of the university, approved by the Board of Governors and authorized by the General Assembly, (2) refunding the University's portion outstanding in the amount of \$1.41 million of the Series 2003B Pool Revenue Bonds (3) paying costs incurred in connection with entering into the loan.

Often campuses will issue special obligation bonds for financing but there are a number of fixed costs with issuing bonds in the public market. In addition, the loan amount and expected term are relatively small and short in duration which would likely lead to a higher interest rate and provide less volume to spread the fixed issuance costs if publicly sold. As a result, a tax free loan agreement and note provided by a commercial bank on a private placement basis are expected to be the most cost effective method to refinance.

No credit rating will be obtained for the loan. UNC Pembroke parity obligations are rated "A-" with a "stable" outlook by Standard and Poor's. After entering into this loan, it is expected UNCP will maintain its rating.

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UNC Pembroke expects to place the loan competitively. Parker Poe is serving as bond counsel; First Tryon Advisors is serving as the financial advisor.

It is recommended that the Chancellor of UNC Pembroke be authorized to enter into a loan through the following resolution:

**RESOLUTION OF THE BOARD OF GOVERNORS OF THE UNIVERSITY
OF NORTH CAROLINA AUTHORIZING THE UNIVERSITY OF NORTH
CAROLINA AT PEMBROKE TO ENTER INTO A LOAN TO FINANCE
AND REFINANCE SPECIAL OBLIGATION BOND PROJECTS FOR THE
UNIVERSITY OF NORTH CAROLINA AT PEMBROKE**

WHEREAS, by Chapter 116 of the General Statutes of North Carolina, the Board of Governors (the “*Board*”) of the University of North Carolina (the “*University*”) is vested with general control and supervision of Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central University, North Carolina State University, The University of North Carolina at Asheville, The University of North Carolina at Chapel Hill, The University of North Carolina at Charlotte, The University of North Carolina at Greensboro, The University of North Carolina at Pembroke (“*UNC Pembroke*”), The University of North Carolina at Wilmington, The University of North Carolina School of the Arts, Western Carolina University and Winston-Salem State University and other institutions; and

WHEREAS, the Board is authorized by Chapter 116D of the General Statutes of North Carolina (the “*Act*”) to issue, subject to the approval of the Director of the Budget, at one time or from time to time, (1) special obligation bonds of the Board for the purpose of paying all or any part of the cost of acquiring, constructing, or providing special obligation projects and (2) refunding bonds for the purpose of refunding any bonds by the Board under the Act or under any Article of Chapter 116 of the General Statutes of North Carolina, including the payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the bonds refunded; and

WHEREAS, Board has issued its System Pool Revenue Bonds, Series 2003B (the “*2003B Bonds*”) in the aggregate principal amount of \$5,270,000, the proceeds of which were loaned to UNC Pembroke to finance (1) the renovation, improvement and expansion of the University Center located on UNC Pembroke’s campus, (2) the construction of the auxiliary services complex on UNC Pembroke’s campus and (3) improvements to the student recreational facilities on UNC Pembroke’s campus;

WHEREAS, UNC Pembroke has advised the Board that it is in need of funds to undertake a special obligation bond project consisting of the acquisition, construction and equipping of a student health center, and related facilities (collectively with the projects financed with the proceeds of the 2003B Bonds, the “*Special Obligation Bond Projects*”), and proposes to obtain such funds by entering into a loan agreement dated as of June 1, 2015 between UNC Pembroke and a financial institution to be determined by the Vice Chancellor for Finance and Administration of UNC Pembroke (the “*Loan Agreement*”) and execute and deliver a promissory note to such financial institution (the “*Note*”); and

WHEREAS, the obligations under the Loan Agreement and Note are payable solely from any legally available funds of UNC Pembroke, or of the Board held for UNC Pembroke, in each Fiscal Year, but excluding (1) appropriations by the General Assembly of the State from the State General Fund, (2) tuition payments by UNC Pembroke students, (3) funds whose purpose

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has been restricted by the gift, grant or payee thereof, (4) revenues generated by Special Facilities, and (5) funds restricted by law (the “*Available Funds*”); and

WHEREAS, there have been made available to the Board form of the Loan Agreement and Note which the Board proposes to approve, ratify and authorize UNC Pembroke to execute and deliver to effectuate the financing; and

WHEREAS, the execution and delivery of the Loan Agreement and Note does not directly or indirectly or contingently obligate the State or any agency or political subdivision of the State to levy or to pledge any taxes to pay the cost, in whole or in part, of the Special Obligation Bond Projects in compliance with Section 116D-23 of the Act;

NOW, THEREFORE, BE IT RESOLVED by the Board of Governors of the University of North Carolina as follows:

Section 1. ***Sufficiency of Available Funds.*** That the Board hereby finds that sufficient Available Funds are available to pay the principal of and interest on the Loan Agreement and Note.

Section 2. ***Authorization of Loan Agreement and Note.*** That the form and content of the Loan Agreement and Note are and the same hereby are in all respects authorized, approved and confirmed, and the Chancellor and Vice Chancellor for Finance and Administration of UNC Pembroke be and they hereby are each authorized, empowered and directed to execute and deliver the Loan Agreement and Note for and on behalf of UNC Pembroke, including necessary counterparts, in substantially the form and content presented to the Board and in an amount not to exceed \$5,000,000, but with such changes, modifications, additions or deletions therein as to them seem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the Board’s approval of any and all such changes, modifications, additions or deletions therein.

Section 3. ***General Authority.*** From and after the execution and delivery of the Loan Agreement and Note, the President and the Vice President-Finance of the Board and the Secretary of the Board are each hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of said documents as executed, and are further authorized to take any and all further actions to execute and deliver any and all other documents as may be necessary to the issuance and on-going administration of the Loan Agreement and Note.

Section 4. ***Conflicting Provisions.*** All resolutions or parts thereof of the Board in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

Section 5. ***Effective Date.*** This Resolution is effective immediately on the date of its adoption.

LOAN AGREEMENT

BETWEEN

THE UNIVERSITY OF NORTH CAROLINA AT PEMBROKE,
AS BORROWER,

AND

[LENDER],
AS LENDER

DATED AS OF
[CLOSING DATE], 2015

RELATING TO:

[\$AMOUNT]
THE UNIVERSITY OF NORTH CAROLINA AT PEMBROKE
PROMISSORY NOTE

LOAN AGREEMENT

This **LOAN AGREEMENT** is made and entered into as of [Closing Date], 2015, between **THE UNIVERSITY OF NORTH CAROLINA AT PEMBROKE** (“**UNC Pembroke**”), a constituent institution of The University of North Carolina (the “**University**”), governed by its Board of Governors (the “**Board of Governors**”), a body politic and corporate of the State of North Carolina, and [LENDER], a [national banking association/state banking corporation] (the “**Bank**”).

PREAMBLES

WHEREAS, The University of North Carolina at Pembroke (“**UNC Pembroke**”) wishes to refund The University of North Carolina System Pool Revenue Bonds, Series 2003B (the “**2003B Bonds**”), maturing on and after April 1, 2016, the proceeds of which were loaned to UNC Pembroke and the payment for which UNC Pembroke is responsible; and

WHEREAS, UNC Pembroke used the proceeds of the 2003B Bonds loaned to it by the Board to finance (1) the renovation, improvement and expansion of the University Center located on UNC Pembroke’s campus, (2) the construction of the auxiliary services complex on UNC Pembroke’s campus and (3) improvements to the student recreational facilities on UNC Pembroke’s campus (collectively, the “**2003B Projects**”); and

WHEREAS, UNC Pembroke wishes to borrow from the Bank a loan in the amount of \$[Amount] (the “**Loan**”), such Loan to be evidenced by UNC Pembroke’s promissory note dated the date of its execution and delivery in the principal amount of the Loan (the “**Note**”), to finance the costs of refunding the 2003B Bonds now outstanding and to undertake a special obligation bond project consisting of the acquisition, construction and equipping of a student health center and related facilities (the “**2015 Project**”, and collectively with the 2003B Projects, the “**Special Obligation Bond Projects**”); and

WHEREAS, under Article 3, Section 116D-26(b) of the General Statutes of North Carolina, the Board of Trustees of UNC Pembroke in a resolution adopted on July 26, 2013, has approved the 2015 Projects as a condition precedent to the execution and delivery of the Loan;

WHEREAS, UNC Pembroke will pay the principal of and interest on the Note and other obligations due under this Agreement and Note solely from Available Funds (as defined herein);

WHEREAS, the obligation of UNC Pembroke to make the payments of the principal of and interest on the Note shall constitute a special obligation of UNC Pembroke, payable solely from Available Funds, and shall not constitute a general obligation or other indebtedness of UNC Pembroke, or constitute a direct or indirect pledge of the faith and credit or taxing power of the State of North Carolina (the “**State**”), within the meaning of the Constitution of the State; and

WHEREAS, in reliance on the representations made by UNC Pembroke, the Bank has agreed to make the Loan to UNC Pembroke in the principal amount of \$[Amount], in exchange for UNC Pembroke’s Note, to refund the 2003B Bonds and finance the 2015 Project on such terms and conditions as set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises and the terms, provisions, conditions and covenants hereinafter set forth, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. The following terms have the meanings specified below unless the context clearly requires otherwise:

“Act” means, collectively, Article 3 of Chapter 116D of the General Statutes of North Carolina and Chapter 173 of the 2002 Session Laws and Chapter 145 of the 2011 Session Laws of the North Carolina General Assembly.

“Agreement” means this Loan Agreement, dated as of [Closing Date], 2015, between UNC Pembroke and the Bank.

“Arbitrage and Tax Regulatory Certificate” means the Arbitrage and Tax Regulatory Certificate of UNC Pembroke executed as of the Closing Date.

“Available Funds” means any legally available funds of UNC Pembroke, or of the Board of Governors held for UNC Pembroke, in each Fiscal Year, but excluding (1) appropriations by the General Assembly of the State from the State General Fund, (2) tuition payments by UNC Pembroke students, (3) funds whose purpose has been restricted by the gift, grant or payee thereof, (4) revenues generated by Special Facilities, and (5) funds restricted by law.

“Bank” means [Lender], a _____, and its successors and assigns.

“Bank Representative” means any person or persons at the time designated to act on behalf of the Bank for purposes of performing any act on behalf of the Bank under this Agreement by a written certificate furnished to UNC Pembroke containing the specimen signatures of such person or persons and signed on behalf of the Bank by an authorized officer of the Bank.

“Base Rate” means

“Business Day” means a day on which the Bank, at its principal corporate offices, is not required or authorized by law to remain closed.

“Closing Date” means [Closing Date], 2015, the date of execution and delivery of this Agreement and the Note.

“Code” means the Internal Revenue Code of 1986, as amended, including regulations promulgated thereunder.

“Completion Date” means the date on which completion of the 2015 Project occurs, as determined by the Vice Chancellor for Finance and Administration.

“Cost of the 2015 Project” includes payment of, refinancing of or reimbursement for (a) obligations incurred or assumed for the 2015 Project in connection with the renovations and improvements thereof, (b) the cost of the 2015 Project, including, without limitation, the Board’s fees and expenses (including the fees and expenses of its counsel) incurred in connection with the Loan to UNC

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Pembroke, legal fees and expenses, taxes, inspection costs, the cost of permit fees and any filing and recording costs relating to the 2105 Project, (c) all other costs which are considered to be a part of the Cost of the 2015 Project in accordance with generally accepted accounting principles and which will not affect the tax status for federal income tax purposes of the interest on the Note, including sums required to reimburse UNC Pembroke for advances made by UNC Pembroke that are properly chargeable to the acquisition, construction and installation of the 2015 Project, and including interest on the Note prior to the Completion Date, and (d) payment or prepayment of the outstanding principal amount of the Note, at the option of UNC Pembroke, from any money remaining in the Loan Fund subsequent to the Completion Date.

“Default Rate”

“Determination of Taxability” means (a) any determination, decision, decree or advisement by the Commissioner of Internal Revenue, or any District Director of Internal Revenue or any court of competent jurisdiction to the effect that Note Interest is Taxable, or (b) the delivery to the Bank of a written opinion of nationally recognized bond counsel to the effect that Note Interest is Taxable. A Determination of Taxability also will be deemed to have occurred on the first to occur of the following:

(a) *the date when UNC Pembroke files any statement, supplemental statement, or other tax schedule, return or document, which discloses that Note Interest is Taxable; or*

(b) *if on sale, lease or other deliberate action within the meaning of Treas. Reg. § 1.141-2(d), UNC Pembroke fails to receive an unqualified opinion of a nationally recognized bond counsel to the effect that such action will not cause interest on the Note to become includable for federal income tax purposes in the gross income of the recipient.*

“Event of Default” means one or more events of default as defined in Section 8.1.

“General Closing Certificate” means the general closing certificate executed by UNC Pembroke and dated as of the Closing Date.

“Insurance Consultant” means an organization or individual which (1)(a) does not have any direct financial interest (except for the contractual right to receive payment in connection with the performance of the services as an Insurance Consultant or for other professional services) in UNC Pembroke and (b) is not connected with UNC Pembroke; (2) is appointed by UNC Pembroke and, (3) is qualified to pass on questions relating to insurance affairs of facilities of the type or types operated by UNC Pembroke, and has a favorable reputation for skill and experience in the financial affairs of such facilities as determined by UNC Pembroke.

“Interest Payment Date” means

“Interest Rate” means _____ %.

“Loan” means the principal amount of \$[Amount], loaned by the Bank to UNC Pembroke to refinance the 2003B Bonds, finance the Cost of the 2015 Project and pay the costs of issuance of this Loan under the terms of this Agreement, as evidenced by the Note.

“Note” means the promissory note issued on [Closing Date], 2015, to evidence UNC Pembroke’s obligation to repay the Loan under this Agreement.

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“Note Interest is Taxable” means that interest paid or to be paid on the Note is or will be includable for federal income tax purposes in the gross income of the Bank, but excluding the inclusion of interest on the Note as an item of tax preference for purposes of the calculation of an alternative minimum tax imposed on the Bank.

“Other Indebtedness” means capital leases, installment financing agreements or other contracts used to provide capital improvements to UNC Pembroke not evidenced by Parity Debt or Subordinate Debt.

“Parity Debt” means obligations of UNC Pembroke or the Board of Governors with respect to UNC Pembroke other than the Note which are payable on a parity basis with the Note from Available Funds.

“Special Facilities” mean facilities financed with obligations issued under authorizing legislation other than North Carolina General Statutes Sections 116D-21 *et seq.*, as supplemented and amended, such as UNC Pembroke facilities financed for or leased by nongovernmental persons or by the United States Government or its agencies or facilities financed for entities subordinate or related to UNC Pembroke and revenues from which are used to repay such obligations.

“State” means the State of North Carolina.

“Subordinate Indebtedness” means debt incurred by or on behalf of UNC Pembroke, the payment of the principal and interest on which is payable from Available Funds after payment of the principal of and interest on the Note and Parity Debt.

“2003B Bonds” means The University of North Carolina System Pool Revenue Bonds, Series 2003B issued in the aggregate principal amount of \$5,270,000 and the payment for which UNC Pembroke is responsible.

“UNC Pembroke” means The University of North Carolina at Pembroke, a constituent institution of The University of North Carolina and governed by the Board of Governors, a body politic and corporate of the State of North Carolina, or any successor to its functions.

“UNC Pembroke Representative” means the person or persons at the time designated to act on behalf of UNC Pembroke for the purpose of performing any act under this Agreement by a written certificate furnished to the Bank containing the specimen signatures of such person or persons and signed on behalf of UNC Pembroke by an authorized official of UNC Pembroke, or if any or all of UNC Pembroke’s rights and obligations are assigned under this Agreement, the person or persons at the time designated to act on behalf of UNC Pembroke and the assignee by a written certificate similarly furnished and of the same tenor.

ARTICLE II

LOAN; ISSUANCE OF NOTE; DETAILS OF NOTE

Section 2.1 Loan. The Bank agrees to lend UNC Pembroke the principal amount of \$[Amount], to be used to refund the 2003B Bonds, finance the 2015 Project, and pay the costs of issuance of the Loan and for no other purpose. UNC Pembroke hereby accepts the Loan and, as evidence of its obligation to repay the Loan, simultaneously issues and delivers to the Bank the Note. UNC Pembroke

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shall repay the Loan in accordance with the provisions of the Note and this Agreement. UNC Pembroke acknowledges that the proceeds of the Loan will be advanced on the Closing Date as follows: (a) \$_____ will be transferred directly by the Bank to U. S. Bank National Association, as trustee for the 2003B Bonds, (b) \$_____ will be transferred to the State Treasurer by the Bank for the Cost of the 2015 Project and the costs of issuance of the Loan, each in accordance with UNC Pembroke's instructions to the Bank.

Section 2.2 Issuance of Note; Details. The principal amount advanced under this Agreement of \$[Amount] will be evidenced by the Note made payable to the order of the Bank in the principal amount of \$[Amount].00. The Note will be issued as a single fully registered note initially in the denomination of \$[Amount], dated the Closing Date and numbered R-1. Principal and interest on the Note are payable in lawful money of the United States of America, solely from Available Funds, in immediately available funds delivered by UNC Pembroke to the Bank on each payment date when due. UNC Pembroke shall issue the Note in substantially the form of Exhibit A attached to this Agreement, with such appropriate variations, omissions and insertions as permitted or required by this Agreement.

Section 2.3 Advances under Loan. The Bank shall advance the entire principal amount under this Agreement to UNC Pembroke on the Closing Date as provided in Section 2.1.

Section 2.4 Interest; Payment of Principal and Interest. *The outstanding principal amount of the Loan under this Agreement, as evidenced by the Note, shall bear interest (computed on the basis of a 360-day year of twelve 30-day months) at the Interest Rate. Interest shall accrue on the outstanding principal amount of the Note from the Closing Date. Principal of the Note is due in annual installments on April 1 of the years and in the amounts set forth below:*

<u>YEAR</u>	<u>PRINCIPAL AMOUNT</u>	<u>YEAR</u>	<u>PRINCIPAL AMOUNT</u>
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*Maturity

If a Determination of Taxability occurs, in addition to the amounts required to be paid with respect to the Note, UNC Pembroke must pay to the Bank an amount equal to the positive difference, if any, between the amount of interest that would have been paid during the period of taxability if the Note had borne interest at a taxable rate and the interest actually received by the Bank with respect to the Note.

Section 2.5 Late Payments. Interest on the principal of the Note shall continue to accrue at the Interest Rate until paid. In addition, (a) if UNC Pembroke fails to pay the interest on or principal of the Note when due, such payment shall accrue interest at the Default Rate until paid, and (2) from and after the occurrence of an Event of Default, until such time as such Event of Default has been remedied or otherwise waived by the Bank, the Note shall bear interest at the Default Rate. If a payment or principal of or interest on the Note is due on a day which is not a Business Day, such payment is due on the next succeeding Business Day and UNC Pembroke shall make such payment on such Business Day with no additional interest due thereon.

Section 2.6 Place of Payments. All payments required to be made to the Bank under this Agreement and the Note are to be made to the Bank at the address set forth in Section 9.3 in immediately available funds or as may be otherwise directed in writing by the Bank.

Section 2.7 Prepayment of Note. On 30 days' notice to the Bank, UNC Pembroke has the option to prepay the outstanding principal amount of the Note in whole or in part, at the prepayment price set forth in this paragraph. UNC Pembroke shall also pay the accrued and unpaid interest on such principal amount prepaid on the day of such prepayment. For any prepayment by UNC Pembroke under this paragraph (whether voluntary, on default or otherwise), UNC Pembroke is required to pay the Bank as compensation for the costs of being prepaid an amount equal to the Cost of Prepayment. "*Cost of Prepayment*" means an amount equal to the present value, if positive, of the product of (a) the difference between (i) the yield, on the beginning date of the applicable interest period, of a U.S. Treasury obligation with a maturity similar to the applicable interest period, minus (ii) the yield on the prepayment date, of a U.S. Treasury obligation with a maturity similar to the remaining maturity of the applicable interest period, and (b) the principal amount to be prepaid, and (c) the number of years, including fractional years, from the prepayment date to the end of the applicable interest period. The yield on any U.S. Treasury obligation is to be determined by reference to Federal Reserve Statistical Release H.15 (519) "Selected Interest Rates." For purposes of making present value calculations, the yield to maturity of a similar maturity U.S. Treasury obligation on the prepayment date will be deemed the discount rate. The Cost of Prepayment shall also apply to any payments made after acceleration of the maturity of the Note.

Section 2.8 Execution of Note. The Note is to be executed on behalf of UNC Pembroke by its Chancellor by manual signature, have impressed on it UNC Pembroke's official seal and be attested by the Vice Chancellor for Finance and Administration of UNC Pembroke. If any officer whose signature appears on the Note ceases to be such officer before the delivery of the Note, such signature is nevertheless valid and sufficient for such purposes, the same as if such person had remained in office until delivery.

Section 2.9 Registration and Exchange of Note. The transfer of the Note will be registered on books maintained for that purpose by the UNC Pembroke. Before due presentment for registration of transfer, UNC Pembroke shall treat the registered owner of the Note as the person exclusively entitled to payment of the principal of and interest on and the exercise of all other rights and powers of the owner of the Note.

Section 2.10 No Set-Off. The obligation of UNC Pembroke to make the payments of principal of and interest on the Note and all other required payments under this Agreement and the Note and to perform and observe the other agreements contained in this Agreement is absolute and unconditional. UNC Pembroke will pay without abatement, reduction, diminution or deduction (whether for taxes or otherwise) all such amounts regardless of any cause or circumstance whatsoever including, without limitation, any defense, set-off, recoupment or counterclaim that UNC Pembroke may have or assert against the Bank or any other person. UNC Pembroke assumes and shall bear the entire risk of loss, damage to and condemnation of the Special Obligation Bond Projects from any cause whatsoever, it being the intention of the parties that the payments of principal of and interest on the Note shall be made in all events unless the obligation to make such payments is terminated as otherwise provided in this Agreement.

ARTICLE III

SPECIAL OBLIGATION

Section 3.1 Payment Obligation. UNC Pembroke shall apply Available Funds to the payment of principal of and interest on the Note and any additional obligations payable from Available Funds as the same become due.

Section 3.2 Special Obligation. The Note is a special obligation of UNC Pembroke, payable solely from Available Funds. The Note shall not be deemed to constitute a debt or liability of the State or any political subdivision thereof or a pledge of the faith and credit of the State or of any such political subdivision. Neither the State nor any political subdivision or instrumentality thereof shall be obligated to pay the same or the interest thereon except from the sources described herein, and neither the faith and credit nor the taxing power of the State or of any political subdivision or instrumentality thereof is pledged to the payment of the principal of or the interest on the Note. The Note does not directly or indirectly or contingently obligate the State or any political subdivision thereof to levy or to pledge any taxes whatsoever therefor. UNC Pembroke shall pay promptly, as provided herein, the principal of and interest on the Note, together with any other payments due with respect to the Note hereunder, but such amounts are payable solely from Available Funds.

ARTICLE IV

CONDITIONS PRECEDENT TO MAKING LOAN; USE OF LOAN PROCEEDS

Section 4.1 Conditions Precedent to Making Loan. The obligation of the Bank to make the Loan and to advance the principal amount of \$[Amount] to UNC Pembroke under this Agreement and the Note is subject to the following conditions precedent:

(a) **This Agreement and the Note, in form satisfactory to the Bank, have been authorized, executed and delivered by the authorized officials of UNC Pembroke to the Bank.**

(b) **The Bank has received evidence satisfactory to the Bank of the due authorization, execution and delivery of this Agreement and the Note, together with an opinion of counsel to UNC Pembroke, satisfactory to the Bank, with respect to UNC Pembroke's power and authority to undertake the Loan, to execute and deliver this Agreement and the Note, to undertake the transactions contemplated hereunder and thereunder, and as to the validity and enforceability thereof.**

(c) **The Bank has received an opinion of Parker Poe Adams & Bernstein LLP, as special counsel, satisfactory to the Bank, to the effect that the interest on the Note is excludable from gross income of the recipient thereof for federal income tax purposes.**

(d) As of the Closing Date, UNC Pembroke is in compliance with all the terms and provisions set forth in this Agreement on its part to be observed or performed, and no Event of Default specified in this Agreement, nor any event which on notice or lapse of time or both would constitute such an Event of Default, has occurred and is continuing.

(e) No material adverse change has occurred in the financial condition of UNC Pembroke.

(f) The Bank has received a General Closing Certificate and Arbitrage and Tax Regulatory Certificate from UNC Pembroke acceptable to the Bank.

Section 4.2 UNC Pembroke Loan Fund. UNC Pembroke creates the “*UNC Pembroke Loan Fund*,” consisting of the funds deposited with the State Treasurer under Section 2.1. UNC Pembroke will use the proceeds of the Loan deposited in the UNC Pembroke Loan Fund to pay the Cost of the 2105 Project and the costs of issuance of the Loan. UNC Pembroke will retain in the UNC Pembroke Loan Fund earnings from the investment of money in the UNC Pembroke Loan Fund and apply such earnings to the Cost of the 2015 Project. If money held to the credit of the UNC Pembroke Loan Fund Account are insufficient to pay the Cost of the 2015 Project, UNC Pembroke shall provide any balance of the funds needed to complete the acquisition, construction and installation of the 2015 Project. Any money remaining after completion of the 2015 Project or on termination of this Agreement before such completion shall be credited against future payments coming due under the Note in the order of their due dates.

Section 4.3 Investment. UNC Pembroke shall invest and reinvest the moneys at any time held in the UNC Pembroke Loan Fund. Money remaining in the UNC Pembroke Loan Fund on the third anniversary of the issuance of the Loan Bonds will be invested thereafter at a yield not in excess of the yield on the Loan.

Section 4.4 Termination of UNC Pembroke Loan Fund . The UNC Pembroke Loan Fund shall be terminated at the earliest of (1) the final distribution of money held in the UNC Pembroke Loan Fund and (2) the termination of this Agreement.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

Section 5.1 Representations and Warranties of UNC Pembroke. UNC Pembroke warrants and represents to the Bank, all such representations and warranties to be continuing and which shall survive the making of the Loan, this Agreement and the Note, as follows:

(a) UNC Pembroke is a constituent institution of The University of North Carolina, a body politic and corporate of the State, validly organized and

existing under the laws of the State, and has all powers necessary to enter into the transactions contemplated by this Agreement and the Note and to carry out its obligations hereunder and thereunder;

(b) UNC Pembroke agrees that during the term of this Agreement, to the extent it may in good faith reasonably do so, it will take no action that would adversely affect its existence as a constituent institution of The University of North Carolina, cause UNC Pembroke to be consolidated with or merge into a political subdivision of the State or permit one or more political subdivisions of the State to consolidate with or merge into it, unless UNC Pembroke is the surviving political subdivision or the political subdivision of the State created thereby expressly assumes in writing UNC Pembroke's obligations under this Agreement and the Note;

(c) UNC Pembroke is authorized by the Act (1) to borrow the proceeds of the Loan for the purpose of refunding the 2003B Bonds, paying the Cost of the 2015 Project and paying the costs of issuance of the Note and (2) to repay the Loan from Available Funds;

(d) The execution and delivery of this Agreement and the Note and the issuance of the Note in the principal amount of \$[Amount] to refund the 2003B Bonds, pay the Cost of the 2015 Project and pay the costs of issuance of the Loan were authorized by the Board of Governors of the University of North Carolina at a public meeting, during which a quorum was present and acting throughout, held on May 22, 2015;

(e) The proceeds of the Note, together with the funds provided by UNC Pembroke, will be sufficient to discharge the 2003B Bonds and pay the Cost of the 2015 Project;

(f) This Agreement, the Note and all other documents relating to this Agreement and the performance of UNC Pembroke's obligations hereunder and thereunder have been duly and validly authorized, executed and delivered by UNC Pembroke and approved under all laws, regulations and procedures applicable to UNC Pembroke including, but not limited to, compliance with public meeting and bidding requirements, and, assuming due authorization, execution and delivery thereof by the other parties thereto, constitute valid, legal and binding obligations of UNC Pembroke, enforceable in accordance with their respective terms, subject to bankruptcy, insolvency and other laws affecting the enforcement of creditors' rights generally and such principles of equity as a court having jurisdiction may impose;

(g) Neither the execution and delivery of this Agreement or the Note or the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement or the Note conflicts with or results in a breach of the terms, conditions, or

provisions of any restriction or any agreement or instrument to which UNC Pembroke is now a party or by which UNC Pembroke is bound or constitutes a default under any of the foregoing, nor conflicts with or results in a violation of any provision of applicable law or regulation governing UNC Pembroke and no representation, covenant and warranty in this Agreement is false, misleading or erroneous in any material respect;

(h) There is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or, to the best of UNC Pembroke's knowledge, threatened, against or affecting UNC Pembroke, challenging the validity or enforceability of this Agreement, the Note or any other documents relating to this Agreement, and the performance of UNC Pembroke's obligations hereunder and thereunder, and compliance with the provisions hereof or thereof, under the circumstances contemplated hereby or thereby, does not and will not in any material respect conflict with, constitute on the part of UNC Pembroke a breach of or default under, or result in the creation of a lien or other encumbrance on any property of UNC Pembroke (except as contemplated herein or therein) pursuant to any agreement or other instrument to which UNC Pembroke is a party, or any existing law, regulation, court order or consent decree to which UNC Pembroke is subject;

(i) No approval or consent is required from any governmental authority with respect to the entering into or performance by UNC Pembroke of this Agreement, the Note and all other documents related thereto and the transactions contemplated hereby and thereby or if such approval is required, it has been duly obtained;

(j) The resolution relating to the performance by UNC Pembroke of this Agreement, the Note and the transactions contemplated hereby and thereby, has been duly adopted by the Board of Governors on May 22, 2015, is in full force and effect, and has not been in any respect modified, revoked or rescinded;

(k) The financial statements, if any, which UNC Pembroke has submitted to the Bank to induce the Bank to make the Loan are correct and complete, and accurately present the financial condition of UNC Pembroke on the dates thereof, including the amount of Available Funds, and the results of UNC Pembroke's operations for the periods then ended;

(l) UNC Pembroke is not in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which it is party; and

(m) UNC Pembroke shall 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 this Agreement and the Note and in order to provide for and to assure payment of the Note and the interest thereon when due, but solely in accordance with and subject to the limitations contained in the Note and this Agreement.

Section 5.2 No Representations by the Bank. UNC Pembroke acknowledges and agrees that it has selected the projects and the bonds to be refunded based on its own judgment and disclaims any reliance on any statements or representations by the Bank with respect thereto.

ARTICLE VI

SPECIAL COVENANTS

Section 6.1 Insurance. UNC Pembroke covenants that it will maintain or cause to be maintained insurance of such type, against such risks and in such amounts, with insurance companies, captive insurance companies or by means of self-insurance, as are customarily carried by public universities located in the State and of a nature or geographic location similar to UNC Pembroke. If UNC Pembroke is unable to procure applicable coverage from North Carolina admitted companies because it determines that such coverage cannot be acquired, or cannot be acquired at reasonable rates or on reasonable conditions, then UNC Pembroke will immediately retain an Insurance Consultant who shall determine what coverage can be acquired at reasonable rates or on reasonable conditions. UNC Pembroke shall procure any such coverages required by the determination of the Insurance Consultant; but if the Insurance Consultant determines that no such coverage can be acquired at reasonable rates or on reasonable conditions, UNC Pembroke shall, subject to applicable laws concerning self-insurance or insurance pools, provide coverage by a program of self-insurance or through an insurance pool, including other governmental entities.

Section 6.2 No Additional Debt Under Existing Documents; Additional Debt; Liens or Charges. UNC Pembroke covenants that neither it nor the Board of Governors on its behalf:

- (1) will issue any other obligations under any existing bond resolution, trust indenture or other financing document which authorizes the issuance of debt obligations secured by revenues or net revenues from any UNC Pembroke enterprise;
- (2) will issue any obligations payable from Available Funds, unless such obligations constitute Parity Debt, Subordinate Indebtedness or Other Indebtedness; and
- (3) will create any lien or charge on the Available Funds.

The Board of Governors need not pay or cause to be discharged or make provision for any lien or charge as long as the validity thereof is being contested in good faith by appropriate legal proceedings. Neither UNC Pembroke nor the Board of Governors on its behalf will permit

a lien to be placed on UNC Pembroke property, except in connection with the issuance of Other Indebtedness.

Section 6.3 Financial Statements. UNC Pembroke shall furnish the Bank, (1) within 210 days after the close of each fiscal year, annual unaudited financial statements and (2) as soon as they are available, annual financial statements on an audited basis, prepared by the North Carolina State Auditor. UNC Pembroke represents and warrants to and covenants with the Bank that all financial statements which have been or may be delivered to the Bank fairly and accurately reflect UNC Pembroke's financial condition as of the date thereof and there has been and will be no material adverse change in UNC Pembroke's financial condition as reflected in the financial statements since the respective dates thereof. UNC Pembroke shall furnish the Bank, at such reasonable times as the Bank shall request, all other financial information as the Bank may reasonably request.

Section 6.4 Taxes. UNC Pembroke will pay when due any and all taxes relating to UNC Pembroke's obligations under this Agreement including, but not limited to, all license or registration fees, gross receipts tax, sales and use tax, if applicable, license fees, documentary stamp taxes, rental taxes, assessments, charges, ad valorem taxes, excise taxes, and all other taxes and charges imposed on the ownership, possession or use of its properties by any governmental body or agency, together with any interest and penalties.

Section 6.5 Access to Books and Records. UNC Pembroke will allow the Bank, or its agents, at all reasonable times to have unrestricted access to the records, accounting books and financial statements of UNC Pembroke, and the Bank shall have the right to make copies thereof.

ARTICLE VII

TAX COVENANTS AND REPRESENTATIONS

Section 7.1 General Tax Covenants and Representations. UNC Pembroke covenants that it will not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Note under Section 103 of the Code. UNC Pembroke will not directly or indirectly use or permit the use of any proceeds of any fund created under this Agreement or any funds of UNC Pembroke, or take or omit to take any action that would cause the Note to be an "*arbitrage bond*" within the meaning of Section 148(a) of the Code. UNC Pembroke will maintain books on which will be recorded the Bank and any assignee of the Note as the registered owner of the Note. To that end, UNC Pembroke has executed the Arbitrage and Tax Regulatory Certificate and will comply with all requirements of Section 148 of the Code to the extent applicable. UNC Pembroke further covenants that this Agreement and the Note is not a "*private activity bond*" as defined in Section 141 of the Code. Notwithstanding any provision of this Article, if UNC Pembroke provides to the Bank an opinion of nationally recognized bond counsel to the effect that any action required under this Section or the Arbitrage and Tax Regulatory Certificate is no longer required, or to the effect that some further action is required, to maintain the exclusion from gross income of the interest on the Note pursuant to Section 103 of the Code, UNC Pembroke and the Bank may rely conclusively on such opinion in complying with the provisions of this Article.

Section 7.2 Rebate Amounts. Without limiting the generality of the foregoing, UNC Pembroke agrees that there shall be paid from time to time all amounts required to be rebated to the

United States of America pursuant to Section 148(f) of the Code and any temporary, proposed or final Treasury Regulations as may be applicable to the obligation created by this Agreement from time to time. This covenant shall survive the termination of this Agreement.

Section 7.3 Not Bank Qualified. UNC Pembroke and the Bank acknowledge that the Note is not a “*qualified tax-exempt obligation*” and therefore is not eligible for the exception from the disallowance of the deduction of interest by financial institutions allocable to the cost of carrying tax-exempt obligations permitted by the provisions of Section 265(b)(3) of the Code.

ARTICLE VIII

EVENTS OF DEFAULT; REMEDIES

Section 8.1 Events of Default. The term “*Event of Default*” means any one or more of the following events:

(a) UNC Pembroke fails to pay, or cause to be paid, in full any payments of principal of or interest on the Note required under this Agreement and the Note when due, whether at maturity, redemption, acceleration or otherwise pursuant to the terms of this Agreement or the Note;

(b) UNC Pembroke fails to pay, or cause to be paid, in full any payments of principal of or interest on any other debt obligations payable from Available Funds when due, whether at maturity, redemption, acceleration or otherwise pursuant to the terms of such debt obligations;

(c) UNC Pembroke fails to pay, or cause to be paid, in full any payments under this Agreement when due or fails duly to perform, observe or comply with any covenant, condition or agreement on its part under this Agreement (other than a failure to make any payment under Section 8.1(a)) or the Arbitrage and Tax Regulatory Certificate, and such failure continues for a period of 30 days after the date on which written notice of such failure, requiring the same to be remedied, has been given to UNC Pembroke by the Bank, but if such performance, observation or compliance requires work to be done, action to be taken, or conditions to be remedied, which by their nature cannot reasonably be done, taken or remedied, as the case may be, within such 30 day period, no Event of Default will be deemed to have occurred or to exist if, and so long as, UNC Pembroke commences such performance, observation or compliance within such period and diligently and continuously prosecutes the same to completion, such additional period not to extend an additional 90 days, unless the Bank consents, such consent not to be unreasonably withheld or delayed;

(d) Any representation or warranty made in this Agreement shall prove to be false or misleading in any material respect;

(e) Any report, certificate, financial statement or other instrument furnished in connection with this Agreement or the Note shall prove to be false or misleading in any material respect;

(f) The entry of a decree or order for relief against UNC Pembroke, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of UNC Pembroke under the United States Bankruptcy Code or any other applicable federal or state law, or appointing a receiver, liquidator, custodian, assignee, or sequestrator (or other similar official) of UNC Pembroke or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order unstayed and in effect for a period of 90 consecutive days; or

(g) The institution by UNC Pembroke of proceedings for an order for relief, or the consent by it to an order for relief against, or the filing by it of a petition or answer or consent seeking reorganization, arrangement, adjustment, compensation or relief under the United States Bankruptcy Code or any other similar applicable federal or state law, or the consent by it to the filing of any such petition or to the appointment of a receiver, liquidator, custodian, assignee, trustee or sequestrator (or other similar official) of UNC Pembroke or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due.

Section 8.2 Remedies. When an Event of Default has happened and is continuing, the Bank, by written notice to UNC Pembroke, may declare the entire outstanding principal amount of the Note, together with all interest accrued thereon to the date of such acceleration, to be immediately due and payable and such principal and interest shall then become and be immediately due and payable, both as to principal and interest, without presentment, demand, protest, or other notice of any kind, all of which are hereby expressly waived, anything contained in this Agreement or in the Note to the contrary notwithstanding. When an Event of Default under this Agreement has happened and is continuing, the Bank may terminate any further action under this Agreement, take whatever action at law or in equity is necessary or desirable to collect the payments then due under the Agreement and the Note or to enforce the performance, observance or compliance by UNC Pembroke with any covenant, condition or agreement by UNC Pembroke under this Agreement or the Note.

Section 8.3 No Remedy Exclusive. No remedy herein conferred on or reserved to the Bank is intended to be exclusive of any other available remedy or remedies, but each and every such remedy is cumulative and in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing on default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. The remedies provided in this Article IX are in addition to other remedies provided by law and provided in this Agreement or the Note.

Section 8.4 Agreement to Pay Attorneys' Fees and Expenses. When an Event of Default has occurred and is continuing, if the Bank employs attorneys or incurs other expenses

APPENDIX E

for the collection of amounts payable under this Agreement or the Note or the enforcement of the performance or observance of any covenants or agreements on the part of UNC Pembroke herein contained, whether or not suit is commenced, UNC Pembroke agrees that it will on demand therefor pay to the Bank the reasonable fees of such attorneys and such other reasonable expenses so incurred by the Bank, to the extent permitted by law or as ordered by a court of competent jurisdiction.

Section 8.5 UNC Pembroke to Give Notice of Default. UNC Pembroke will promptly give the Bank written notice of any Event of Default under this Agreement of which it has actual knowledge or written notice.

Section 8.6 Sums Expended by the Bank. Any sums expended by the Bank under this Article VIII shall become part of the indebtedness evidenced by the Note, shall bear interest from the date of disbursement at the rate provided in the Note and shall be payable on demand.

ARTICLE IX

MISCELLANEOUS PROVISIONS

Section 9.1 No Third Party Beneficiaries. The terms, provisions, conditions and requirements made and set forth in this Agreement are for the benefit of the parties to this Agreement and to better define the terms of the Loan, and in no event is the Bank to be construed to be UNC Pembroke's agent, and in no event is the Bank assuming UNC Pembroke's responsibility for proper payments to a contractor and others. It is specifically further intended that no party will be a third party beneficiary under this Agreement except and unless it is specifically provided in this Agreement that any provision shall operate or inure to the use and benefit of a third party, *i.e.*, no contractor, sub-contractor or material supplier shall have any rights under this Agreement against the Bank, or be entitled to protection of any of the covenants contained in this Agreement, although such parties may have recourse to UNC Pembroke.

Section 9.2 Waiver. No covenant or condition of this Agreement can be waived except by the written consent of the Bank. Any failure of the Bank to require strict performance by UNC Pembroke or any waiver by the Bank of any terms, covenants or contracts in this Agreement shall not be construed as a waiver of any other breach of the same or any other term, covenant or contract in this Agreement.

Section 9.3 Notices. Any and all notices, requests, demands, and other communications given under or in connection with this Agreement are effective only if in writing and are conclusively deemed to have been received by a party to this Agreement and effective on the day on which delivered to such party at the address set forth below (or at such other address as such party shall specify to the other party in writing) or if sent by certified or registered mail, on the third business day after the day on which mailed, addressed to such party at said address:

If to UNC Pembroke
at:

The University of North Carolina at Pembroke
One University Drive
P.O. Box 1510
Pembroke, North Carolina 28372
Attention: Vice Chancellor for Finance and Administration
Tel: (910) 521-6689

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If to the Bank at: [Lender]

Section 9.4 Assignability. UNC Pembroke will not sell, assign, lease, sublease, pledge or otherwise encumber or suffer a lien or encumbrance on or against any interest in this Agreement without the prior written consent of the Bank. UNC Pembroke's interest in this Agreement may not be assigned or transferred by operation of law. The Bank may transfer and assign its interests in this Agreement to another financial institution, bank or insurance company on written notice to UNC Pembroke or to any other party with the written approval of UNC Pembroke, which approval will not be unreasonably withheld or delayed. Any such assignee has all of the rights of the Bank under this Agreement and the Note. UNC Pembroke agrees to acknowledge in writing any such assignment if so requested.

Section 9.5 Covenants of UNC Pembroke not Covenants of Officials Individually. No covenant, stipulation, obligation or agreement contained in this Agreement will be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, agent or employee of UNC Pembroke in his individual capacity, and none of the officers or employees of UNC Pembroke is subject to any personal liability or accountability by reason of the issuance of the Note. No agent or employee of UNC Pembroke shall incur any personal liability in acting or proceeding or in not acting or not proceeding, in good faith, reasonably and in accordance with the terms of this Agreement.

Section 9.6 Termination of Agreement. When UNC Pembroke has paid the principal of and interest on the Note in full and all other obligations required under this Agreement, this Agreement shall terminate and the Bank shall contemporaneously cancel the Note and deliver it to UNC Pembroke.

Section 9.7 Section Headings. All section headings contained in this Agreement are for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

Section 9.8 Entire Contract. This Agreement, together with any exhibits hereto, constitutes the entire contract between the parties and this Agreement may not be modified, amended, altered or changed except as UNC Pembroke and the Bank may subsequently agree in writing.

Section 9.9 Binding Effect. Subject to the specific provisions of this Agreement, this Agreement is binding on and inures to the benefit of the parties and their respective successors and assigns, including expressly any successor of the Bank.

Section 9.10 Severability. If any one or more of the covenants, agreements or provisions of this Agreement is determined by a court of competent jurisdiction to be invalid, the invalidity of such covenants, agreements and provisions in no way affects the validity or effectiveness of the remainder of this Agreement, and this Agreement shall continue in force to the fullest extent permitted by law.

Section 9.11 Governing Law; Waiver of Jury Trial. This Agreement and the Note is to be construed, interpreted and enforced in accordance with the laws of the State of North Carolina. To the fullest extent permitted by applicable law, UNC Pembroke and the Bank each irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or any related document or the transactions contemplated hereby. As of the date of the execution of this

Agreement, any provision in a contract requiring a party to the contract to waive his right to a jury trial is unenforceable pursuant to North Carolina General Statute §22B-10.

Section 9.12 Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which is an original and all of which constitute but one and the same instrument.

Section 9.13 Modification of Agreement. No modification, amendment or waiver of any provision of this Agreement or the Note, nor consent to any departure by UNC Pembroke therefrom is in any event effective unless the same is in writing and signed by the Bank and then such waiver or consent is effective only in the specific instance and for the purpose for which given. No notice to or demand on UNC Pembroke in any case entitles UNC Pembroke to any other or further notice or demand in the same, similar or other circumstances.

Section 9.14 Indemnification. Without waiving its sovereign immunity, to the fullest extent permitted by law and subject to application statutory and constitutional limitations, UNC Pembroke hereby agrees to indemnify, protect and save the Bank and its officers, employees, directors, members and agents harmless from all liabilities, obligations, losses, claims, damages, actions, suits, proceedings, costs and expenses, including attorneys' fees that (1) arise in tort, in contract, under Section 1983 of Title 42 of the United States Code or under the public bidding laws of the State or (2) arise out of, are connected with, or result, directly or indirectly from, the Special Obligation Bond Projects or any portion thereof, including, without limitation, the manufacture, selection, acquisition, delivery, possession, condition, construction, improvement, environmental or other condition, lease, use operation or return of the Special Obligation Bond or any portion thereof. The indemnification arising under this Section 9.15 shall continue in full force and effect notwithstanding the payment in full of all obligations under this Agreement and the Note. Notwithstanding the foregoing, nothing in this Section 9.15 shall be deemed to enlarge or affect in any way the liability of UNC Pembroke for injuries and/or damages compensable under the North Carolina Tort Claims Act, Section 143-291, *et seq.*, of the General Statutes of North Carolina, as amended.

Section 9.15 Fiduciary Duty. In connection with all aspects of the financing contemplated hereby (including in connection with any amendment, waiver or other modification hereof) (collectively, the "*Transactions*"), UNC Pembroke acknowledges and agrees that: (a) (i) any arranging, structuring and other services regarding this Agreement provided by the Bank or any affiliate thereof are arm's length commercial transactions between UNC Pembroke on the one hand, and the Bank and any affiliate thereof on the other hand, (ii) UNC Pembroke has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) UNC Pembroke is capable of evaluating, and understands and accepts, the terms, risks and conditions of the Transactions; (b)(i) the Bank and each affiliate thereof is and has been acting solely as a principal and has not been, is not, and will not be acting as an advisor, agent or fiduciary for UNC Pembroke or any other person or entity and (ii) neither the Bank nor any affiliate thereof has any obligation to UNC Pembroke with respect to the Transactions, except those obligations expressly set forth herein; and (c) the Bank and each affiliate thereof may be engaged in a broad range of transactions that involve interests that differ from those of UNC Pembroke, and neither the Bank nor any affiliate thereof has any obligation to disclose any of such interests to UNC Pembroke. To the fullest extent permitted by applicable laws, UNC Pembroke hereby waives and releases any claims that it may have against the Bank and each affiliate thereof with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of the Transactions.

EXHIBIT A

FORM OF PROMISSORY NOTE

UNITED STATES OF AMERICA
 STATE OF NORTH CAROLINA
 THE UNIVERSITY OF NORTH CAROLINA AT PEMBROKE

PROMISSORY NOTE

No. R-1

[\$Amount]

Dated: [Closing Date], 2015

FOR VALUE RECEIVED, THE UNIVERSITY OF NORTH CAROLINA AT PEMBROKE (“*UNC Pembroke*”), a constituent institution of The University of North Carolina, governed by its Board of Governors (the “*Board of Governors*”), a body politic and corporate of the State of North Carolina, promises to pay, solely from Available Funds and other funds described below, to the order of

[LENDER]

a national banking association (the “*Bank*”), or to its registered assigns, at its office in Raleigh, North Carolina (or at such other place or places as the Bank or its registered assigns may designate in writing from time to time), in lawful money of the United States of America, the principal amount of

[AMOUNT WRITTEN OUT] (\$[Amount])

in annual installments on April 1 of the years and in the amounts set forth below as follows:

<u>YEAR</u>	<u>PRINCIPAL AMOUNT</u>	<u>YEAR</u>	<u>PRINCIPAL AMOUNT</u>
-------------	-----------------------------	-------------	-----------------------------

*Maturity

subject to prepayment as herein provided, and to pay, solely from Available Funds, to the Bank or to its registered assigns, interest on the unpaid principal amount hereof from the date hereof on each April 1, and ____ 1, beginning ____ 1, 201_, at the rate of ____% per annum (computed on the basis of a 360-day year of twelve 30-day months) under the terms and conditions of the loan as set forth in the Loan Agreement dated as of [Closing Date], 2015 (the “*Loan Agreement*”), between UNC Pembroke and the Bank. The defined terms in the Loan Agreement are used in this Note with the same meaning. This Note is issued under the Loan Agreement to evidence the Bank’s loan of \$[Amount] and all of the terms, conditions, and covenants of the Loan Agreement are expressly made a part of this Note by reference in the same manner and with the same effect as if set forth in this Note at length and any holder of this Note is entitled to the benefits of and remedies provided in the Loan Agreement and other agreements by and between UNC Pembroke and the Bank.

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Principal of and interest on this Note are payable in lawful money of the United States of America in immediately available funds delivered by UNC Pembroke to the Bank or its registered assigns on the Interest Payment Date.

Interest on the principal of this Note shall continue to accrue at the Interest Rate until paid. In addition, if UNC Pembroke fails to pay the interest on or principal of this Note when due, such payment shall accrue interest at the Default Rate. If a payment of principal of or interest on this Note is due on a day which is not a Business Day, such payment shall be due on the next succeeding Business Day and UNC Pembroke shall make such payment on such Business Day with no additional interest due thereon. If a Determination of Taxability occurs, in addition to the amounts required to be paid with respect to the Note, UNC Pembroke must pay to the Bank an amount equal to the positive difference, if any, between the amount of interest that would have been paid during the period of taxability if the Note had borne interest at a taxable rate (as determined by the Bank) and the interest actually received by the Bank with respect to the Note.

On 30 days' notice to the Bank, UNC Pembroke has the option to prepay the outstanding principal amount of the Note in whole or in part, at the prepayment price set forth in this paragraph. UNC Pembroke shall also pay the accrued and unpaid interest on such principal amount prepaid on the day of such prepayment. For any prepayment by UNC Pembroke under this paragraph (whether voluntary, on default or otherwise), UNC Pembroke is required to pay the Bank as compensation for the costs of being prepaid an amount equal to the Cost of Prepayment. "*Cost of Prepayment*" means an amount equal to the present value, if positive, of the product of (a) the difference between (i) the yield, on the beginning date of the applicable interest period, of a U.S. Treasury obligation with a maturity similar to the applicable interest period, minus (ii) the yield on the prepayment date, of a U.S. Treasury obligation with a maturity similar to the remaining maturity of the applicable interest period, and (b) the principal amount to be prepaid, and (c) the number of years, including fractional years, from the prepayment date to the end of the applicable interest period. The yield on any U.S. Treasury obligation is to be determined by reference to Federal Reserve Statistical Release H.15 (519) "Selected Interest Rates." For purposes of making present value calculations, the yield to maturity of a similar maturity U.S. Treasury obligation on the prepayment date will be deemed the discount rate. The Cost of Prepayment shall also apply to any payments made after acceleration of the maturity of the Note.

The principal amount payable under this Note is equal to the face amount of this Note, less the aggregate amount of principal payments which have been made on this Note, as such principal payments are shown on the Certificate of Principal Payments attached to this Note. THEREFORE, THE FACE AMOUNT OF THIS NOTE MAY EXCEED THE PRINCIPAL AMOUNT REMAINING OUTSTANDING AND DUE UNDER THIS NOTE.

This Note is a special obligation of UNC Pembroke, payable solely from any legally available funds of UNC Pembroke, or of the Board of Governors held for UNC Pembroke, in each Fiscal Year, but excluding (1) appropriations by the General Assembly of the State from the State General Fund, (2) tuition payments to UNC Pembroke, (3) funds whose purpose has been restricted by gift, grant or payor thereof, (4) revenues generated by Special Facilities and (5) funds restricted by law ("*Available Funds*"). UNC Pembroke's currently outstanding debt secured by Available Funds is a parity obligation with this Note.

THIS NOTE SHALL NOT BE DEEMED TO CONSTITUTE A DEBT OR LIABILITY OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF OR A PLEDGE OF THE FAITH AND CREDIT OF THE STATE OR OF ANY SUCH POLITICAL SUBDIVISION. NEITHER THE STATE NOR ANY POLITICAL SUBDIVISION OR INSTRUMENTALITY THEREOF IS OBLIGATED TO PAY THE SAME OR THE INTEREST THEREON EXCEPT FROM THE SOURCES DESCRIBED HEREIN, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE

APPENDIX E

STATE OR OF ANY POLITICAL SUBDIVISION OR INSTRUMENTALITY THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THIS NOTE. THIS NOTE DOES NOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY OBLIGATE THE STATE OR ANY POLITICAL SUBDIVISION THEREOF TO LEVY OR TO PLEDGE ANY TAXES WHATSOEVER THEREFOR. UNC Pembroke shall pay promptly, as provided herein, the principal of and interest on this Note, together with any other payments due with respect to this Note hereunder, but such amounts shall be payable solely from Available Funds.

If an Event of Default as defined in the Loan Agreement occurs, the principal of and accrued but unpaid interest of this Note may be declared immediately due and payable on the terms and conditions as provided in the Loan Agreement.

If payment of the principal and interest due under this Note is accelerated under the terms of the Loan Agreement, or if any default should occur under the terms of this Note or the Loan Agreement, the then outstanding principal amount and accrued but unpaid interest of this Note shall bear interest at the rate provided for in the Loan Agreement until such principal and interest have been paid in full. If such acceleration occurs, this Note shall become immediately due and payable, without presentation, demand, protest or notice of any kind, all of which are hereby waived by UNC Pembroke. If this Note is not paid when due at any stated or accelerated maturity, UNC Pembroke will pay, in addition to principal and interest, to the extent permitted by law or as ordered by a court of competent jurisdiction, all costs of collection, including reasonable attorneys' fees and related out-of-pocket expenses, actually incurred and determined without reference to any statutory presumption.

Notwithstanding any other provision contained in this Note, no provision of this Note shall require or permit the collection from UNC Pembroke of interest in excess of the maximum rate or amount that UNC Pembroke may be required or permitted to pay pursuant to any applicable law.

Reference is hereby made to the Loan Agreement and all amendments and supplements thereto for a description of the provisions, among others, with respect to the nature and extent of the security, UNC Pembroke's rights, duties and obligations, the registered owner's rights and the terms on which this Note is issued, to all of which provisions each registered owner by the acceptance hereof, agrees.

This Note is fully registered as to both principal and interest. Transfer of this Note may be registered on books maintained for that purpose by UNC Pembroke. Before due presentment for registration of transfer, UNC Pembroke shall treat the registered owner of this Note as the person exclusively entitled to payment of principal of and interest on this Note and the exercise of all other rights and powers of the owner hereof.

All acts, conditions and things required to happen, exist and be performed precedent to the issuance of this Note do exist, have happened, and have been performed in due time, form and manner as required by applicable law.