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TRUST INDENTURE

between

THE COUNTY OF LAKE, ILLINOIS

and

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,  
as Trustee

Relating to

\$26,000,000  
The County of Lake, Illinois  
Variable Rate Demand Multifamily Housing Revenue Bonds  
(Whispering Oaks Apartments Project),  
Series 2008

Dated as of November 1, 2008

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## TRUST INDENTURE

THIS TRUST INDENTURE (this "*Indenture*"), dated as of November 1, 2008, by and between The County of Lake, Illinois, a political subdivision duly organized and validly existing under the Constitution and the laws of the State of Illinois (the "*Issuer*"), and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association duly organized and validly existing under the laws of the United States of America, duly qualified to accept and administer the trusts created hereby, as trustee (the "*Trustee*").

### WITNESSETH:

WHEREAS, pursuant to the provisions of the Constitution and the laws of the State of Illinois (the "*State*") and particularly 50 *Illinois Compiled Statutes 2006, 445/1 et seq.*, as supplemented and amended (the "*Act*"), and this Indenture, the Issuer has determined to issue its Variable Rate Demand Multifamily Housing Revenue Bonds (Whispering Oaks Apartments Project) Series 2008 (the "*Bonds*") in the aggregate principal amount of \$26,000,000 to provide for the financing of a portion of the costs of the acquisition, rehabilitation and equipping of a multifamily rental housing development located at various addresses from 2401 to 2443 West Dugdale Road, in Waukegan, Lake County, Illinois, known as Whispering Oaks Apartments (the "*Project*"); and

WHEREAS, pursuant to a Financing Agreement dated as of November 1, 2008 (the "*Financing Agreement*"), by and among the Issuer, Whispering Oaks Associates, L.P., a limited partnership duly organized and existing under the laws of the State of Illinois (the "*Borrower*"), and the Trustee, the Issuer has agreed to use the proceeds of the sale of Bonds to finance a mortgage loan in the principal amount of \$26,000,000 (the "*Bond Mortgage Loan*") from the Issuer to the Borrower in connection with the Project; and

WHEREAS, the Borrower has agreed to use the proceeds of the Bond Mortgage Loan to finance a portion of the costs of the acquisition, rehabilitation and equipping of the Project; and

WHEREAS, the Borrower's repayment obligations in respect of the Bond Mortgage Loan will be evidenced by a Bond Mortgage Note dated as of November 1, 2008 (together with all riders and addenda thereto, the "*Bond Mortgage Note*") delivered to the Trustee under this Indenture; and

WHEREAS, the Borrower will cause to be delivered to the Trustee on the date of the initial issuance of the Bonds (the "*Delivery Date*") a direct pay Credit Enhancement Agreement dated as of November 1, 2008 (the "*Credit Enhancement Agreement*"), by and between the Federal Home Loan Mortgage Corporation ("*Freddie Mac*") and the Trustee, which will provide for (i) draws in an amount equal to Guaranteed Payments (as hereinafter defined) with respect to the Bond Mortgage Loan, and (ii) the payment of the Purchase Price (as hereinafter defined) of the Bonds during any period the Bonds bear interest at the Variable Rate (as hereinafter defined), to the extent there are insufficient remarketing proceeds to pay the Purchase Price of the Bonds tendered for purchase while the Bonds bear interest at a Variable Rate; and

WHEREAS, Prudential Affordable Mortgage Corporation (the “*Servicer*”) will act as initial servicer for the Bond Mortgage Loan; and

WHEREAS, the Borrower’s reimbursement obligations to Freddie Mac for draws made under the Credit Enhancement Agreement will be evidenced by a Reimbursement and Security Agreement dated as of November 1, 2008 (the “*Reimbursement Agreement*”), by and between the Borrower and Freddie Mac; and

WHEREAS, to secure the Borrower’s obligations under the Bond Mortgage Note, the Borrower will execute and deliver to the Trustee a Multifamily Mortgage, Assignment of Rents and Security Agreement dated as of November 1, 2008 (the “*Bond Mortgage*”), with respect to the Project; and

WHEREAS, to secure the Borrower’s reimbursement obligations under the Reimbursement Agreement, the Borrower will execute and deliver to Freddie Mac on the Delivery Date a Multifamily Mortgage, Assignment of Rents and Security Agreement dated as of November 1, 2008 (the “*Reimbursement Mortgage*”), with respect to the Project; and

WHEREAS, the Issuer, the Trustee and Freddie Mac have also entered into an Intercreditor Agreement dated as of November 1, 2008 (the “*Intercreditor Agreement*”), in connection with Freddie Mac’s provision of said credit enhancement; and

WHEREAS, all things necessary to make the Bonds, when executed by the Issuer and authenticated by the Trustee and issued in accordance with this Indenture, valid, binding and legal special, limited obligations of the Issuer and to constitute this Indenture a valid lien on the properties, interests, revenues and payments herein pledged to the payment of the principal of, premium, if any, on, and interest on, the Bonds, have been duly taken, and the creation, execution and delivery of this Indenture and the execution and delivery of the Bonds, subject to the terms of this Indenture, have been duly authorized by the Issuer; and

WHEREAS, the Trustee has trust powers and the power and authority to enter into this Indenture, to accept trusts generally and to accept and execute the trust created by this Indenture; the Trustee has accepted the trust so created and, to evidence such acceptance, has joined in the execution of this Indenture.

NOW, THEREFORE, the Issuer, in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Bonds by the holders and owners thereof, and of the sum of one dollar, lawful money of the United States of America, to it duly paid by the Trustee at or before the execution and delivery of these presents, and for other good and valuable consideration, the receipt of which is hereby acknowledged, in order to secure the payment of the principal of, premium, if any, and interest on the Bonds according to their tenor and effect, the payment to Freddie Mac of the Freddie Mac Reimbursement Amount and the Freddie Mac Credit Enhancement Fee (as such terms are hereinafter defined) in accordance with the provisions hereof and of the Credit Enhancement Agreement and the Reimbursement Agreement, or the payment of amounts due and owing to any other Credit Facility Provider following termination of the Credit Enhancement Agreement, and

the performance and observance by the Issuer of all the covenants expressed or implied herein and in the Bonds, does hereby grant, bargain, sell, convey, pledge and assign a security interest, unto the Trustee, and its successors in trust and its and their assigns in and to the following (said property being herein referred to as the “*Trust Estate*”), to wit:

#### **GRANTING CLAUSE FIRST**

All right, title and interest of the Issuer in and to all Revenues;

#### **GRANTING CLAUSE SECOND**

All right, title and interest of the Issuer in and to the Financing Agreement, the Bond Mortgage Note, the Bond Mortgage and the Credit Facility (other than the Unassigned Rights), including all extensions and renewals of the terms thereof, if any, including, but without limiting the generality of the foregoing, the present and continuing right to receive, receipt for, collect or make claim for any of the money, income, revenues, issues, profits and other amounts payable or receivable thereunder, whether payable under the above-referenced documents or otherwise, to bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things which the Issuer or any other Person is or may become entitled to do under said documents;

#### **GRANTING CLAUSE THIRD**

Except for funds, money or securities in the Cost of Issuance Fund, the Bond Purchase Fund, the Principal Reserve Fund and the Rebate Fund, all funds, money and securities and any and all other rights and interests in property whether tangible or intangible from time to time hereafter by delivery or by writing of any kind, conveyed, mortgaged, pledged, assigned or transferred as and for additional security hereunder for the Bonds by the Issuer or by anyone on its behalf or with its written consent to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof;

TO HAVE AND TO HOLD, all the same with all privileges and appurtenances hereby conveyed and assigned, or agreed or intended so to be, to the Trustee and its successors in said trust and to them and their assigns forever;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of all Owners of the Bonds issued under and secured by this Indenture without privilege, priority or distinction as to lien or otherwise of any of the Bonds over any of the other Bonds, except as set forth in this Indenture, and for the benefit, security and protection of the Credit Facility Provider to the extent of its interests hereunder and under the Credit Facility, the Reimbursement Agreement and the Intercreditor Agreement;

*PROVIDED, HOWEVER*, that if the Issuer or its successors or assigns shall pay or cause to be paid to the Owners of the Bonds the principal, interest and premium, if any, to become due

thereon on the dates and in the manner provided in Article IX hereof, and shall discharge or cause to be discharged any and all obligations to the Credit Facility Provider hereunder and under the Credit Facility and the Reimbursement Agreement, and if the Issuer shall keep, perform and observe, or cause to be kept, performed and observed, all of its covenants, warranties and agreements contained herein, then these presents and the estate and rights hereby granted shall, at the option of the Issuer, cease, terminate and be void, and thereupon the Trustee shall cancel and discharge the lien of this Indenture, and execute and deliver to the Issuer such instruments in writing as shall be requisite to satisfy the lien hereof, and, subject to the provisions of Sections 4.09, 4.11 and 4.12 hereof and Article IX hereof, reconvey to the Issuer the estate hereby conveyed, and assign and deliver to the Issuer any property at the time subject to the lien of this Indenture which may then be in its possession, except for the Rebate Fund and cash held by the Tender Agent for the payment of the Purchase Price of Bonds tendered pursuant to the terms of this Indenture or held by the Trustee for the payment of interest on and principal of the Bonds or for payment of amounts payable to the Credit Facility Provider; otherwise this Indenture to be and remain in full force and effect and upon the trusts and subject to the covenants and conditions hereinafter set forth.

AND IT IS HEREBY COVENANTED AND AGREED by and between the parties hereto, that the terms and provisions upon which the Bonds are to be issued, executed, authenticated, delivered and secured, and the trusts and conditions upon which the Trust Estate is to be held and disposed of, which said trusts and conditions the said Trustee hereby accepts and agrees to discharge, are as follows (except that in the performance of the agreements of the Issuer herein contained, any obligation it may thereby incur for the payment of money shall not be a general obligation of the Issuer nor a debt or pledge of the faith and credit of the Issuer, the State or any political subdivision of the State, but shall be special, limited obligations of the Issuer, payable solely from the revenues and funds pledged for its payment in accordance with this Indenture):

## ARTICLE I

### DEFINITIONS

*Section 1.01. Definitions.* The terms used in this Indenture (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified below:

“*Act*” means 50 *Illinois Compiled Statutes 2006, 445/1 et seq.*, as supplemented and amended.

“*Administration Fund*” means the Administration Fund established by the Trustee pursuant to Section 4.02 of this Indenture.

“*Alternate Credit Facility*” means a letter of credit, surety bond, insurance policy, standby purchase agreement, guaranty, mortgage-backed security or other credit facility, collateral purchase agreement or similar agreement issued by a financial institution (including without limitation Freddie Mac) which provides security for the payment of (a)(i) the principal of and interest on the Bonds (but in no case less than all of the Outstanding Bonds when due), or

(ii) the Bond Mortgage Loan in an amount not less than the Guaranteed Payment, and (b) the Purchase Price of the Bonds, which Alternate Credit Facility is provided in accordance with Section 5.4 of the Financing Agreement and this Indenture.

*“Alternate Credit Facility Provider”* means the provider of an Alternate Credit Facility.

*“Authorized Denomination”* means, (a) with respect to Bonds during any Variable Period, \$100,000 in principal amount or any integral multiple of \$5,000 greater than \$100,000, and (b) with respect to Bonds during any Reset Period or the Fixed Rate Period, \$5,000 in principal amount or any integral multiple thereof.

*“Authorized Officer”* means (a) when used with respect to the Issuer, the County Board Chairman or the County Clerk of the Issuer and such additional Person or Persons, if any, duly designated by the Issuer in writing to act on its behalf, (b) when used with respect to the Borrower, any general partner of the Borrower and such additional Person or Persons, if any, duly designated by the Borrower in writing to act on its behalf, (c) when used with respect to the Trustee, any authorized signatory of the Trustee or any Person who is authorized in writing to take the action in question on behalf of the Trustee, (d) when used with respect to the Servicer, any Vice President or any Assistant Vice President of the Servicer and such additional Person or Persons, if any, duly designated by the Servicer in writing to act on its behalf, (e) when used with respect to the Remarketing Agent, any Principal, Vice President or Assistant Vice President of the Remarketing Agent and such additional Person or Persons, if any, duly designated by the Remarketing Agent in writing to act on its behalf, (f) when used with respect to the Tender Agent, any authorized signatory of the Tender Agent and such additional Person or Persons, if any, duly designated by the Tender Agent in writing to act on its behalf, and (g) when used with respect to the Credit Facility Provider, any Person who is authorized in writing to take the action in question on behalf of the Credit Facility Provider.

*“Bankruptcy Code”* means Title 11 of the United States Code entitled “Bankruptcy,” as now and hereafter in effect, or any successor federal statute.

*“Bond Counsel”* means any firm of attorneys selected by the Issuer experienced in matters relating to the issuance of obligations by states and their political subdivisions that is listed as municipal bond attorneys in The Bond Buyer’s Municipal Marketplace, and is acceptable to the Credit Facility Provider.

*“Bond Fee Component”* means the regular, ongoing fees from time to time to the Issuer, the Trustee, the Remarketing Agent, the Tender Agent, the Custodian, the Counterparty, if any, and the Rebate Analyst, if any, expressed as a flat, fixed amount or in terms of a percentage of the principal amount of Outstanding Bonds (including Purchased Bonds) on an annual basis.

*“Bond Financing Documents”* means, collectively, this Indenture, the Bonds, the Financing Agreement, the Remarketing Agreement, the Tax Certificate and the Bond Mortgage Loan Documents.

“*Bond Fund*” means the Bond Fund established by the Trustee pursuant to Section 4.02 of this Indenture.

“*Bondholder*” or “*Holder*” or “*Owner*” means any Person who shall be the registered owner of any Outstanding Bond or Bonds.

“*Bond Mortgage*” means the Multifamily Mortgage, Assignment of Rents and Security Agreement dated as of November 1, 2008, together with all riders and addenda thereto, granting a first priority mortgage and security interest in the Project to the Trustee to secure the repayment of the Bond Mortgage Loan, as the same may be amended, supplemented or restated.

“*Bond Mortgage Loan*” means the loan financed by the Issuer from the Trustee to the Borrower in the original principal amount of \$26,000,000 pursuant to the Bond Mortgage Loan Documents.

“*Bond Mortgage Loan Documents*” means the Bond Mortgage, the Bond Mortgage Note, the Financing Agreement, the Tax Regulatory Agreement, any Custodial Escrow Agreement, the Credit Facility, the Reimbursement Agreement, the Reimbursement Mortgage, the Intercreditor Agreement, the Rehabilitation Escrow Agreement, the Pledge Agreement and any and all other instruments and other documents evidencing, securing, or otherwise relating to the Bond Mortgage Loan or any portion thereof, or evidencing, securing or otherwise relating to the Borrower’s obligations to the Credit Facility Provider in connection with the delivery of the Credit Facility.

“*Bond Mortgage Loan Fund*” means the Bond Mortgage Loan Fund established by the Trustee pursuant to Section 2.11 of this Indenture.

“*Bond Mortgage Note*” means the Bond Mortgage Note dated as of November 1, 2008, from the Borrower to the Trustee, including all riders and addenda thereto, evidencing the Borrower’s obligation to repay the Bond Mortgage Loan, as the same may be amended, supplemented or restated from time to time which Bond Mortgage Note will be delivered to the Issuer and endorsed by the Issuer to the Trustee.

“*Bond Purchase Fund*” means the Bond Purchase Fund established by the Tender Agent pursuant to Section 10.03 of this Indenture.

“*Bond Register*” means the books or other records maintained by the Bond Registrar setting forth the registered Holders from time to time of the Bonds.

“*Bond Registrar*” means the Trustee acting as such, and any other bond registrar appointed pursuant to this Indenture.

“*Bond Resolution*” means the resolution adopted by the County Board of the Issuer, authorizing the issuance of the Bonds.

“*Bonds*” means the \$26,000,000 aggregate principal amount of Variable Rate Demand Multifamily Housing Revenue Bonds (Whispering Oaks Apartments Project), Series 2008, issued pursuant to the provisions of this Indenture.

“*Bond Year*” means the period of twelve consecutive months ending on November 1 in any year in which Bonds are Outstanding; *provided*, that the first Bond Year shall commence on the Delivery Date and end on November 1, 2009.

“*Borrower*” means Whispering Oaks Associates, L.P., a limited partnership duly organized and existing under the laws of the State, or any of its permitted successors or assigns, as owner of the Project.

“*Business Day*” means any day other than (a) a Saturday, (b) a Sunday, (c) a day on which the Federal Reserve Bank of New York (or other agent acting as the Credit Facility Provider’s fiscal agent identified to the Trustee) is authorized or obligated by law or executive order to remain closed, (d) a day on which the Principal Office of the Credit Facility Provider is closed, or (e) a day on which (i) banking institutions in the City of New York or in the city in which the Principal Office of the Trustee, the Tender Agent, the Remarketing Agent or the Principal Office of the Credit Facility Provider is located are authorized or obligated by law or executive order to be closed, or (ii) the New York Stock Exchange is closed.

“*Certificate of the Issuer*,” “*Statement of the Issuer*,” “*Request of the Issuer*” and “*Requisition of the Issuer*” mean, respectively, a written certificate, statement, request or requisition signed in the name of the Issuer by an Authorized Officer of the Issuer or such other Person as may be designated and authorized to sign for the Issuer. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

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

“*Commitment*” means the commitment from Freddie Mac to the Servicer pursuant to which Freddie Mac has agreed to provide credit enhancement for the Bond Mortgage Loan and liquidity support for the Bonds, as the same may be amended, modified or supplemented from time to time.

“*Cost of Issuance Fund*” means the Cost of Issuance Fund established by the Trustee pursuant to Section 4.02 of this Indenture.

“*Costs of Issuance*” means (i) the fees (excluding ongoing fees), costs and expenses of (a) the Issuer, the Issuer’s counsel and the Issuer’s financial advisor, including without limitation the Issuer Fee, (b) the Underwriter (including discounts to the Underwriter or other purchasers of the Bonds, other than original issue discount, incurred in the issuance and sale of the Bonds) and the Underwriter’s counsel, (c) Bond Counsel, (d) the Trustee and the Trustee’s counsel, (e) the Servicer and the Servicer’s counsel, if any, (f) the Credit Facility Provider and the Credit Facility

Provider's counsel, (g) the Borrower's counsel and the Borrower's financial advisor, if any, and (h) the Rating Agency, (ii) costs of printing the offering documents relating to the sale of the Bonds, and (iii) all other fees, costs and expenses directly associated with the authorization, issuance, sale and delivery of the Bonds, including, without limitation, printing costs, costs of reproducing documents, filing and recording fees.

*"Costs of Issuance Deposit"* means the deposit to be made by the Owner with the Trustee on the Delivery Date, which deposit shall equal \$\_\_\_\_\_ comprised of sources other than the proceeds of the Bonds.

*"Counterparty"* has the meaning given that term in the Reimbursement Agreement.

*"Credit Enhancement Agreement"* means the Credit Enhancement Agreement dated as of November 1, 2008, by and between Freddie Mac and the Trustee, as such Credit Enhancement Agreement may from time to time be amended or supplemented.

*"Credit Facility"* means the Credit Enhancement Agreement or any Alternate Credit Facility at that time in effect.

*"Credit Facility Provider"* means, so long as the Credit Enhancement Agreement is in effect, Freddie Mac, or so long as any Alternate Credit Facility is in effect, the Credit Facility Provider then obligated under the Alternate Credit Facility.

*"Custodial Escrow Account"* means, collectively, the account or accounts established and held by the Servicer, in accordance with the Guide or otherwise, for the purpose of funding (a) escrows for taxes, insurance and related payments and costs, if required by Freddie Mac, (b) a reserve for replacements for the Project, if required by Freddie Mac, and (c) a debt service reserve for the Bond Mortgage Loan, if required by Freddie Mac.

*"Custodial Escrow Agreement"* means any agreement (which agreement may be the Guide or the Commitment as applicable) pursuant to which a Custodial Escrow Account is established and maintained.

*"Custodian"* means Trustee not in its individual capacity, but solely in its capacity as collateral agent for the Credit Facility Provider, and any successor in such capacity.

*"Dated Date"* means November \_\_, 2008.

*"Delivery Date"* means November \_\_, 2008, the date of initial delivery of the Bonds to the initial purchasers thereof against payment therefor.

*"DTC"* means The Depository Trust Company, New York, New York, as initial Securities Depository for the Bonds pursuant to Section 2.12 hereof or its successors.

*"Eligible Funds"* means (a) remarketing proceeds received from the Remarketing Agent or any purchaser (other than funds provided by the Borrower, any general partner, member or

guarantor of the Borrower or the Issuer), (b) proceeds received pursuant to the Credit Facility, (c) proceeds of the Bonds received contemporaneously with the issuance and sale of the Bonds, (d) proceeds from the investment or reinvestment of money described in clauses (a), (b) and (c) above, or (e) money delivered to the Trustee and accompanied by a written opinion acceptable to the Rating Agency (unless such opinion is waived in writing by the Rating Agency by notice delivered to the Trustee and the Credit Facility Provider) of nationally recognized counsel experienced in bankruptcy matters to the effect that if the Borrower, any general partner, member or guarantor of the Borrower, or the Issuer were to become a debtor in a proceeding under the Bankruptcy Code: (i) payment of such money to the Owners of the Bonds would not constitute an avoidable preference under Section 547 of the Bankruptcy Code, and (ii) the automatic stay provisions of Section 362(a) of the Bankruptcy Code would not prevent application of such money to the payment of the Bonds.

*“Event of Default”* or *“event of default”* means any of those events specified in and defined by the applicable provisions of Article VI hereof to constitute an event of default.

*“Extraordinary Services”* means and includes, but not by way of limitation, services, actions and things carried out and all expenses incurred by the Trustee in respect of or to prevent default under this Indenture and the Bond Mortgage Loan Documents, including any attorneys’ fees and other litigation costs that are entitled to reimbursement under the terms of the Financing Agreement, and other actions taken and carried out by the Trustee which are not expressly set forth in this Indenture.

*“Extraordinary Servicing Fees and Expenses”* means all fees and expenses of the Servicer during any Bond Year in excess of Ordinary Servicing Fees and Expenses.

*“Extraordinary Trustee’s Fees and Expenses”* means all those fees, expenses and disbursements earned or incurred by the Trustee as described under Section 7.06 hereof during any Bond Year for Extraordinary Services, as set forth in a detailed invoice to the Borrower.

*“Fair Market Value”* means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Code) and, otherwise, the term *“Fair Market Value”* means the acquisition price in a bona fide arm’s length transaction (as referenced above) if (a) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (b) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (c) the investment is a United States Treasury Security--State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (d) any commingled investment fund in which the Issuer and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of investment.

“*Financing Agreement*” means the Financing Agreement dated as of November 1, 2008, among the Borrower, the Issuer and the Trustee, as such Financing Agreement may from time to time be amended or supplemented.

“*Fixed Rate*” means the interest rate borne by the Bonds from and after the Fixed Rate Adjustment Date to the maturity date of the Bonds, determined in accordance with Section 2.02(d) of this Indenture.

“*Fixed Rate Adjustment*” means the establishment of the interest rate on the Bonds at the Fixed Rate, pursuant to Section 2.02(d) of this Indenture.

“*Fixed Rate Adjustment Date*” means the date on which the Fixed Rate for the Bonds becomes effective.

“*Fixed Rate Period*” means the period during which the Bonds bear interest at the Fixed Rate.

“*Freddie Mac*” means the Federal Home Loan Mortgage Corporation, a shareholder-owned government-sponsored enterprise duly organized and validly existing under the laws of the United States of America, and its successors and assigns.

“*Freddie Mac Credit Enhancement Fee*” shall have the meaning given to that term in the Reimbursement Agreement.

“*Freddie Mac Credit Enhancement Payment*” shall have the meaning given to that term in the Credit Enhancement Agreement.

“*Freddie Mac Reimbursement Amount*” shall have the meaning given to that term in the Reimbursement Agreement.

“*Government Obligations*” means investments meeting the requirements of clauses (a) or clause (b) of the definition of “Qualified Investments” in this Indenture.

“*Guaranteed Payment*” means the amount required to be paid to the Trustee pursuant to the Credit Facility; *provided*, that so long as the Credit Enhancement Agreement is the Credit Facility, “Guaranteed Payment” shall have the meaning given to that term in the Credit Enhancement Agreement.

“*Guide*” means the Freddie Mac Multifamily Seller/Servicer Guide, as the same may be amended, modified or supplemented from time to time.

“*Hedge Agreement*” means any interest rate cap agreement, swap agreement or similar instrument required to be maintained for the benefit of the Credit Facility Provider under the terms of the Reimbursement Agreement.

“*Hedge Fee Escrow*” has the meaning given that term in the Reimbursement Agreement.

“*Indenture*” means this Trust Indenture, as the same may have been from time to time amended or modified, together with any other indentures supplemental to this Indenture.

“*Index Rate*” means a rate equal to the index of the weekly index rate resets of tax-exempt variable rate issues included in a database maintained by Municipal Market Data, a Thomson Financial Services Company, or its successors, which meet specific criteria established by The Securities Industry and Financial Markets Association, such index currently known as The Securities Industry and Financial Markets Association (SIFMA) Municipal Swap Index or any successor to such index.

“*Information Services*” means in accordance with then-current guidelines of the Securities and Exchange Commission, one or more services selected by the Trustee, which are then providing information with respect to called Bonds, or, if the Trustee does not select a service, then such service or services as the Issuer may designate in a certificate of the Issuer delivered to the Trustee.

“*Intercreditor Agreement*” means the Intercreditor Agreement dated as of November 1, 2008, by and among the Issuer, the Trustee and Freddie Mac, as the same may be amended or supplemented.

“*Interest Payment Date*” means \_\_\_\_\_, 2008, and thereafter (i) for interest accrued during any Variable Period, the first Business Day of each month, (ii) for interest accrued during any Reset Period, May 1 and November 1 of each year, commencing on the May 1 or November 1 next following the applicable Reset Adjustment Date, (iii) for interest accrued on and after the Fixed Rate Adjustment Date, May 1 and November 1 of each year, commencing on the May 1 or November 1 next following the Fixed Rate Adjustment Date, (iv) each Reset Adjustment Date, Variable Rate Adjustment Date, Fixed Rate Adjustment Date, Substitution Date and the maturity date of the Bonds, and (v) for Bonds subject to redemption but only with respect to such Bonds, the date of redemption (or purchase in lieu of redemption).

“*Interest Requirement*” means (a) during the Variable Period, 35 days’ interest computed at the Maximum Rate, and (b) during a Reset Period or the Fixed Rate Period, 189 days’ interest computed at the Reset Rate or Fixed Rate, as applicable, or in the case of either (a) or (b), such lesser number of days as is acceptable to the Rating Agency (as confirmed in writing by the Rating Agency).

“*Issuer*” means The County of Lake, Illinois, a political subdivision duly organized and validly existing under the Constitution and the laws of the State, together with its successors and assigns.

“*Issuer Fee*” means the Issuer’s one-time issuance fee of \$260,000 and all other fees, costs and expenses of the Issuer, including attorneys’ fees, payable by the Borrower under the Financing Agreement.

“*Liquidity Advance*” means an advance by the Credit Facility Provider pursuant to the terms of the Credit Facility to pay the Purchase Price of any Bonds tendered optionally by

Bondholders pursuant to Section 10.01 of this Indenture which have not been remarketed by the Remarketing Agent pursuant to the Remarketing Agreement and this Indenture and, therefore, with respect to which there are no proceeds of remarketing.

“*Market Risk Event*” means (a)(i) legislation enacted by the United States Congress, (ii) a final non-appealable decision rendered by a court established under Article III of the Constitution of the United States of America, or the United States Tax Court, or (iii) an order, ruling or regulation issued by the United States Department of the Treasury or the Internal Revenue Service, with the purpose or effect, directly or indirectly, of causing interest received by any Bondholder [other than a Bondholder who is a “substantial user” of the Project or a “related person” of a substantial user (each within the meaning of Section 147(a) of the Code)] to be included in the gross income of such Bondholder for purposes of federal income taxation; or (b) legislation enacted or any action taken by the Securities and Exchange Commission, which, in the opinion of counsel to the Remarketing Agent, has the effect of requiring the remarketing of the Bonds to be registered under the Securities Act of 1933, as amended (the “*Securities Act*”), or any other “security,” as defined in the Securities Act, issued in connection with or as part of the remarketing of the Bonds to be so registered or this Indenture to be qualified as an indenture under the Trust Indenture Act of 1939, as amended; or (c) any event shall have occurred or shall exist which, in the reasonable judgment of the Remarketing Agent, makes or has made untrue or incorrect in any material respect any statement or information contained in a reoffering circular or other disclosure document distributed in connection with the Fixed Rate Adjustment or Reset Adjustment Date, or is not or was not reflected in such reoffering circular or other disclosure document, but should be or should have been reflected therein in order to make the statements or information contained therein not misleading in any material respect; or (d) in the reasonable judgment of the Remarketing Agent, any event which makes it impractical or inadvisable for the Remarketing Agent to remarket or enforce agreements to remarket Bonds because trading in securities generally shall have been suspended on the New York Stock Exchange, Inc., or a general banking moratorium shall have been established by federal, New York or State authorities.

“*Maturity Date*” means the maturity date of the Bonds set forth in Section 2.01(c) of this Indenture.

“*Maximum Rate*” means 12% per annum; *provided*, that, without amendment to any Bond Financing Document pursuant to Article VIII of this Indenture, the Maximum Rate may be increased to a specified higher Maximum Rate if there shall have been delivered to the Trustee and the Remarketing Agent (a) an Opinion of Bond Counsel to the effect that such higher Maximum Rate is permitted under applicable law, and does not, in and of itself, cause the interest on the Bonds to be included in the gross incomes of the Bondholders for federal income tax purposes and (b) either (i) the written consent of the Credit Facility Provider to the specified higher Maximum Rate and evidence that the Credit Facility will cover the Interest Requirement at such higher Maximum Rate, or (ii) a new or amended Credit Facility in an amount equal to the sum of (a) the principal amount of the Outstanding Bonds, and (b) the new Interest Requirement calculated using the new higher Maximum Rate; *provided*, that the Maximum Rate shall never exceed the maximum rate permitted by applicable law to be paid on the Bonds or to be charged on the Bond Mortgage Loan.

“*Moody’s*” means Moody’s Investors Service, Inc., and its successors and assigns.

“*Net Proceeds*” when used with respect to any insurance or condemnation award, means the proceeds from the insurance or condemnation award with respect to which that term is used remaining after payment of all reasonable expenses incurred in the collection of such proceeds, including reasonable attorney fees.

“*Official Statement*” means the Official Statement dated \_\_\_\_\_, 2008, relating to the sale and issuance of the Bonds, as the same may be supplemented or amended.

“*Optional Tender Date*” has the meaning set forth in Section 10.01 of this Indenture.

“*Ordinary Servicing Fees and Expenses*” means the ordinary fees payable to the Servicer in connection with the servicing of the Bond Mortgage Loan, payable monthly in arrears as provided in the Reimbursement Agreement.

“*Ordinary Trustee’s Fees and Expenses*” means the annual administration fee for the Trustee’s ordinary fees and expenses in rendering its services under this Indenture as Trustee during each twelve month period, which fee is equal to (and shall not exceed) \$\_\_\_\_\_ and shall be payable annually in advance on the Delivery Date and each November 1 thereafter commencing November 1, 2009.

“*Outstanding*” when used with respect to the Bonds or “Bonds Outstanding” means, as of any date, all Bonds that have been duly authenticated and delivered by the Trustee under this Indenture, except:

(i) Bonds surrendered and replaced upon exchange or transfer, or cancelled because of payment or redemption, at or prior to such date;

(ii) Bonds for the payment, redemption or purchase for cancellation of which sufficient money has been deposited prior to such date with the Trustee (whether upon or prior to the maturity, amortization or redemption date of any such Bonds), or which are deemed to have been paid and discharged pursuant to the provisions of Section 9.01 hereof; *provided*, that if such Bonds are to be redeemed prior to the maturity thereof, other than by scheduled amortization, notice of such redemption shall have been given or arrangements satisfactory to the Trustee shall have been made therefor, or waiver of such notice satisfactory in form to the Trustee shall have been filed with the Trustee;

(iii) Bonds in lieu of which others have been authenticated (or payment, when due, of which is made without replacement) under Section 2.07 hereof; and

(iv) Bonds deemed to be tendered for purchase hereunder; and also except that

For the purpose of determining whether the Owners of the requisite amount of Bonds Outstanding have made or concurred in any notice, request, demand, direction, consent, approval, order, waiver, acceptance, appointment or other instrument or communication under or

pursuant to this Indenture, Bonds owned by or for the account of the Borrower or any Person owned, controlled by, under common control with or controlling the Borrower shall be disregarded and deemed to be not Outstanding, unless all Bonds shall be so owned, and *provided*, that the Trustee has knowledge of the foregoing; *provided, further*, that all Purchased Bonds shall be deemed to be Outstanding, and the Trustee shall follow any direction provided by the Credit Facility Provider with respect to Purchased Bonds for the purposes hereof (Bonds so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee shall establish, to the satisfaction of the Trustee, the pledgee's right to vote such Bonds, and in the event of a dispute as to the existence of such right, any decision by the Trustee taken upon the advice of counsel shall constitute full protection to the Trustee). The term "control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise. Beneficial ownership of 5% or more of a class of securities having general voting power to elect a majority of the board of directors of a corporation shall be conclusive evidence of control of such corporation.

*"Paying Agent"* means the Trustee acting as such, and any other paying agent appointed pursuant to this Indenture.

*"Person"* means an individual, a corporation, a partnership, an association, a joint stock company, a joint venture, a trust, an unincorporated association, a limited liability company or a government or any agency or political subdivision thereof, or any other organization or entity (whether governmental or private).

*"Pledge Agreement"* means that certain Pledge, Security and Custody Agreement dated as of November 1, 2008, by and between the Custodian and the Borrower, as originally executed or as modified or amended from time to time, together with any similar agreement executed in connection with an Alternate Credit Facility, as originally executed or as amended or modified from time to time.

*"Principal Office of the Credit Facility Provider"* means the office of Freddie Mac located at 8100 Jones Branch Drive, McLean, Virginia 22102, or such other office or offices as Freddie Mac may designate from time to time, or the office of any Alternate Credit Facility Provider where it principally conducts its business of serving as credit facility provider under indentures pursuant to which municipal or governmental obligations are issued, or such other office or offices as the Alternate Credit Facility Provider may designate from time to time.

*"Principal Office of the Remarketing Agent"* means the office of the Remarketing Agent referenced in Section 11.05(a) hereof or such other office or offices as the Remarketing Agent may designate from time to time, or the office of any successor Remarketing Agent where it principally conducts its business of serving as remarketing agent under indentures pursuant to which municipal or governmental obligations are issued.

*"Principal Office of the Tender Agent"* means the office of the Tender Agent referenced in Section 11.05(a) hereof or such other office or offices as the Tender Agent may designate

from time to time, or the office of any successor Tender Agent where it principally conducts its business of serving as tender agent under indentures pursuant to which municipal or governmental obligations are issued.

*“Principal Office of the Trustee”* means the office of the Trustee referenced in Section 11.05(a) hereof or such other office or offices as the Trustee may designate from time to time, or the office of any successor Trustee where it principally conducts its business of serving as trustee under indentures pursuant to which municipal or governmental obligations are issued.

*“Principal Reserve Fund”* means the Principal Reserve Fund established by the Trustee pursuant to Section 4.02 of this Indenture.

*“Principal Reserve Schedule”* means the Principal Reserve Schedule calculated in accordance with, and attached as Exhibit A to, the Reimbursement Agreement, as the same may be supplemented and amended from time to time.

*“Principal Reserve Schedule Payments”* means the payments to be made by the Borrower in accordance with the Principal Reserve Schedule as set forth in the Reimbursement Agreement.

*“Project”* means the land and residential rental apartment units, and related fixtures, equipment, furnishings and site improvements, known as Whispering Oaks Apartments located at various addresses from 2401 to 2443 West Dugdale Road, Waukegan, Illinois, including the real estate described in the Bond Mortgage.

*“Purchased Bond”* means any Bond during the period from and including the date of its purchase by the Trustee on behalf of the Borrower with amounts provided by the Credit Facility Provider under the Credit Facility, to, but excluding, the date on which such Bond is remarketed to any Person, other than the Credit Facility Provider, the Borrower, any general partner, member or guarantor of the Borrower or the Issuer. All Purchased Bonds are to be held in certificated form under and pursuant to the Pledge Agreement.

*“Purchase Price,”* with respect to any Bond required to be purchased pursuant to Sections 2.02, 2.13, 10.01 and 10.02 hereof, means the principal amount of such Bond plus interest accrued thereon to the Settlement Date and with respect to any Bond to be purchased pursuant to Section 3.06 hereof means the principal amount of such Bond plus any redemption premium due thereon plus interest accrued thereon to the Settlement Date.

*“Qualified Investments”* means any of the following if and to the extent permitted by law: (a) direct and general obligations of the United States of America; (b) obligations of any agency or instrumentality of the United States the payment of the principal of and interest on which are unconditionally guaranteed by the full faith and credit of the United States of America; (c) short term discount obligations of Fannie Mae; (d) demand deposits or time deposits with, or certificates of deposit issued by, the Trustee or its affiliates or any bank organized under the laws of the United States or any state or the District of Columbia which is a bank, as defined in the Illinois Banking Act, and which has combined capital, surplus and undivided profits of not less

than \$50,000,000; *provided*, that the Trustee or such other institution has been rated at least “VMIG-1”/“A-1+” by Moody’s/S&P, and which deposits or certificates are fully insured by the Federal Deposit Insurance Corporation; (e) shares or units in any money market mutual fund (including mutual funds of the Trustee or its affiliates) registered under the Investment Company Act of 1940, as amended, whose investment portfolio consists solely of direct obligations of the United States government, and which fund has been rated “Aaa”/“AAA” by Moody’s/S&P; or (f) any other investments permitted by State law approved in writing by the Credit Facility Provider. For purposes of this definition, the “highest rating” shall mean a rating of at least “VMIG-1”/“A-1+” for obligations with less than one year maturity; at least “Aaa”/“VMIG-1”/“AAA”/“A-1+” for obligations with a maturity of one year or greater, but less than three years; and at least “Aaa”/“AAA” for obligations with a maturity of three years or greater. Qualified Investments must be limited to instruments that have a predetermined fixed-dollar amount of principal due at maturity that cannot vary or change and interest, if tied to an index, shall be tied to a single interest rate index plus a single fixed spread, if any, and move proportionately with such index.

“*Rating Agency*” means each national rating agency then maintaining a rating on the Bonds, or any successor or assign thereof, which has assigned a rating at the request of or with the consent of the Issuer, the Borrower and/or the Credit Enhancer.

“*Rebate Analyst*” means a certified public accountant, financial analyst or bond counsel, or any firm of the foregoing, or financial institution (which may include the Trustee) experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code, selected by and at the expense of the Borrower, with the prior written consent of the Issuer, to make the computations required under this Indenture and the Financing Agreement.

“*Rebate Fund*” means the Rebate Fund established by the Trustee pursuant to Section 4.02 of this Indenture.

“*Record Date*” means during any Variable Period, the Business Day immediately preceding an Interest Payment Date and during any Reset Period or the Fixed Rate Period, the 15th day of the calendar month preceding the calendar month in which any Interest Payment Date falls.

“*Redemption Fund*” means the Redemption Fund established by the Trustee pursuant to Section 4.02 of this Indenture.

“*Rehabilitation Costs of the Project*” means the costs of the acquisition, rehabilitation and equipping of the Project.

“*Rehabilitation Escrow Agreement*” means the Rehabilitation Escrow Agreement dated as of the date of this Indenture, by and between the Borrower and Credit Facility Provider, as amended, modified or supplemented.

“*Reimbursement Agreement*” means the Reimbursement and Security Agreement dated as of November 1, 2008, by and between the Borrower and Freddie Mac, as the same may be

amended, supplemented or restated from time to time, and upon the effectiveness of any Alternate Credit Facility, any similar agreement between the Borrower and the Alternate Credit Facility Provider pursuant to which the Borrower agrees to reimburse the Alternate Credit Facility Provider for payments made under the Alternate Credit Facility, as such agreement may be amended, supplemented or restated.

*“Reimbursement Mortgage”* means the Multifamily Mortgage, Assignment of Rents and Security Agreement dated as of November 1, 2008, from the Borrower to Freddie Mac, together with all riders and addenda thereto, granting a second priority mortgage and security interest in the Project to Freddie Mac to secure the obligations of the Borrower under the Reimbursement Agreement and all documents related thereto, and upon the effectiveness of any Alternate Credit Facility, any similar mortgage, deed of trust, deed to secure debt, security interest or other lien or encumbrance granting a mortgage and security interest in the Project to the Alternate Credit Facility Provider to secure similar obligations of the Borrower to the Alternate Credit Facility Provider, as the same may be amended, supplemented or restated.

*“Reimbursement Security Documents”* has the meaning ascribed thereto in the Reimbursement Agreement.

*“Remarketing Agent”* means the remarketing agent appointed pursuant to Section 10.05 of this Indenture.

*“Remarketing Agreement”* means the Remarketing Agreement dated as of November 1, 2008, by and among the Remarketing Agent, the Issuer and the Borrower, or any similar agreement among the Remarketing Agent, the Issuer and the Borrower, in each case as originally executed or as it may be amended or supplemented from time to time in accordance with its terms.

*“Remarketing Date”* means each date on which the Remarketing Agent is required to notify the Trustee, the Tender Agent, the Borrower and the Credit Facility Provider of the Bonds for which it has found purchasers, as set forth in Section 10.03 hereof.

*“Reset Adjustment Date”* means any date on which the interest rate on the Bonds is adjusted to a Reset Rate or to a different Reset Rate. During a Variable Period, a Reset Adjustment Date may occur only on any Interest Payment Date.

*“Reset Period”* means each period during which the Bonds bear interest at a Reset Rate.

*“Reset Rate”* means the rate of interest borne by the Bonds as determined in accordance with Section 2.02(c) of this Indenture.

*“Responsible Officer”* means any officer of the Trustee employed within or otherwise having regular responsibility in connection with the corporate trust department of the Trustee and the trusts created under this Indenture.

“*Revenue Fund*” means the Revenue Fund established by the Trustee pursuant to Section 4.02 of this Indenture.

“*Revenues*” means (a) all payments made with respect to the Bond Mortgage Loan pursuant to the Financing Agreement, the Bond Mortgage Note or the Bond Mortgage, including all casualty or other insurance benefits and condemnation awards paid in connection therewith (subject in all events to the interests of the Credit Facility Provider therein under the terms of the Credit Facility and the Reimbursement Agreement), (b) payments made by the Credit Facility Provider pursuant to the Credit Facility, and (c) all money and securities held by the Trustee in the funds and accounts established pursuant to this Indenture (excluding money or securities in the Cost of Issuance Fund, the Bond Purchase Fund, the Principal Reserve Fund and the Rebate Fund), together with all investment earnings thereon. Principal Reserve Schedule Payments shall not constitute Revenues under this Indenture.

“*Schedule of Work*” means the Schedule of Work attached as an exhibit to the Rehabilitation Escrow Agreement.

“*Securities Depository*” means (a) initially, The Depository Trust Company, 711 Stewart Avenue, Garden City, New York 11530, Fax: (516) 227-4039 or 4190; or (b) any replacement registered securities depository which has been designated in a certificate of the Issuer delivered to the Trustee and the Credit Facility Provider pursuant to Section 2.12.

“*Servicer*” means the eligible servicing institution designated by Freddie Mac from time to time (which may be Freddie Mac if Freddie Mac elects to service the Bond Mortgage Loan), or its successor, as servicer of the Bond Mortgage Loan. Initially, the Servicer shall be Prudential Affordable Mortgage Company.

“*Settlement Date*” means any date on which any Bond is purchased or deemed purchased pursuant to Sections 2.02, 2.13, 3.06, 10.01, 10.02 or 10.04 of this Indenture.

“*S&P*” means Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc., and its successors and assigns.

“*State*” means the State of Illinois.

“*Substitution Date*” means any Business Day established for the mandatory tender and purchase of the Bonds in connection with the delivery to the Trustee of an Alternate Credit Facility pursuant to Section 2.13 of this Indenture.

“*Tax Certificate*” means the Tax Exemption Certificate and Agreement dated the Delivery Date, executed and delivered by the Issuer, the Borrower and the Trustee, as amended, supplemented or restated from time to time.

“*Tax Regulatory Agreement*” means the Regulatory Agreement and Declaration of Restrictive Covenants dated as of November 1, 2008, by and among the Issuer, the Trustee and the Borrower, as from time to time supplemented and amended.

“*Tender Agent*” means the Tender Agent appointed in accordance with Section 10.07 of this Indenture.

“*Tender Notice*” means a notice of demand for purchase of Bonds given by any Bondholder pursuant to Section 10.01 of this Indenture.

“*Trustee*” means The Bank of New York Mellon Trust Company, N.A., a national banking association duly organized and validly existing under the laws of the United States of America, with its designated corporate trust office in the City of Chicago, Illinois, and its successors in trust under this Indenture.

“*Trust Estate*” shall have the meaning given to that term in the Granting Clauses.

“*Unassigned Rights*” means those certain rights of the Issuer under the Financing Agreement to release and indemnification, to defenses, and to payment or reimbursement of fees, costs and expenses of the Issuer, its right to exemption from individual and corporate liability, its right to receive notices, reports, opinions and the like and to enforce notice and reporting requirements, its right to inspect and audit the books, records and premises of the Borrower and of the Project, its right to collect attorneys’ fees and related expenses, its right to collect the Issuer Fee, its right to specifically enforce the Borrower’s covenant to comply with applicable federal tax law and State law (including the Act and the rules and regulations of the Issuer, if any), its right to give or withhold consent to sales, dispositions, transfers and assignments and to amendments, changes, modifications and alterations to the Financing Agreement and its right to exercise its remedies in order to enforce the Unassigned Rights, subject to the Intercreditor Agreement.

“*Variable Interest Accrual Period*” means, during any Variable Period, a period beginning on the date following any Variable Interest Computation Date and ending on the next succeeding Variable Interest Computation Date, except that the first Variable Interest Accrual Period for any Variable Period shall begin on the first day of such Variable Period and end on the next succeeding Variable Interest Computation Date.

“*Variable Interest Computation Date*” means, with respect to any Variable Interest Accrual Period, each Wednesday during such period, or if any such Wednesday is not a Business Day, the next succeeding Business Day.

“*Variable Period*” means each period during which the Bonds bear interest at a Variable Rate.

“*Variable Rate*” means the variable rate of interest borne by the Bonds as determined in accordance with Section 2.02(b) of this Indenture.

“*Variable Rate Adjustment Date*” means any date upon which the Bonds begin to bear interest at a Variable Rate for the succeeding Variable Period.

“*Washington, D.C. Time*” means Eastern Daylight Time or Eastern Standard Time as then in effect in Washington, D.C.

*Section 1.02. Interpretation.* The words “hereof,” “herein,” “hereunder,” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise indicate. All accounting terms not otherwise defined herein shall have the meanings assigned to them in accordance with generally accepted accounting principles as in effect from time to time. References to Articles, Sections, and other subdivisions of this Indenture are to the designated Articles, Sections and other subdivisions of this Indenture as originally executed. The headings of this Indenture are for convenience only and shall not define or limit the provisions of this Indenture.

## ARTICLE II

### THE BONDS

*Section 2.01. The Bonds.* (a) The Bonds are authorized to be issued hereunder as revenue bonds of the Issuer in accordance with the Bond Resolution. The Bonds shall initially be designated “Variable Rate Demand Multifamily Housing Revenue Bonds (Whispering Oaks Apartments Project), Series 2008.” The Bonds shall be fully registered as to principal and interest, without coupons, and shall be numbered by series, if any, in the manner and with any additional designation as the Trustee, as Bond Registrar, deems necessary for the purpose of identification. All of the Bonds are equally and ratably secured. The Bonds shall be dated the Delivery Date, and shall also be dated the date they are authenticated by the Trustee.

(b) Interest on the Bonds during any Variable Period shall be computed on the basis of a 365- or 366-day year, as applicable, for the actual number of days elapsed. Interest on the Bonds during any Reset Period or Fixed Rate Period shall be computed on the basis of a 360-day year consisting of twelve 30-day months. Interest on the Bonds shall be payable on each Interest Payment Date, in each case from the Interest Payment Date next preceding the date of authentication thereof to which interest has been paid or duly provided for, unless the date of authentication is an Interest Payment Date to which interest has been paid or duly provided for, in which case from the date of authentication of the Bond, or unless no interest has been paid or duly provided for on the Bonds, in which case from the Delivery Date, until payment of the principal of the Bond has been made or duly provided for. Notwithstanding the foregoing, if a Bond is authenticated after a Record Date and before the following Interest Payment Date, such Bond shall bear interest from such Interest Payment Date; *provided, however*, that if there shall be a default in the payment of interest due on such Interest Payment Date, then the Bonds shall bear interest from the next preceding Interest Payment Date to which interest has been paid or duly provided for, or, if no interest has been paid or duly provided for on the Bonds, from the Delivery Date.

(c) The Bonds shall be issued in Authorized Denominations and shall bear interest payable on each Interest Payment Date at the rate per annum determined as provided in Section 2.02 of this Indenture. The Bonds shall mature, subject to redemption prior to maturity as provided in Article III hereof, on November 1, 2045.

(d) The Person in whose name any Bond is registered on the Record Date with respect to an Interest Payment Date shall be entitled to receive the interest payable on such Interest Payment Date (unless such Bond has been called for redemption on a redemption date which is prior to such Interest Payment Date) notwithstanding the cancellation of such Bond upon any registration of transfer or exchange thereof subsequent to such Record Date and prior to such Interest Payment Date; *provided, however*, that if and to the extent the Issuer shall default in the payment of the interest due on any Interest Payment Date, such defaulted interest shall be paid as provided in the next paragraph.

(e) Any interest on any Bond that is due and payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called “*Defaulted Interest*”) shall forthwith cease to be payable to the person in whose name such Bond is registered on the relevant Record Date, and shall be paid in the manner set forth in this paragraph. The Trustee may elect to make payment of any Defaulted Interest to the Persons in whose names the Bonds (or their respective predecessor Bonds) are registered at the close of business on a special record date for the payment of such Defaulted Interest (a “*Special Record Date*”), which shall be fixed in the following manner. The Trustee shall determine the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment (a “*Special Interest Payment Date*”), shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the Special Interest Payment Date, and shall cause notice of the proposed payment of such Defaulted Interest on the Special Interest Payment Date and the Special Record Date therefor to be mailed, first class, postage prepaid, to each Bondholder at such Bondholder’s address as it appears in the Bond Register not less than 10 days prior to such Special Record Date; notice of the proposed payment of such Defaulted Interest on the Special Interest Payment Date and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the Persons in whose names the Bonds (or their respective predecessor Bonds) are registered on such Special Record Date.

(f) Payment of the principal of the Bonds and premium, if any, shall be made upon presentation and surrender of the Bonds at the Principal Office of the Trustee. Interest on the Bonds shall be paid by check mailed to the registered Owner thereof at such registered Owner’s address as it appears on the Bond Register on the Record Date. Upon written request of a registered Owner of at least \$1,000,000 in principal amount of Bonds Outstanding received by the Trustee at least five (5) days prior to a Record Date, all payments of principal, premium, if any, and interest on the Bonds, less any reasonable wire transfer fees imposed by the Trustee, shall be paid by wire transfer in immediately available funds to an account within the continental United States designated by such registered Owner. Payment of the Purchase Price of any Bonds tendered for purchase on a Settlement Date shall be payable in lawful money of the United States of America only upon presentation thereof at the Principal Office of the Tender Agent.

(g) Before the date fixed for redemption, money shall be deposited with the Trustee to pay, and the Trustee is hereby authorized and directed to apply such money to the payment of, the Bonds or portions thereof called for redemption, together with accrued interest thereon to the date fixed for redemption. CUSIP number identification with appropriate dollar amounts for each CUSIP number must accompany all payments of principal, redemption price, premium, if any, and interest, whether by check or by wire transfer.

(h) No Bonds may be issued under the provisions of this Indenture, except in accordance with this Article. The total principal amount of Bonds that may be issued hereunder, or in substitution for other Bonds pursuant to Section 2.07 hereof, is expressly limited to \$26,000,000.

*Section 2.02. Determination of Interest Rate on the Bonds.* (a) *Initial Rate.* The Bonds shall initially bear interest at a Variable Rate as described in subsection (b) of this Section, until the first Reset Adjustment Date or Fixed Rate Adjustment Date, if any, and thereafter shall bear interest at the applicable rate set forth in this Section.

(b) *Variable Rate.* The Bonds shall bear interest from and including the Delivery Date to and including the immediately succeeding Variable Interest Computation Date at a Variable Rate agreed to by the Remarketing Agent and the Issuer, and thereafter shall bear interest at a Variable Rate for each Variable Interest Accrual Period as determined by the Remarketing Agent on each Variable Interest Computation Date until adjusted to a Reset Rate or Fixed Rate as provided in this Indenture.

The Variable Rate for each Variable Interest Accrual Period determined by the Remarketing Agent on each Variable Interest Computation Date shall be that rate of interest which, if borne by the Bonds, would, in the reasonable professional judgment of the Remarketing Agent, on the basis of prevailing financial market conditions, be the interest rate necessary, but which would not exceed the interest rate necessary, to be borne by the Bonds in order for the market value of the Bonds on such Variable Interest Adjustment Date to be equal to 100% of the principal amount thereof (disregarding accrued interest) if the Bonds were sold on such Variable Interest Computation Date; *provided, however*, that in no event shall the Variable Rate at any time exceed the Maximum Rate. If for any reason the Remarketing Agent shall fail to determine the rate of interest or if the rate of interest determined by the Remarketing Agent is held to be invalid or unenforceable for any Variable Interest Accrual Period, then the Variable Rate for such Variable Interest Accrual Period shall be the Index Rate in effect on the applicable Variable Interest Computation Date.

For each Variable Interest Accrual Period, the Variable Rate determined by the Remarketing Agent shall be communicated by electronic mail to the Trustee, the Tender Agent, the Borrower, the Servicer and the Credit Facility Provider, as provided in Section 10.05 hereof, on the Variable Interest Computation Date. The determination of the Variable Rate by the Remarketing Agent shall (in the absence of manifest error) be conclusive and binding on the Owners of the Bonds, the Issuer, the Borrower, the Credit Facility Provider, the Servicer, the Remarketing Agent, the Tender Agent and the Trustee, and each shall be protected in relying on it.

Following any Reset Adjustment Date, the interest rate on the Bonds may be converted again to a Variable Rate at the election or deemed election of the Borrower in accordance with the procedures in Section 2.02(c) hereof, which date of adjustment to a Variable Rate shall be the Variable Rate Adjustment Date. The Trustee shall give notice to the Bondholders, by first class mail not less than nine (9) days before the Variable Rate Adjustment Date specifying: (i) the Variable Rate Adjustment Date, and that the interest rate on the Bonds will be established at the Variable Rate on the Variable Rate Adjustment Date; and (ii) that all Bonds must be tendered for purchase at the Purchase Price and surrendered to the Tender Agent for purchase not later than 9:30 a.m., Washington, D.C. time, on the Variable Rate Adjustment Date.

(c) *Reset Rate.* At the written request of the Borrower with the prior written consent of the Credit Facility Provider or at the written request of the Credit Facility Provider on behalf of the Borrower if the Borrower has not provided the Credit Facility Provider proof satisfactory to it of the extension or substitution of a Hedge Agreement satisfying the requirements of the Reimbursement Agreement not later than sixty (60) days prior to the expiration of any Hedge Agreement, the rate of interest on the Bonds may be established at a Reset Rate on any Interest Payment Date during a Variable Period or on any Reset Adjustment Date, in accordance with the procedures set forth in this subsection (c). In order to effect establishment of a Reset Rate, the Borrower must deliver such written request (and consent of the Credit Facility Provider), or, if applicable, the Credit Facility Provider on behalf of the Borrower must deliver such written request, to the Trustee, the Issuer, the Credit Facility Provider, the Servicer, the Tender Agent and the Remarketing Agent specifying (i) the Reset Adjustment Date, which shall be not less than forty (40) days after notice is received by the parties, (ii) any sinking fund redemption amounts for each Interest Payment Date, as provided in Section 3.01(c) hereof, at a price equal to the principal amount of Bonds subject to redemption plus interest accrued thereon to the date fixed for redemption, without premium, pursuant to Section 3.01(b)(v) hereof and any applicable optional redemption provisions pursuant to Section 3.01(a) hereof, (iii) the proposed duration of the Reset Period, which shall be at least five (5) years (ten (10) years so long as the Credit Enhancement Agreement is the Credit Facility) or such shorter period as may be consented to in writing by the Credit Facility Provider, and shall terminate not later than the Business Day before the last Interest Payment Date preceding the (a) "Termination Date" (as defined in the Credit Enhancement Agreement) if the Credit Enhancement Agreement is the Credit Facility to be effective with respect to the Bonds during such Reset Period, and (b) the expiration of the Credit Facility if the Credit Enhancement Agreement is not the Credit Facility to be effective with respect to the Bonds during such Reset Period, and (iv) the date on which the Reset Rate will be determined by the Remarketing Agent, which date shall be not later than the Business Day immediately prior to the Reset Adjustment Date.

Except as noted in the paragraph immediately below, the Trustee shall give notice to the Owners of the Bonds of the Reset Adjustment Date by first class mail not less than nine (9) days before the Reset Adjustment Date, *provided* that not less than five (5) Business Days prior to the Trustee giving such notice the Borrower shall have delivered or caused to be delivered to the Trustee (1) an opinion of Bond Counsel to the effect that the establishment of the Reset Rate for the Reset Period in accordance with the procedure described in this subsection (c) is permitted by this Indenture and the Act, and does not adversely affect the exclusion of the interest on the Bonds from gross income for federal income tax purposes, (2) if Bonds are to be held publicly

after the Reset Adjustment Date, either an irrevocable commitment (which commitment may be subject to customary commercial conditions) of an Alternate Credit Facility Provider to issue an Alternate Credit Facility to be in effect upon and after the Reset Adjustment Date, together with accompanying documentation required by Section 5.4 of the Financing Agreement or the irrevocable written commitment of the Credit Facility Provider for an amendment to the Credit Facility to fulfill the Interest Requirement and, if applicable, to extend the termination date of the Credit Facility, (3) the form of notice to be given by the Trustee to the Bondholders with respect to the establishment of a Reset Rate (which form shall include (i) the Reset Adjustment Date, (ii) that the interest rate on the Bonds will be established at the Reset Rate on the Reset Adjustment Date; (iii) that all Bonds must be tendered for purchase at the Purchase Price and surrendered to the Tender Agent for purchase not later than 9:30 a.m., Washington, D.C. time, on the Reset Adjustment Date; and (iv) that the Reset Rate Adjustment Date (but not the mandatory tender of Bonds on the proposed Reset Rate Adjustment Date) is subject to cancellation upon receipt by the Trustee of notice from the Remarketing Agent that a Market Risk Event has occurred), (4) payment to the Trustee and the Issuer of such amounts as the Trustee and the Issuer reasonably determine may be required in connection with the establishment of the Reset Rate, including, but not limited to, its own reasonable fees and expenses (including those of its counsel) and the cost of printing new Bonds, (5) the proposed form of disclosure document, if any, to be distributed in connection with the remarketing of the Bonds on the Reset Adjustment Date and an undertaking of the Borrower which satisfies any applicable requirements of Rule 15c2-12 of the Securities Exchange Act of 1934, and (6) if Bonds are to be held publicly after the Reset Adjustment Date and an Alternate Credit Facility is being delivered on such date, written evidence from the Rating Agency to the effect that the Bonds will be rated at least “Aa”/“P-1” by Moody’s or “AA”/“A-1” by S&P, without regard to pluses or minuses (or such lower ratings as shall be approved by the Issuer) on such Reset Adjustment Date.

If (i) the Credit Facility to be in effect upon and after a Reset Adjustment Date, or (ii) an irrevocable commitment described in clause (2) of the preceding paragraph is not delivered to the Trustee in escrow at least fifteen (15) days before the applicable Reset Adjustment Date, or if on any Business Day at least ten (10) days before the applicable Reset Adjustment Date, the Trustee receives notice from the Borrower or the Credit Facility Provider that it no longer wishes to proceed with the adjustment to a Reset Rate or from the Remarketing Agent that a Market Risk Event has occurred, the Trustee shall not give the notice specified in the above paragraph to the Owners of the Bonds. In the event that the Trustee receives notice from the Remarketing Agent that a Market Risk Event has occurred after giving the notice specified in the above paragraph to the Owners of the Bonds, the Trustee shall notify the Owners of the Bonds that the Reset Adjustment Date, but not the mandatory tender of Bonds on the proposed Reset Adjustment Date, has been cancelled. In such event, the Bonds shall (1) continue to bear interest at a Variable Rate if the Bonds then bear interest at a Variable Rate, or (2) if the Bonds then bear interest at a Reset Rate, on the day following the Reset Period, the Bonds shall be redeemed or purchased in lieu thereof pursuant to Section 3.01(b)(vi) or Section 3.06 hereof, as applicable.

Any Bond not tendered to the Tender Agent for purchase in accordance with the provisions of this subsection (c) on a Reset Adjustment Date (including a canceled Reset Adjustment Date) shall be deemed to have been tendered for purchase on such Reset Adjustment Date pursuant to Section 10.01 hereof for all purposes of this Indenture, including particularly

Article X hereof; *provided, however*, payment on such Bonds shall only be made upon presentation thereof.

From and after each Reset Adjustment Date until the last day of the related Reset Period, the Bonds shall bear interest at the applicable Reset Rate. The Reset Rate shall be that rate of interest, determined by the Remarketing Agent on the date specified in the notice from the Borrower referred to in the first paragraph of this subsection (c), which, if borne by the Bonds, would, in the reasonable professional judgment of the Remarketing Agent, on the basis of prevailing financial market conditions, be the interest rate necessary, but which would not exceed the interest rate necessary, to be borne by the Bonds in order for the market value of the Bonds on the Reset Adjustment Date to be equal to 100% of the principal amount thereof (disregarding accrued interest); *provided, however*, that in no event shall the Reset Rate exceed the Maximum Rate.

The determination of a Reset Rate by the Remarketing Agent in accordance with the provisions of this subsection (c) shall (in the absence of manifest error) be conclusive and binding upon the Owners of the Bonds, the Issuer, the Servicer, the Credit Facility Provider, the Remarketing Agent, the Borrower, the Tender Agent and the Trustee, and each shall be protected in relying on it.

At least 40 and not more than 50 days prior to the final Interest Payment Date of a Reset Period, the Borrower shall elect to have the Bonds bear interest from and after such Interest Payment Date at a Reset Rate for a new Reset Period or at a Variable Rate or Fixed Rate by giving written notice of such election to the Trustee, the Tender Agent, the Issuer, the Credit Facility Provider, the Servicer and the Remarketing Agent. If the Borrower elects to have the Bonds bear interest at a Variable Rate or fails to make such election, the Borrower shall be deemed to have elected to have the Bonds bear interest at a Variable Rate determined in accordance with the procedures set forth in subsection (b) of this Section, commencing on the day immediately following the last day of the Reset Period, in which event there shall be no mandatory sinking fund redemption schedule for the Bonds during the succeeding Variable Period. Notwithstanding the election of the Borrower to have the Bonds bear interest at a new Reset Rate, a Variable Rate or a Fixed Rate, as the case may be, at the end of a Reset Period or the deemed election of the Borrower to have the Bonds bear interest at a Variable Rate, if the Borrower fails to supply the items required by this subsection (c) or subsection (d), as applicable, of this Section 2.02, the Bonds shall be redeemed (or purchased in lieu thereof) on the day following such Reset Period, pursuant to Section 3.01(b)(vi) or 3.06 hereof, as applicable.

(d) *Fixed Rate.* At the written request of the Borrower with the prior written consent of the Credit Facility Provider or at the written request of the Credit Facility Provider on behalf of the Borrower if the Borrower has not provided the Credit Facility Provider proof satisfactory to it of the extension or substitution of a Hedge Agreement satisfying the requirements of the Reimbursement Agreement not later than sixty (60) days prior to the expiration of any Hedge Agreement, the rate of interest on the Bonds may be established at a Fixed Rate on any Interest Payment Date during a Variable Period or on the day following any Reset Period, in accordance with the procedures set forth in this subsection (d). In order to effect a Fixed Rate Adjustment, the Borrower must deliver such written request (and consent of the Credit Facility Provider), or,

if applicable, the Credit Facility Provider on behalf of the Borrower must deliver such written request to the Trustee, the Issuer, the Credit Facility Provider, the Servicer, the Tender Agent and the Remarketing Agent specifying (i) the Fixed Rate Adjustment Date, which shall be not less than forty (40) days after such notice is received by such parties, (ii) any sinking fund redemption amounts for each Interest Payment Date, as provided in Section 3.01(c) hereof, at a price equal to the principal amount of Bonds subject to redemption plus interest accrued thereon to the date fixed for redemption, without premium, pursuant to Section 3.01(b)(v) hereof and any applicable optional redemption provision pursuant to Section 3.01(a) hereof, and (iii) the date on which the Fixed Rate will be determined by the Remarketing Agent, which date shall be not later than the Business Day immediately prior to the Fixed Rate Adjustment Date. Such notice must be followed, except as noted in the paragraph immediately below, on or before the date that is five (5) Business Days prior to notice being given by the Trustee to the Bondholders with respect to Fixed Rate Adjustment, by (1) an opinion of Bond Counsel to the effect that Fixed Rate Adjustment in accordance with the procedures described in this subsection (d) is permitted by this Indenture and the Act, and does not adversely affect the exclusion of the interest on the Bonds from gross income for federal income tax purposes, (2) if Bonds are to be held publicly after the Fixed Rate Adjustment Date, either an irrevocable commitment (which commitment may be subject to customary commercial conditions) of an Alternate Credit Facility Provider to issue an Alternate Credit Facility to be in effect upon and after Fixed Rate Adjustment and until the maturity date of the Bonds, together with accompanying documentation required by Section 5.4 of the Financing Agreement or the irrevocable written commitment of the Credit Facility Provider for an amendment to the Credit Facility to fulfill the Interest Requirement and, if applicable, to extend the termination date of the Credit Facility, (3) the form of notice to be given by the Trustee to the Owners of the Bonds with respect to the Fixed Rate Adjustment, (4) payment to the Trustee and the Issuer of such amounts as the Trustee and the Issuer reasonably determine may be required in connection with the Fixed Rate Adjustment, including, but not limited to, its own fees and expenses (including those of its counsel) and the cost of printing new Bonds, (5) the proposed form of disclosure document (if any) to be distributed in connection with the remarketing of the Bonds on the Fixed Rate Adjustment Date and an undertaking of the Borrower which satisfies any applicable requirements of Rule 15c2-12 of the Securities Exchange Act of 1934, as amended, and (6) written evidence from the Rating Agency to the effect that the Bonds will be rated at least “Aa” by Moody’s or “AA” by S&P, without regard to pluses or minuses (or such lower ratings as shall be approved by the Issuer) on the Fixed Rate Adjustment Date.

If (i) the Credit Facility to be in effect upon and after the Fixed Rate Adjustment, or (ii) an irrevocable commitment described in clause (2) of the preceding paragraph is not delivered to the Trustee in escrow at least fifteen (15) days before the Fixed Rate Adjustment Date, or if on any Business Day at least ten (10) days before the Fixed Rate Adjustment Date, the Trustee receives notice from the Borrower to the effect that it no longer wishes to proceed with the Fixed Rate Adjustment, or the Trustee receives written notice from the Remarketing Agent that a Market Risk Event has occurred, the Trustee shall not give the notice specified in the next paragraph to the Owners of the Bonds. In the event that the Trustee receives notice from the Remarketing Agent that a Market Risk Event has occurred after giving the notice specified in the next paragraph to the Owners of the Bonds, the Trustee shall notify the Owners of the Bonds that the Fixed Rate Adjustment, but not the mandatory tender of Bonds on the proposed Fixed Rate

Adjustment Date, has been cancelled. In such event, (1) if the Bonds bear interest at a Variable Rate prior to the proposed Fixed Rate Adjustment Date, they shall continue to bear interest at a Variable Rate, and (2) if the proposed Fixed Rate Adjustment Date was to be the day following a Reset Period, then the Bonds shall be redeemed (or purchased in lieu thereof) on the day following such Reset Period, pursuant to Section 3.01(b)(vi) or Section 3.06 hereof, as applicable.

The Trustee shall give notice to the Owners of the Bonds, by first class mail not less than nine (9) days before the Fixed Rate Adjustment Date, specifying: (i) the Fixed Rate Adjustment Date, and that the interest rate on the Bonds will be established at the Fixed Rate through the final maturity of the Bonds; (ii) that all Bonds must be tendered for purchase at the Purchase Price and surrendered to the Tender Agent for purchase not later than 9:30 a.m., Washington, D.C. time, on the Fixed Rate Adjustment Date; and (iii) that the Fixed Rate Adjustment Date (but not the mandatory tender of Bonds on the proposed Fixed Rate Adjustment Date) is subject to cancellation upon receipt by the Trustee of notice from the Remarketing Agent that a Market Risk Event has occurred.

Any Bond not tendered to the Tender Agent for purchase in accordance with the provisions of this subsection (d) on the Fixed Rate Adjustment Date (including a canceled Fixed Rate Adjustment Date) shall be deemed to have been tendered for purchase on such Fixed Rate Adjustment Date, pursuant to Section 10.01 hereof for all purposes of this Indenture, including particularly Article X hereof; *provided, however*, that payment on such Bonds shall only be made upon presentation thereof.

From and after the Fixed Rate Adjustment and until maturity, the Bonds shall bear interest at the Fixed Rate. The Fixed Rate shall be that rate of interest, determined by the Remarketing Agent on the date specified in the notice from the Borrower referred to in the first paragraph of this subsection (d), which, if borne by the Bonds, would, in the reasonable professional judgment of the Remarketing Agent, on the basis of prevailing financial market conditions, be the interest rate necessary, but which would not exceed the interest rate necessary, to be borne by the Bonds in order for the market value of the Bonds on the Fixed Rate Adjustment Date to be 100% of the principal amount thereof (disregarding accrued interest); *provided, however*, that in no event shall the Fixed Rate exceed the Maximum Rate.

The determination of the Fixed Rate by the Remarketing Agent in accordance with the provisions of this subsection (d) shall (in the absence of manifest error) be conclusive and binding on the Owners of the Bonds, the Issuer, the Credit Facility Provider, the Servicer, the Remarketing Agent, the Borrower, the Tender Agent and the Trustee, and each shall be protected by relying on it.

*Section 2.03. Limited Obligations.* The Bonds and the interest on the Bonds are special, limited obligations of the Issuer, payable solely from the Trust Estate pledged therefor under this Indenture, including, without limitation, its interest in payments received under the Financing Agreement, the Bond Mortgage Note and the Credit Facility. The Bonds are not a debt of the Issuer, the State or of any other political subdivision of the State, and neither the Issuer, the State nor any other political subdivision of the State will be liable for the payment of the Bonds. The

faith and credit of the Issuer, the State or any political subdivision of the State are not pledged to the payment of the principal of or interest on the Bonds.

THE BONDS, TOGETHER WITH THE INTEREST THEREON, AND REDEMPTION PREMIUM, IF ANY, ARE ISSUED UNDER THE ACT, AND CONSTITUTE SPECIAL, LIMITED OBLIGATIONS OF THE ISSUER SECURED BY THE TRUST ESTATE, ARE AND SHALL ALWAYS BE PAYABLE SOLELY FROM THE REVENUES AND RECEIPTS DERIVED FROM THE TRUST ESTATE, AND ARE AND SHALL ALWAYS BE A VALID CLAIM OF THE OWNERS THEREOF ONLY AGAINST THE REVENUES AND RECEIPTS DERIVED FROM THE TRUST ESTATE, WHICH REVENUES AND RECEIPTS SHALL BE USED FOR NO OTHER PURPOSE THAN TO PAY THE PRINCIPAL OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THE BONDS, EXCEPT AS MAY BE EXPRESSLY AUTHORIZED OTHERWISE IN THIS INDENTURE AND IN THE FINANCING AGREEMENT. THE BONDS AND THE OBLIGATION TO PAY INTEREST THEREON AND PREMIUM, IF ANY, THEREON DO NOT NOW AND SHALL NEVER CONSTITUTE A DEBT OR A LOAN OF CREDIT OF THE ISSUER, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION, OR A PECUNIARY LIABILITY OR A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWERS OF ANY OF THEM, BUT SHALL BE SECURED AS AFORESAID, AND SHALL BE PAYABLE SOLELY FROM THE REVENUES AND RECEIPTS DERIVED FROM THE TRUST ESTATE. NO OWNER OF THE BONDS SHALL HAVE THE RIGHT TO COMPEL THE EXERCISE OF THE TAXING POWER OF THE ISSUER, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF TO PAY ANY PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS. NEITHER THE MEMBERS OF THE GOVERNING BODY OF THE ISSUER NOR ANY PAST, PRESENT OR FUTURE DIRECTORS, MEMBERS, ELECTED OR APPOINTED OFFICERS, OFFICIALS, EMPLOYEES, ATTORNEYS OR AGENTS OF THE ISSUER, NOR ANY PERSONS EXECUTING THE BONDS, SHALL BE LIABLE PERSONALLY ON THE BONDS.

No agreement or obligation contained herein shall be deemed to be an agreement or obligation of any director, County Board member, officer, employee, commissioner, servant or agent of the Issuer in his or her individual capacity, and neither the directors of the Issuer nor any officer of the Issuer executing any Bond shall be liable personally on such Bond or be subject to any personal liability or accountability by reason of the issuance thereof. No director, County Board member, officer, employee, servant or agent of the Issuer shall incur any personal liability with respect to any other action taken by him or her pursuant to this Indenture.

THE BONDS ARE NOT A DEBT OF THE UNITED STATES OF AMERICA, OR ANY AGENCY OF THE UNITED STATES OF AMERICA, OR FREDDIE MAC, AND ARE NOT GUARANTEED BY THE FULL FAITH AND CREDIT OF THE UNITED STATES OF AMERICA OR BY FREDDIE MAC. PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS IS NOT GUARANTEED BY FREDDIE MAC. THE OBLIGATIONS OF FREDDIE MAC UNDER THE CREDIT ENHANCEMENT AGREEMENT ARE OBLIGATIONS SOLELY OF FREDDIE MAC, AND ARE NOT BACKED BY THE FULL FAITH AND CREDIT OF THE UNITED STATES OF AMERICA.

*Section 2.04. Indenture Constitutes Contract.* In consideration of the purchase and acceptance of the Bonds issued hereunder by those who shall hold them from time to time, the provisions of this Indenture shall be part of the contract of the Issuer with the Owners of the Bonds and shall be deemed to be a contract between the Issuer and the Owners of the Bonds from time to time.

*Section 2.05. Form and Execution.* The Bonds shall be in substantially the form attached hereto as *Exhibit A*, with necessary and appropriate variations, omissions and insertions as are customary, permitted or required by this Indenture. The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of the Chairman of the Issuer, and attested by the manual or facsimile signature of the County Clerk of the Issuer. Any facsimile signatures shall have the same force and effect as if said officers had manually signed the Bonds. Any reproduction of the official seal of the Issuer on the Bonds shall have the same force and effect as if the official seal of the Issuer had been impressed on the Bonds.

In case any officer of the Issuer whose manual or facsimile signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery, and also any Bond may bear the facsimile signatures of, or may be signed by, such Persons as at the actual time of the execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such Persons may not have been such officers.

*Section 2.06. Authentication.* No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Indenture unless a certificate of authentication on such Bond, substantially in the form set forth in *Exhibit A* attached hereto and made a part hereof, shall have been duly executed by an Authorized Officer of the Trustee; and such executed certificate of authentication upon any such Bond shall be conclusive evidence that such Bond has been duly executed, registered, authenticated and delivered under this Indenture. It shall not be necessary that the same Person sign the certificate of authentication on all of the Bonds.

*Section 2.07. Mutilated, Lost, Stolen or Destroyed Bonds.* In the event any Bond is mutilated, lost, stolen or destroyed, the Issuer shall execute and the Trustee shall authenticate a new Bond of like denomination, interest rate, series, maturity and tenor in exchange and substitution for and upon cancellation of such mutilated Bond or in lieu of and in substitution for such lost, stolen or destroyed Bond, upon payment by the Owner thereof of any applicable tax or governmental charge and the reasonable expenses and charges of the Issuer and the Trustee in connection therewith, and in the case of a Bond lost, stolen or destroyed, the filing with the Trustee of evidence satisfactory to it that such Bond was lost, stolen or destroyed, and of the ownership thereof, and furnishing the Issuer and the Trustee with indemnity satisfactory to each of them. In the event any such Bond shall have matured, instead of issuing a duplicate Bond or Bonds the Issuer may pay the same without surrender thereof.

*Section 2.08. Transfer and Exchange of Bonds; Persons Treated as Owners.* The Trustee as Bond Registrar shall cause a Bond Register to be kept for the registration of transfers of Bonds. Any Bond may be transferred only upon an assignment duly executed by the registered Owner or such registered Owner's duly authorized representative in such form as shall be satisfactory to the Bond Registrar and upon surrender of such Bond to the Trustee for cancellation. Whenever any Bond or Bonds shall be surrendered for transfer, the Issuer shall execute, and the Trustee shall authenticate and deliver to the transferee, a replacement fully

registered Bond or Bonds, of like interest rate, series, maturity and tenor and in Authorized Denomination or Denominations and for the amount of such Bond or Bonds so surrendered.

Any Bond may, in accordance with its terms, be exchanged, at the office of the Trustee, for a new fully registered Bond or Bonds, of the same maturity, of like interest rate, series, maturity and tenor and in any Authorized Denomination or Denominations and for the aggregate principal amount of such Bond then Outstanding.

In all cases in which Bonds shall be transferred or exchanged hereunder, the Trustee may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange.

The Person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of and premium, if any, and interest on any such Bond shall be made only to or upon the order of the registered Owner thereof, or such registered Owner's legal representative, and neither the Issuer nor the Trustee shall be affected by any notice to the contrary. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums to be paid.

Neither the Issuer nor the Trustee shall be required to make any such exchange, registration or transfer of Bonds during the period of fifteen (15) days immediately preceding an Interest Payment Date if the Bonds bear interest at a Reset Rate or a Fixed Rate, or, in the case of any proposed redemption of Bonds, during the period of fifteen (15) days immediately preceding the selection of Bonds for such redemption, and after the giving of notice of redemption, the Trustee is not required to transfer or exchange any Bond or portion thereof which has been called for redemption.

*Section 2.09. Temporary Bonds.* Until definitive Bonds are ready for delivery, there may be executed, and upon the request of the Issuer the Trustee shall authenticate and deliver, in lieu of definitive Bonds temporary printed, typewritten, engraved or lithographed Bonds, in such Authorized Denomination or Denominations as shall be determined by the Issuer, in fully registered form, in substantially the form hereinabove set forth and with such appropriate omissions, insertions and variations as may be required.

If temporary Bonds shall be issued, the Issuer shall cause the definitive Bonds to be prepared and to be executed and delivered to the Trustee, and the Trustee, upon presentation to it at its designated corporate trust office of any temporary Bond shall cancel the same and authenticate and deliver in exchange therefor, without charge to the Owner thereof, a definitive Bond or Bonds, as the case may be, of an equal aggregate principal amount, of the same maturity, interest rate, series and tenor as the temporary Bond surrendered. Until so exchanged the temporary Bonds shall in all respects be entitled to the same benefit and security of this Indenture as the definitive Bonds to be issued and authenticated under this Indenture. Interest on temporary Bonds, when due and payable, if the definitive Bonds shall not be ready for exchange, shall be paid on presentation of such temporary Bonds and notation of such payment shall be endorsed thereon by the Trustee.

*Section 2.10. Delivery of Bonds.* Upon the execution and delivery of this Indenture, the Issuer shall execute and deliver to the Trustee, and the Trustee shall authenticate, the Bonds and deliver them to or upon the order of the Issuer upon receipt by the Trustee of the following:

(a) executed counterparts of this Indenture, the Financing Agreement, the Tax Regulatory Agreement, the Tax Certificate, the Remarketing Agreement, the Intercreditor Agreement, the Pledge Agreement, the Credit Enhancement Agreement and the Reimbursement Agreement;

(b) an opinion of Bond Counsel to the effect that the Issuer has duly authorized, executed and delivered this Indenture, other loan documents to which it is a party and the Bonds and that the Bonds are entitled to the benefits of this Indenture and are valid and binding special, limited obligations of the Issuer, enforceable in accordance with their terms, subject to customary exceptions;

(c) sale proceeds of the Bonds, together with accrued interest thereon, if any;

(d) the Bond Mortgage Note;

(e) a copy of the executed Bond Mortgage and the Reimbursement Mortgage;

(f) an opinion of counsel to the Borrower to the effect that the Borrower is duly organized and validly existing and in good standing under the laws of the State and in good standing under the laws of each other state in which the Borrower transacts business, and has full power and authority to enter into the agreements described herein to which it is a party, that its execution and delivery of and performance of its covenants in such agreements do not contravene law or any provision of any other agreement to which it is a party or by which it or such property is bound or affected, and that all such agreements have been duly authorized, executed and delivered by the Borrower, and are legal, valid and binding agreements of the Borrower, enforceable against the Borrower in accordance with their respective terms;

(g) an opinion of Bond Counsel to the effect that the interest on the Bonds, under laws in effect on the date of such opinion, is excluded from gross income for federal income tax purposes and, where applicable, for State income tax purposes;

(h) a certified copy of the Bond Resolution;

(i) the written request and authorization to the Trustee by the Issuer to authenticate and deliver the Bonds to the initial purchasers thereof upon payment to the Trustee, for the account of the Issuer, of the sum specified as the purchase price therefor in such request and authorization;

(j) receipt by the Trustee of the amounts specified in Section 2.11 of this Indenture and Section 3.3 of the Financing Agreement; and

(k) evidence that the Bonds have been rated “AAA/A-1+” by the Rating Agency.

*Section 2.11. Establishment of Bond Mortgage Loan Fund; Application of Bond Proceeds and Other Money; Assignment of Bond Mortgage Loan to Trustee.* (a) The Trustee shall establish, maintain and hold in trust a Bond Mortgage Loan Fund. Money on deposit in the Bond Mortgage Loan Fund shall be invested as provided in Section 4.08 of this Indenture. No amount shall be charged against the Bond Mortgage Loan Fund, except as expressly provided in this Section 2.11 and Section 2.11A below.

(b) The proceeds of the sale of the Bonds shall be delivered to the Trustee on the Delivery Date. The Trustee shall deposit such Bond Proceeds in the Bond Mortgage Loan Fund. Amounts in the Bond Mortgage Loan Fund shall be disbursed as provided in subsection (d) of this Section. Upon the disbursement of all amounts in the Bond Mortgage Loan Fund, the Trustee shall close the Bond Mortgage Loan Fund. Following the rehabilitation of the Project, any balance remaining in the Bond Mortgage Loan Fund shall be applied as provided in Section 2.11A(d) of this Indenture.

(c) The Issuer shall cause the Borrower to deliver to the Trustee, on or prior to the Delivery Date, \$\_\_\_\_\_ for deposit to the credit of the Cost of Issuance Fund established pursuant to Section 4.01 of this Indenture.

(d) Upon the deposit of money to the credit of the Bond Mortgage Loan Fund, the Trustee shall originate the Bond Mortgage Loan pursuant to the Financing Agreement, and the Trustee shall make disbursements of amounts in the Bond Mortgage Loan Fund to the Borrower or otherwise as provided in Section 2.11A of this Indenture.

*Section 2.11A. Disbursement Procedures; Bond Mortgage Loan Fund Requisitions.* (a) Amounts on deposit in the Bond Mortgage Loan Fund shall be disbursed from time to time by the Trustee for the purpose of paying Rehabilitation Costs of the Project that are approved by the Servicer pursuant to the terms, conditions and provisions of the Rehabilitation Escrow Agreement. In addition, amounts in the Bond Mortgage Loan Fund may be used for transfer to the Redemption Fund pursuant to Section 2.11A(d) of this Indenture.

(b) The Trustee shall make disbursements from the Bond Mortgage Loan Fund for the purposes described in Section 2.11A(a) hereof only upon the receipt of Requisitions, each in the form of *Exhibit E* attached to and made a part of this Indenture, signed in all cases by an Authorized Officer of the Borrower and countersigned by the Servicer (signifying the approval of the Requisition by the Servicer). The Trustee shall have no duty to determine whether any requested disbursement from the Bond Mortgage Loan Fund complies with the terms, conditions and provisions of the Rehabilitation Escrow Agreement. A copy of all fully executed Requisitions shall be provided by the Trustee to the Issuer upon receipt. The countersignature of the Servicer on a Requisition shall be deemed a certification and, insofar as the Trustee and the Issuer are concerned, constitute conclusive evidence that all of the terms, conditions and requirements of the Rehabilitation Escrow Agreement applicable to such disbursement have been

fully satisfied or waived. The Trustee shall, immediately upon each receipt of a completed Requisition, initiate procedures to liquidate funds necessary to fund such Requisition.

Notwithstanding anything to the contrary contained herein:

(i) no signature of an Authorized Officer of the Borrower shall be required during any period in which a default has occurred and is then continuing under the Bond Mortgage Loan or the Reimbursement Security Documents (notice of which default has been given in writing by the Credit Facility Provider or the Servicer to the Trustee and the Issuer, and the Trustee shall be entitled to conclusively rely on any such written notice as to the occurrence and continuation of such a default); and

(ii) the Trustee shall disburse amounts in the Bond Mortgage Loan Fund upon receipt of a Requisition signed only by the Servicer (and without any need for any signature by an Authorized Officer of the Borrower), with notice to the Borrower, so long as the amount to be disbursed is to be used solely to make payments of fees due under the Rehabilitation Escrow Agreement.

(c) If a Requisition signed by the Authorized Officer of the Borrower and countersigned by the Servicer or (as permitted hereunder) solely by the Servicer is received by the Trustee, the requested disbursement shall be paid by the Trustee as soon as practicable, but in no event later than five (5) Business Days following receipt thereof by the Trustee.

Upon final disbursement of all amounts on deposit in the Bond Mortgage Loan Fund, including all interest accrued therein, the Trustee shall close the Bond Mortgage Loan Fund.

(d) Immediately prior to any mandatory redemption of Bonds pursuant to Section 3.01(b)(ii) of this Indenture, any amounts then remaining in the Bond Mortgage Loan Fund shall, at the written direction of the Credit Facility Provider, be transferred to the Redemption Fund to be applied to the redemption of Bonds pursuant to Section 3.01(b)(ii) of this Indenture. In addition, any amount remaining in the Bond Mortgage Loan Fund following completion of the acquisition and rehabilitation of the Project, as certified by the Servicer, shall be transferred to the Redemption Fund, and used to reimburse the Credit Facility Provider for the related redemption of Bonds in accordance with Section 3.01(b)(vii) of this Indenture.

(e) All Investment Income earned on amounts on deposit in the accounts of the Bond Mortgage Loan Fund shall be retained in and credited to and become a part of the amounts on deposit in such accounts of the Bond Mortgage Loan Fund, including any transfers required by Section 2.11A(a) or Section 2.11A(d) of this Indenture.

*Section 2.12. Book-Entry Only System of Registration.* (a) Notwithstanding the foregoing provisions of this Article II, each of the Bonds shall initially be issued in the form of one fully-registered Bond in the aggregate principal amount of the Bonds of each maturity, which Bonds shall be registered in the name of Cede & Co., as nominee of DTC. Except as provided in paragraphs (f) and (g) below, and except with regard to Purchased Bonds issued in registered certificated form in accordance with Section 10.10(b) hereof, all of the Bonds shall be

registered in the name of Cede & Co., as nominee of DTC; *provided*, that if DTC shall request that the Bonds be registered in the name of a different nominee, the Trustee shall exchange all or any portion of the Bonds for an equal aggregate principal amount of Bonds registered in the name of such nominee or nominees of DTC. No Person other than DTC or its nominee or any “FAST” agent for DTC shall be entitled to receive from the Issuer or the Trustee either a Bond or any other evidence of ownership of the Bonds, or any right to receive any payment in respect thereof, unless DTC or its nominee shall transfer record ownership of all or any portion of the Bonds on the Bond Register in connection with discontinuing the book entry system as provided in paragraph (f) below or otherwise.

(b) So long as the Bonds or any portion thereof are registered in the name of DTC or any nominee thereof, all payments of the principal or redemption price of or interest on such Bonds shall be made to DTC or its nominee in same day funds on the dates provided for such payments under this Indenture. Each such payment to DTC or its nominee shall be valid and effective to fully discharge all liability of the Issuer and the Trustee with respect to the principal or redemption price of or interest on the Bonds to the extent of the sum or sums so paid. In the event of the redemption of less than all of the Bonds Outstanding of any series or maturity, the Trustee shall not require surrender by DTC or its nominee of the Bonds so redeemed, but DTC (or its nominee) may retain such Bonds, and make an appropriate notation on the Bond certificate as to the amount of such partial redemption; *provided*, that DTC shall deliver to the Trustee, upon request, a written confirmation of such partial redemption and thereafter the records maintained by the Trustee shall be conclusive as to the amount of the Bonds of such maturity which have been redeemed.

(c) The Issuer and the Trustee may treat DTC or its nominee as the sole and exclusive owner of the Bonds registered in its name for the purposes of the payment of the principal or redemption price of or interest on the Bonds, selecting the Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to Bondholders under this Indenture, registering the transfer of Bonds, obtaining any consent or other action to be taken by the Owners of the Bonds and for all other purposes whatsoever; and neither the Issuer nor the Trustee shall be affected by any notice to the contrary. Neither the Issuer nor the Trustee shall have any responsibility or obligation to any participant in DTC, any Person claiming a beneficial ownership interest in the Bonds under or through DTC or any such participant, or any other Person which is not shown on the Bond Register as being a Bondholder, with respect to either: (1) the Bonds; (2) the accuracy of any records maintained by DTC or any such participant; (3) the payment by DTC or any such participant of any amount in respect of the principal or redemption price of or interest on the Bonds; (4) the delivery to any participant or to any other Person, other than the Owners of the Bonds as shown on the Bond Register, of any notice which is permitted or required to be given to the Owners of the Bonds under this Indenture; (5) the selection by DTC or any such participant of any Person to receive payment in the event of a partial redemption of the Bonds; or (6) any consent given or other action taken by DTC as the Owner of the Bonds.

(d) So long as the Bonds or any portion thereof are registered in the name of DTC or any nominee thereof, all notices required or permitted to be given to the Owners of the Bonds

under this Indenture shall be given to DTC as provided in DTC's procedures, as the same may be amended from time to time.

(e) In connection with any notice or other communication to be provided to the Owners of the Bonds pursuant to this Indenture by the Issuer or the Trustee with respect to any consent or other action to be taken by the Owners of the Bonds, DTC shall consider the date of receipt of notice requesting such consent or other action as the record date for such consent or other action; *provided*, that the Issuer or the Trustee may establish a special record date for such consent or other action. The Issuer or the Trustee shall give DTC notice of such special record date not less than 15 calendar days in advance of such special record date to the extent possible.

(f) The book-entry system for registration of the ownership of the Bonds may be discontinued at any time if either: (1) DTC determines to resign as securities depository for the Bonds; or (2) the Issuer determines (with the prior written consent of the Credit Facility Provider) to discontinue the system of book-entry transfers through DTC (or through a successor securities depository), subject to the rules and regulations of DTC regarding the discontinuation of the system of book-entry transfers in effect at such time. In either of such events (unless, in the case described in clause (2) above, the Issuer appoints a successor securities depository), the Bonds shall be delivered in registered certificate form to such Persons, and in such series, maturities and principal amounts, as may be designated by DTC, but without any liability on the part of the Issuer or the Trustee for the accuracy of such designation. Whenever DTC requests the Issuer and the Trustee to do so, the Issuer and the Trustee shall cooperate with DTC in taking appropriate action after reasonable notice to arrange for another securities depository to maintain custody of certificates evidencing the Bonds.

(g) The book-entry system for registration of the ownership of the Bonds shall be discontinued in the event that the Bonds are purchased in lieu of redemption pursuant to Section 3.06 of this Indenture. In such event, the Bonds shall be in the form of a single registered Bond, subject to transfer only upon execution and delivery by the transferee of an investment letter in the form attached hereto as *Exhibit C*.

*Section 2.13. Mandatory Tender of Bonds on Substitution Date.* Except during the Fixed Rate Period, the Borrower, pursuant to Section 5.4 of the Financing Agreement, is permitted with written confirmation to the Trustee from the Credit Facility Provider that the provisions of the Reimbursement Agreement have been satisfied, to provide an Alternate Credit Facility to replace the then outstanding Credit Facility at the times specified in the Financing Agreement.

(a) The Bonds shall be subject to mandatory tender for purchase on any Substitution Date from the sources available pursuant to Sections 10.03 and 10.04 hereof, at a Purchase Price equal to the principal amount thereof plus accrued interest to the Substitution Date.

(b) Upon receipt by the Trustee of (i) notice from the Borrower of a planned substitution, (ii) the aforementioned confirmation of the Credit Facility Provider; (iii) a form of the Alternate Credit Facility to be in effect on and after the Substitution Date and an irrevocable commitment to deliver such Alternate Credit Facility; (iv) a form of the disclosure document (if any) to be used in connection with the remarketing of the Bonds on the Substitution Date, and

(v) a form of the documents required pursuant to Section 5.4 of the Financing Agreement, the Trustee shall establish the Substitution Date for the mandatory tender and purchase of the Bonds. Such Substitution Date shall be not less than five (5) days following the Trustee's receipt of the Alternate Credit Facility to be in effect on and after the Substitution Date (which Alternate Credit Facility may be delivered in escrow), and such other required documents; *provided, however,* that the Substitution Date may be at a later date if the Trustee has received a commitment to extend the existing Credit Facility or the existing Credit Facility will be in place for up to a time period of not less than fifteen (15) days following the Trustee's receipt of the Alternate Credit Facility.

(c) The Trustee shall give notice to the Owners of the Bonds, by first class mail not less than nine (9) days before the Substitution Date, specifying: (a) the Substitution Date, and (b) that all Bonds must be surrendered to the Tender Agent for purchase not later than 9:30 a.m., Washington, D.C. time, on the Substitution Date. Any Bond tendered or deemed tendered on a Substitution Date and not successfully remarketed shall be purchased using funds drawn by the Trustee under the existing Credit Facility pursuant to Section 10.04 hereof, and if all Bonds are not successfully remarketed on any proposed Substitution Date, the proposed substitution of the Alternate Credit Facility shall not occur (though the mandatory tender of the Bonds shall still be required), and the Trustee shall send subsequent notice to Bond Owners that the substitution did not occur.

(d) Any Bond not tendered to the Tender Agent for purchase in accordance with the provisions of this Section 2.13 on the Substitution Date (including any Substitution Date which fails to occur) shall be deemed to have been tendered for purchase on such Substitution Date pursuant to Section 10.02 hereof for all purposes of this Indenture, including particularly Article X hereof; *provided, however,* that the payment on such Bonds shall only be made upon presentation thereof.

### **ARTICLE III**

#### **REDEMPTION OF BONDS PRIOR TO MATURITY**

##### *Section 3.01. Redemption of Bonds Prior to Maturity.*

(a) *Optional Redemption.* (i) The Bonds are subject to optional redemption with the prior written consent of the Credit Facility Provider, in whole or in part, upon optional prepayments on the Bond Mortgage Loan in accordance with the prepayment restrictions set forth in the Bond Mortgage Note and Section 4.4 of the Financing Agreement from payments made under the Credit Facility (subject to the limitations set forth in Section 3.01(a)(iv) hereof) or other Eligible Funds deposited with the Trustee as follows:

(A) During the Variable Period, on any date, at a redemption price of 100% of the principal amount thereof, plus accrued interest thereon to the date fixed for redemption .

(B) During a Reset Period or the Fixed Rate Period, on any date during the periods set forth in the table below and at the respective redemption prices set forth below expressed as percentages of the principal amounts of the Bonds called for redemption, such redemption prices declining as set forth below until such redemption price equals 100% of the principal amount of the Bonds, plus accrued interest, if any, to the date fixed for redemption:

TERM OF RESET PERIOD OR FIXED RATE PERIOD	REDEMPTION PRICES AS A PERCENTAGE OF PRINCIPAL AMOUNTS	EARLIEST CALL DATE
Greater than 15 years	103% after 10 years declining 1% per 12 months to 100%	10 years
Greater than 10 and less than or equal to 15	102% after 7 years declining 1% per 12 months to 100%	7 years
Less than or equal to 10 and greater than 7	102% after 4 years declining 1/2% per 12 months to 100%	4 years
Less than or equal to 7 and greater than 5	102% after 3 years declining 1% per 12 months to 100%	3 years
Less than or equal to 5 and greater than 2	101% after 1 year declining 1/2% per 6 months to 100%	2 years
Less than or equal to 2 and greater than 1	100-1/2% after 1 year declining 1/2% per 6 months to 100%	1 year
Equal to 1 year	100% after 6 months	6 months

*provided*, that, notwithstanding the foregoing, the Borrower and the Remarketing Agent may, not later than fifteen (15) days before the Reset Adjustment Date or the Fixed Rate Adjustment Date, as applicable, give notice to the Issuer, the Credit Facility Provider, the Servicer, and the Trustee setting forth a redemption schedule different from that set forth in this paragraph, accompanied by (1) the written consent of the Credit Facility Provider, if any, to be in effect for the ensuing Reset Period or Fixed Rate Period, as applicable, and (2) an opinion of Bond Counsel to the effect that such change does not adversely affect the exclusion of the interest on the Bonds from gross income for federal income tax purposes; and upon such notice and delivery of the consent and the opinion, such different redemption schedule shall apply to any redemption pursuant to this paragraph for such Reset Period or Fixed Rate Period, as applicable, without further action by any party.

(ii) While the Bonds are registered in the name of the Borrower pursuant to the Pledge Agreement, or on behalf of the Credit Facility Provider, in such other name as the Credit Facility Provider shall have directed, as a result of a mandatory tender for purchase of the Bonds pursuant to Section 3.06 hereof, the Bonds are subject to redemption, in whole or in part, on any date, at the option of the Credit Facility Provider, at a redemption price equal to the principal

amount thereof, plus accrued interest to the date fixed for redemption, without premium, from Eligible Funds or any other money acceptable to the Credit Facility Provider deposited with the Trustee.

(iii) Optional redemption of Bonds at a premium may only be made if the Trustee shall have received Eligible Funds (not consisting of funds drawn under the Credit Facility) on or prior to the redemption date in an amount sufficient to pay the applicable redemption premium.

(iv) The Trustee shall effect a redemption of Bonds pursuant to this Section 3.01(a) at the earliest practical date for which notice may be given hereunder, but in no event later than 35 days following its receipt of moneys representing an optional prepayment of the Bond Mortgage Loan.

(b) *Mandatory Redemption.* The Bonds are subject to mandatory redemption on any date, at a redemption price equal to the principal amount thereof, plus accrued interest to the date fixed for redemption, without premium, at the earliest practicable date from payments made under the Credit Facility upon the occurrence of any of the following:

(i) in whole or in part, upon receipt by the Trustee of (1) proceeds of a draw under the Credit Facility, in the amount of Net Proceeds representing casualty insurance proceeds or condemnation awards paid as a prepayment of the Bond Mortgage Loan, such amount to be applied to reimburse the Credit Facility Provider for the draw under the Credit Facility as a result of casualty or condemnation of the Project, and (2) a written direction by the Credit Facility Provider to redeem such Bonds using money obtained as a result of a draw upon the Credit Facility; or

(ii) in whole or in part, upon receipt by the Trustee of amounts from the Credit Facility Provider pursuant to the Credit Facility as a result of the occurrence of an event of default under any Bond Mortgage Loan Document and receipt by the Trustee of a written direction by the Credit Facility Provider to redeem the Bonds pursuant to the Credit Facility; or

(iii) in whole, on the last Business Day which is not less than five days before the date of expiration of any Credit Facility, unless the Trustee receives a renewal or extension of or replacement for such Credit Facility meeting the requirements of Section 5.4 of the Financing Agreement, or, in the case of a replacement of the Credit Facility in connection with a Reset Adjustment Date or the Fixed Rate Adjustment Date pursuant to Section 2.02(c) or (d) hereof, an irrevocable commitment of an entity to issue an Alternate Credit Facility to be in effect upon and after such Reset Adjustment Date or Fixed Rate Adjustment Date, in each case not less than thirty (30) days before the expiration of the then-existing Credit Facility; or

(iv) in part, at the written direction of the Credit Facility Provider (a) on each Reset Adjustment Date, each Variable Rate Adjustment Date and on the Fixed Rate Adjustment Date in an amount not greater than the amount in the Principal Reserve Fund on the first day of the month prior to such Reset Adjustment Date, Variable Rate

Adjustment Date or the Fixed Rate Adjustment Date, as applicable, or (b) on any Interest Payment Date during a Variable Period, in an amount not greater than the amount in the Principal Reserve Fund on the first day of the calendar month prior to such Interest Payment Date; or

(v) in part, on each Interest Payment Date, during any Reset Period or Fixed Rate Period, with respect to the Bonds that have term maturities occurring during such Reset Period or Fixed Rate Period, commencing on the first sinking fund mandatory redemption date established for the Bonds for such Reset Period or Fixed Rate Period as provided in subsection (c) below; *provided*, that if less than all the Bonds shall have been redeemed pursuant to Section 3.01(a) or 3.01(b)(i) hereof, the amount of Bonds to be redeemed in each year from sinking fund installments as provided in this Section 3.01(b)(v) shall be decreased by an amount, in proportion, as nearly as practicable, to the decrease in the payments on the Bond Mortgage Loan in such year as determined by the Trustee; or

(vi) in whole, on the day following any Reset Period if the Trustee has not received the items required by Sections 2.02(c) or (d) hereof, as applicable, to effect a new Reset Period or a Fixed Rate Adjustment or upon cancellation of a rate adjustment on a Reset Adjustment Date or upon cancellation of a Fixed Rate Adjustment to a Fixed Rate; or

(vii) in part, on the Interest Payment Date next following the completion of the rehabilitation of the Project, to the extent of amounts in Authorized Denominations transferred to the Redemption Fund from the Bond Proceeds Account of the Bond Mortgage Loan Fund pursuant to Section 2.11A(d) (unless an Opinion of Bond Counsel addressed to the Trustee is provided to the Trustee to the effect that an alternate use of such moneys does not have an adverse impact on the tax-exempt status of the interest on the Bonds).

(c) At least fifteen (15) days before a Reset Adjustment Date or the Fixed Rate Adjustment Date the Borrower shall, with the prior written consent of the Credit Facility Provider, determine whether the Bonds shall have serial maturities, term maturities with sinking fund redemptions, term maturities without sinking fund redemptions or any combination thereof; *provided* that in all events the maturity structure shall be based on and consistent with the Principal Reserve Schedule; *provided, however*, the Borrower shall deliver to the Issuer, the Trustee and the Credit Facility Provider an Opinion of Bond Counsel to the effect that such determination of maturities and/or sinking fund redemptions will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

(d) Following a Variable Rate Adjustment Date, there shall be no mandatory sinking fund redemption schedule for the Bonds during the succeeding Variable Period.

*Section 3.02. Selection of Bonds for Redemption.* (a) The Trustee shall select Bonds subject to mandatory sinking fund redemption pursuant to Section 3.01(b)(v) hereof by lot within the appropriate maturity. If less than all the Bonds then Outstanding shall be called for

redemption other than as a result of mandatory sinking fund redemption pursuant to Section 3.01(b)(v) hereof, the Trustee shall redeem an amount of Bonds so that the resulting decrease in debt service on the Bonds in each semiannual period ending on an Interest Payment Date is proportional, as nearly as practicable, to the decrease in the payments on the Bond Mortgage Note in each such semiannual period, and the Bonds shall be selected by lot within each maturity, the cost of such selection being at the Borrower's expense.

(b) Bonds shall be redeemed pursuant to this Article III only in Authorized Denominations.

(c) In no event shall Purchased Bonds be subject to redemption without the prior written consent of the Credit Facility Provider.

*Section 3.03. Notice of Redemption.* Notice of the intended redemption of each Bond shall be given by the Trustee by first class mail, postage prepaid, to the registered Owner at the address of such Owner shown on the Bond Register. All such redemption notices shall be given not less than ten (10) days (not less than thirty (30) days in the case of optional or mandatory sinking fund redemptions) nor more than sixty (60) days prior to the date fixed for redemption. The Trustee may provide a conditional notice of redemption upon the direction of the Credit Facility Provider or the Borrower (with the prior written consent of the Credit Facility Provider).

Notices of redemption shall state the date fixed for redemption and the redemption price, the place or places where amounts due upon such redemption will be payable, and, if less than all of the then Outstanding Bonds are called for redemption, shall state (i) the numbers of the Bonds to be redeemed by giving the individual certificate number of each Bond to be redeemed or shall state that all Bonds between two stated certificate numbers, both inclusive, are to be redeemed or that all of the Bonds of one or more maturities have been called for redemption; (ii) the CUSIP numbers of all Bonds being redeemed if available; (iii) the amount of each Bond being redeemed (in the case of a partial redemption); (iv) the date of issuance of the Bond as originally issued; (v) the rate of interest borne by each Bond redeemed or that the Bonds bear interest at a Variable Rate; (vi) the maturity date of each Bond being redeemed; (vii) the possibility of a purchase of Bonds in lieu of redemption, if applicable; (viii) the conditions, if any, which must be satisfied in order for the redemption to take place on the scheduled date fixed for redemption, including, as provided in Section 3.01(a)(iii) hereof, that Eligible Funds are available to pay any redemption premium on the Bonds; and (ix) any other descriptive information needed to identify accurately the Bonds being redeemed.

Each notice of redemption shall state that further interest on such Bonds will not accrue from and after the date fixed for redemption and that payment of the principal amount and premium, if any, will be made upon presentation and surrender of the Bonds at the Principal Office of the Trustee unless the Bonds are then held in a book-entry only system of registration.

Notice of such redemption shall also be sent by certified mail, overnight delivery service, facsimile transmission or other secure means, postage prepaid, to the Credit Facility Provider, to the Servicer, to the Remarketing Agent, to the Rating Agency, to all municipal registered Securities Depositories and to at least two of the national Information Services that disseminate

securities redemption notices, when possible, at least two (2) Business Days prior to the mailing of notices required by the first paragraph above, and in any event no later than simultaneously with the mailing of notices required by the first paragraph above; *provided*, that neither failure to receive such notice nor any defect in any notice so mailed shall affect the sufficiency of the proceedings for the redemption of such Bonds.

In addition to providing notice of redemption as set forth above, if the Bonds are no longer held in book-entry form, the Trustee shall send a second notice of redemption within sixty (60) days following the redemption date, by certified mail, overnight delivery service, or other secure means, postage prepaid, to the registered Owners of any Bonds called for redemption, at their addresses appearing on the Bond Register, who have not surrendered their Bonds for redemption within thirty (30) days following the date fixed for redemption.

Failure to give notice by mailing to the registered Owner of any Bond designated for redemption or tender or to any depository or information service shall not affect the validity of the proceedings for the redemption of any other Bond if notice of such redemption shall have been mailed as herein provided.

*Section 3.04. Cancellation.* All Bonds that have been redeemed shall be marked cancelled by the Trustee, and shall not be reissued. A counterpart of the certificate of cancellation evidencing such cancellation shall, upon request, be furnished by the Trustee to the Issuer.

*Section 3.05. Effect of Notice of Redemption.* If a conditional notice of redemption has been provided pursuant to the terms of this Indenture and the conditions are not satisfied, such notice of redemption shall be of no force and effect and the Bondholders shall be restored to their former positions as though no such notice of redemption had been delivered. Notice of redemption having been given in the manner provided in this Article III and if either there were no conditions to such redemption or the conditions have been satisfied (or in the event no such notice is required under Section 3.03 hereof), and money for the redemption being held by the Trustee or Paying Agent for that purpose, thereupon the Bonds so called for redemption shall become due and payable on the date fixed for redemption, and interest thereon shall cease to accrue on such date; and such Bonds shall thereafter no longer be entitled to any security or benefit under this Indenture except to receive payment of the redemption price thereof.

*Section 3.06. Purchase of Bonds in Whole in Lieu of Redemption.* Notwithstanding anything in this Indenture to the contrary, at any time during which the Bonds are subject to redemption in whole pursuant to the provisions of this Indenture, all (but not less than all) of the Bonds to be redeemed may be purchased by the Trustee (for the account of the Borrower or the Credit Facility Provider or their respective designee, as directed by such party) on the date which would be the date fixed for redemption at the direction of the Credit Facility Provider or the Borrower, with the prior written consent of the Credit Facility Provider (which direction shall specify that such purchase is pursuant to this Section 3.06, and shall be given no later than 12:00 noon, Washington, D.C., time on such date fixed for redemption), at a purchase price equal to the redemption price which would have been applicable to such Bonds on the date fixed for redemption. The Bonds shall be purchased in lieu of redemption only from amounts provided by

the Credit Facility Provider or from other Eligible Funds. In the event the Trustee is so directed to purchase Bonds in lieu of redemption, no notice to the Owners of the Bonds to be so purchased (other than the notice of redemption otherwise required hereunder) shall be required, and the Trustee shall be authorized to apply to such purpose the funds in the Redemption Fund which would have been used to pay the redemption price for such Bonds if such Bonds had been redeemed rather than purchased. Such Bonds so purchased for the account of the Borrower shall for all purposes under this Indenture constitute Purchased Bonds held by the Custodian pursuant to the Pledge Agreement, and may be remarketed by the Remarketing Agent in accordance with the provisions of Section 10.03 of this Indenture. In addition, the Credit Facility Provider shall have the right to direct the transfer of Purchased Bonds (without reinstatement of the then existing Credit Facility or delivery to the Trustee of an Alternate Credit Facility, which will result in such Bonds being unrated) to the Credit Facility Provider or any subsidiary of the Credit Facility Provider, or to a single Bondholder which has provided the Trustee with an investment letter in the form attached to this Indenture as *Exhibit C*; *provided*, that any transfer to a single Bondholder as described above shall require delivery of an Opinion of Bond Counsel to the Trustee to the effect that such transfer does not adversely affect the exclusion of the interest on the Bonds from gross income for federal income tax purposes. Such Purchased Bonds, if not remarketed or transferred as provided herein, shall be redeemed and cancelled: (i) upon the written direction of the Credit Facility Provider; or (ii) automatically by the Trustee on the date which is not later than two (2) years from the date of purchase, unless an Opinion of Bond Counsel is delivered to the Trustee to the effect that not redeeming and canceling such Purchased Bonds does not adversely affect the exclusion of the interest on the Bonds from gross income for federal income tax purposes. Any purchase of Bonds hereunder is not intended as an extinguishment of the debt represented by the Bonds.

Following any purchase of Bonds pursuant to this Section 3.06, in no event shall the Credit Facility (or any funds advanced under the Credit Facility) directly or indirectly secure, or provide a source of payments of amounts due from time to time with respect to Bonds purchased pursuant to this Section 3.06.

*Section 3.07. Cancellation of Purchased Bonds.* Upon a specified redemption date on which all Bonds (other than Purchased Bonds) are redeemed or on a date on which all Bonds (other than Purchased Bonds) are presented to the Trustee for cancellation pursuant to Section 3.06, all Purchased Bonds shall be deemed cancelled; *provided*, that the Credit Facility Provider has consented in writing to such cancellation. No further money shall be required to be paid by the Issuer or the Credit Facility Provider in connection with such cancellation; *provided, however*, that such cancellation shall not release the obligation of the Borrower to reimburse the Credit Facility Provider for payments made in respect of principal of, interest on or Purchase Price of the Bonds, including Purchased Bonds.

## **ARTICLE IV**

### **REVENUES AND FUNDS**

*Section 4.01. Pledge of Revenues and Assets.* The pledge and assignment of and the security interest granted in the Trust Estate pursuant to the Granting Clauses hereof shall attach,

be perfected and be valid and binding from and after the time of the delivery of the Bonds by the Trustee or by any Person authorized by the Trustee to deliver the Bonds. The Trust Estate so pledged and then or thereafter received by the Trustee shall immediately be subject to the lien of such pledge and security interest without any physical delivery thereof or further act, and the lien of such pledge and security interest shall be valid and binding and prior to the claims of any and all parties having claims of any kind in tort, contract or otherwise against the Issuer irrespective of whether such parties have notice thereof.

*Section 4.02. Establishment of Funds.* In addition to the Bond Mortgage Loan Fund established pursuant to Section 2.11 hereof and the Bond Purchase Fund established pursuant to Section 10.03 hereof, the Trustee shall establish, maintain and hold in trust the following funds and accounts, each of which shall be disbursed and applied only as herein authorized:

- (a) Revenue Fund, and within the Revenue Fund a General Account and a Credit Facility Account;
- (b) Bond Fund and within the Bond Fund a Purchased Bonds Account;
- (c) Redemption Fund;
- (d) Administration Fund;
- (e) Cost of Issuance Fund;
- (f) Principal Reserve Fund; and
- (g) Rebate Fund.

The Trustee shall, at the written direction of an authorized representative of the Issuer, and may, in its discretion, establish such additional accounts within any Fund, and subaccounts within any of the accounts, as the Issuer or the Trustee may deem necessary or useful for the purpose of identifying more precisely the sources of payments into and disbursements from that Fund and its accounts, or for the purpose of complying with the requirements of the Code relating to arbitrage, but the establishment of any such account or subaccount shall not alter or modify any of the requirements of this Indenture with respect to a deposit or use of money in the funds established hereunder, or result in commingling of funds not permitted under this Indenture.

*Section 4.03. Application of Revenues.* (a) All Revenues shall be deposited by the Trustee, promptly upon receipt thereof, to the General Account of the Revenue Fund, except (i) the proceeds of the Bonds received by the Trustee on the Delivery Date, which shall be applied in accordance with the provisions of Section 2.11 and 2.11A hereof; (ii) amounts paid pursuant to the Credit Facility, which shall be deposited in the Credit Facility Account; (iii) the Bond Fee Component received from the Servicer or the Borrower, which shall be deposited to the Administration Fund; (iv) as otherwise specifically provided in subsection (c) of this Section with respect to certain deposits into the Redemption Fund; (v) as otherwise specifically provided

in the second paragraph of Section 4.06 hereof with respect to deficiencies in the Administration Fund; (vi) with respect to investment earnings to the extent required under the terms hereof to be retained in the funds and accounts to which they are attributable; (vii) as otherwise specifically provided in Section 4.07 hereof with respect to certain deposits in the Principal Reserve Fund; and (viii) with respect to amounts required to be transferred between funds and accounts as provided in this Article IV.

(b) On each Interest Payment Date or any other date on which payment of the principal of or interest on the Bonds becomes due and payable, the Trustee, out of money in the Credit Facility Account and the General Account of the Revenue Fund, shall credit the following amounts to the following funds, but in the order and within the limitations hereinafter indicated with respect thereto, as follows:

FIRST: to the Bond Fund from money in the Credit Facility Account of the Revenue Fund, an amount equal to the principal of and interest due on the Bonds on such date (excluding principal or interest on any Purchased Bonds and excluding the principal constituting a mandatory sinking fund payment on any Bonds on such date); and

SECOND: to the Redemption Fund from money in the Credit Facility Account of the Revenue Fund, an amount equal to the principal amount due and payable on the Bonds with respect to mandatory sinking fund redemption (excluding principal of any Purchased Bonds) on such date; and

THIRD: to the Redemption Fund from money in the Credit Facility Account (i) amounts paid to the Trustee under the Credit Facility to be applied to the mandatory redemption of all or a portion of the Bonds pursuant to Section 3.01(b) hereof (other than a mandatory sinking fund redemption), and (ii) amounts paid to the Trustee under the Credit Facility to be applied to the optional redemption of all or a portion of the Bonds pursuant to Sections 3.01(a)(i) and 3.01(a)(ii) hereof; and

FOURTH: to the Credit Facility Provider from moneys in the General Account to reimburse draws under the Credit Facility to effect redemptions under Section 3.01(b)(viii) hereof; and

FIFTH: to the Purchased Bonds Account in the Bond Fund from money in the General Account, an amount equal to the interest due on the Purchased Bonds on such date.

(c) The Trustee shall deposit directly to the Redemption Fund (i) Net Proceeds representing casualty insurance proceeds or condemnation awards paid as a prepayment of the Bond Mortgage Loan, such amount to be applied to reimburse the Credit Facility Provider for a draw under the Credit Facility in such amount to provide for extraordinary mandatory redemption of all or a portion of the Bonds pursuant to Section 3.01(b)(i) hereof; (ii) any amounts transferred from the Bond Mortgage Loan Fund following completion of rehabilitation pursuant to Section 2.11A(d) hereof; (iii) Eligible Funds (other than draws under the Credit Facility) paid to the Trustee to be applied to the optional redemption of all or a portion of the

Bonds pursuant to Section 3.01(a)(i) or Section 3.01(a)(ii) hereof; and (iii) Eligible Funds (other than draws under the Credit Facility) paid to the Trustee to be applied to the payment of any redemption premium in connection with an optional redemption of all or a portion of the Bonds pursuant to Section 3.01(a)(i) of this Indenture.

(d) Immediately upon receipt, the Trustee shall deposit directly to the Principal Reserve Fund all Principal Reserve Schedule Payments received by the Servicer from the Borrower.

(e) Immediately upon receipt, the Trustee shall deposit directly to the Administration Fund the Bond Fee Component received from the Servicer or the Borrower.

(f) Should the amount in the Bond Fund be insufficient to pay the amount due on the Bonds on any given Interest Payment Date or other payment date after the transfers from the Credit Facility Account, the Trustee shall credit to the Bond Fund the amount of such deficiency by charging the following funds and accounts in the following order of priority: (1) the General Account of the Revenue Fund; (2) the Administration Fund; (3) the Redemption Fund, except no such charge to the Redemption Fund shall be made from money to be used to effect a redemption for which notice of redemption has been provided for or from money which are held for payment of Bonds which are no longer Outstanding hereunder; and (4) at the written direction of the Credit Facility Provider pursuant to Section 4.07(f) hereof, the Principal Reserve Fund.

*Section 4.04. Application of Bond Fund.* The Trustee shall charge the Bond Fund, on each Interest Payment Date, an amount equal to the unpaid interest and principal due on the Bonds on such Interest Payment Date, and shall cause the same to be applied to the payment of such interest and principal when due (excluding principal on any Purchased Bond). Any money remaining in the Bond Fund on any Interest Payment Date after application as provided in the preceding sentence may, to the extent there shall exist any deficiency in the Redemption Fund to redeem Bonds called for mandatory sinking fund redemption on such Interest Payment Date, be transferred to the Redemption Fund to be applied for such purpose. Any balance remaining in the Bond Fund on the Business Day immediately succeeding an Interest Payment Date shall be transferred to the Servicer for payment to the Credit Facility Provider to be applied in accordance with the Reimbursement Agreement.

Income realized from the investment or deposit of money in the Bond Fund shall be deposited by the Trustee upon receipt thereof in the General Account of the Revenue Fund.

No amount shall be charged against the Bond Fund, except as expressly provided in this Article IV and in Section 6.05 of this Indenture.

*Section 4.05. Application of Redemption Fund.* Any money credited to the Redemption Fund shall be applied as set forth in Sections 4.03(b) and 4.03(c) hereof; *provided, however*, that to the extent any money credited to the Redemption Fund from Eligible Funds (other than draws under the Credit Facility) is in excess of the amount necessary to effect the redemptions described in Sections 4.03(b) and 4.03(c) hereof it shall be applied to make up any deficiency in the Bond Fund on any Interest Payment Date, to the extent money then available in accordance with Section 4.03(d) hereof in the General Account of the Revenue Fund and the Administration

Fund are insufficient to make up such deficiency; *provided*, that no money to be used to effect a redemption for which a conditional notice of redemption, the conditions of which have been satisfied, or an unconditional notice of redemption has been provided or money which are held for payment of Bonds which are no longer Outstanding hereunder shall be so transferred to the Bond Fund.

On or before each Interest Payment Date, the income realized from the investment of money in the Redemption Fund shall be credited by the Trustee to the General Account of the Revenue Fund.

No amount shall be charged against the Redemption Fund, except as expressly provided in this Article IV and in Section 6.05 of this Indenture.

*Section 4.06. Application of Administration Fund.* Amounts in the Administration Fund shall be withdrawn or maintained, as appropriate, by the Trustee and used, FIRST, in accordance with Section 4.03(d) hereof, to make up any deficiency in the Bond Fund on any Interest Payment Date, to the extent moneys then available in the General Account of the Revenue Fund are insufficient to make up such deficiency; SECOND, to pay to the Trustee when due the Ordinary Trustee's Fees and Expenses; THIRD, to pay to the Issuer when due the Issuer Fee; FOURTH, to pay the reasonable fees and expenses of a Rebate Analyst when due in connection with the computations relating to arbitrage rebate required under this Indenture and the Financing Agreement, upon receipt of an invoice from the Rebate Analyst; FIFTH, to deposit to any Custodial Escrow Account any deficiency in the amount held therein as certified in writing by the Servicer (or subsequent holder of the account) to the Trustee; SIXTH, to pay to the Remarketing Agent any unpaid portion of the Remarketing Agent Fee owed to it; SEVENTH, to pay to the Trustee any Extraordinary Trustee's Fees and Expenses due and payable from time to time, as set forth in an invoice submitted to the Issuer and Freddie Mac; EIGHTH, to pay to the Issuer any extraordinary expenses it may incur in connection with the Bonds or this Indenture from time to time, as set forth in an invoice submitted to the Trustee and Freddie Mac; NINTH, to pay to the Credit Facility Provider any unpaid portion of the amounts due under the Reimbursement Agreement, as certified in writing by the Credit Facility Provider to the Trustee; TENTH, to pay to the Servicer any unpaid portion of the Ordinary Servicing Fees and Expenses and any Extraordinary Servicing Fees and Expenses due and owing from time to time, as set forth in an invoice submitted to the Trustee and Freddie Mac; ELEVENTH, to make up any deficiency in the Redemption Fund on any specified redemption date of Bonds, to the extent moneys then available in accordance with Section 4.03(d) hereof in the Redemption Fund are insufficient to redeem Bonds called for redemption on such specified redemption date; TWELFTH, to pay to the Rating Agency when due the annual rating maintenance fee, if any; and THIRTEENTH, to transfer any remaining balance after application as aforesaid to the General Account of the Revenue Fund.

In the event that the amounts on deposit in the Administration Fund are not equal to the amounts payable from the Administration Fund as provided in the preceding paragraph on any date on which such amounts are due and payable, the Trustee shall give notice to the Borrower of such deficiency and of the amount of such deficiency and request payment within two (2) Business Days to the Trustee of the amount of such deficiency. Upon payment by the Borrower

of such deficiency, the amounts for which such deficiency was requested shall be paid by the Trustee.

On or before each Interest Payment Date, the income realized from the investment of money in the Administration Fund not needed to pay the foregoing amounts shall be credited by the Trustee to the General Account of the Revenue Fund.

No amount shall be charged against the Administration Fund except as expressly provided in this Article IV and Section 6.05 of this Indenture.

*Section 4.07. Principal Reserve Fund.* (a) There shall be deposited into the Principal Reserve Fund the Principal Reserve Schedule Payments. Any interest earned on or profits realized from amounts on deposit in the Principal Reserve Fund shall be deposited into the Principal Reserve Fund, and, *provided* that the Trustee has not received notice from the Servicer of a deficiency in the Principal Reserve Fund, the Hedge Fee Escrow or other Custodial Escrow Account, and there is no deficiency in the Administration Fund or the Rebate Fund, and the Trustee has not received notice that a default exists under any of the Bond Mortgage Loan Documents, shall be paid to the Borrower on the Interest Payment Date next succeeding receipt of such interest or profits by the Trustee. In addition, there shall be deposited into the Principal Reserve Fund remarketing proceeds relating to Purchased Bonds, which shall be used to reimburse the Credit Facility Provider in an amount equal to the amount of any Liquidity Advance paid to the Trustee to purchase Bonds on any Settlement Date.

(b) At the direction of the Credit Facility Provider, amounts on deposit in the Principal Reserve Fund shall be used by the Trustee to pay any amounts required to be paid by the Borrower under any Bond Mortgage Loan Document, to pay any amounts owed to the Credit Facility Provider in connection with any loan purchased by the Credit Facility Provider and secured by the Project, or to pay any other amount agreed to in writing by the Borrower and the Credit Facility Provider; *provided*, that the amounts on deposit in the Principal Reserve Fund shall, upon the occurrence of an event of default under any Bond Mortgage Loan Document, be used in any manner and for any purpose specified by the Credit Facility Provider.

(c) At the request of the Borrower, the Credit Facility Provider, in its sole and absolute discretion, may (i) consent to the release of all or a portion of the amounts on deposit in the Principal Reserve Fund to the Borrower (in which case the Trustee shall release such amounts to the Borrower; *provided*, that if, in the judgment of the Rebate Analyst, the amount on deposit in the Rebate Fund at such time is less than the amount required under Section 4.12 hereof to be rebated to the United States Treasury, then prior to any such release to the Borrower, any amounts on deposit in the Principal Reserve Fund (up to the amount of such deficiency) shall be transferred to the Rebate Fund), and/or (ii) reduce or no longer require deposits to the Principal Reserve Fund.

(d) On each Reset Adjustment Date, on each Variable Rate Adjustment Date and on the Fixed Rate Adjustment Date, amounts on deposit in the Principal Reserve Fund shall be used to reimburse the Credit Facility Provider in an amount equal to any Guaranteed Payment made by

the Credit Facility Provider to the Trustee under the Credit Facility to redeem Bonds in Authorized Denominations pursuant to Section 3.01(b)(iv) of this Indenture.

(e) On the first day of the month in which an Interest Payment Date falls during a Reset Period or a Fixed Rate Period, amounts on deposit in the Principal Reserve Fund shall be used to reimburse the Credit Facility Provider in an amount equal to any Guaranteed Payment made by the Credit Facility Provider to the Trustee under the Credit Facility to redeem Bonds in Authorized Denominations pursuant to Section 3.01(b)(v) of this Indenture.

(f) On any Interest Payment Date, to the extent of any deficiency in the Bond Fund, to the extent money then available in accordance with Section 4.03(d) hereof in the General Account of the Revenue Fund, the Administration Fund and the Redemption Fund are insufficient to make up such deficiency, at the direction of the Credit Facility Provider, amounts on deposit in the Principal Reserve Fund shall be transferred to the Bond Fund in the amount of such deficiency.

(g) [reserved]

(h) Any amounts remaining in the Principal Reserve Fund after payment in full of the principal of and interest on the Bonds shall be applied as provided in Section 4.11 of this Indenture.

*Section 4.08. Investment of Funds.* The money held by the Trustee shall constitute trust funds for the purposes of this Indenture. Any money attributable to each of the funds and accounts hereunder (except the Principal Reserve Fund as provided in this Section and the Bond Purchase Fund, the investment of which is provided for in Section 10.03 hereof) shall be invested by the Trustee, at the written direction of the Borrower, in Qualified Investments which mature on the earlier of (i) six months from the date of investment, and (ii) the date such money is needed; *provided*, that if the Trustee shall have entered into any investment agreement requiring investment of money in any fund or account hereunder in accordance with such investment agreement and if such investment agreement constitutes a Qualified Investment, such money shall be invested in accordance with such requirements; and *provided, further*, that amounts in the Credit Facility Account of the Revenue Fund shall be invested only in Government Obligations or in Qualified Investments of the type described in subparagraph (g) of the definition thereof which, in any case, shall mature or be subject to tender or redemption at par on or prior to the earlier of: (i) 30 days from the date of investment, or (ii) the date such money is required to be applied pursuant to the provisions of this Indenture. The Trustee may conclusively rely upon the Borrower's written instructions as to both the suitability and legality of the directed investments. In the absence of the written direction of the Borrower, the Trustee shall invest amounts on deposit in the funds and accounts established under this Indenture in investments described in subparagraph (e) of the definition of Qualified Investments. Such investments may be made through the investment or securities department of the Trustee or that of its affiliates or subsidiaries, and may charge its ordinary and customary fees for such trades, including cash sweep account fees. All such Qualified Investments purchased with money in any fund or account hereunder shall mature, or shall be subject to redemption or withdrawal without discount or penalty at the option of the Trustee, prior to the next succeeding Interest

Payment Date. The Trustee shall have no responsibility to monitor the ratings of Qualified Investments after the initial purchase of such Qualified Investments.

Amounts on deposit in the Principal Reserve Fund shall be invested and reinvested by the Trustee as provided in the Reimbursement Agreement.

Qualified Investments representing an investment of money attributable to any fund or account shall be deemed at all times to be a part of said fund or account, and, except as otherwise may be provided expressly in other Sections hereof, the interest thereon and any profit arising on the sale thereof shall be credited to the General Account of the Revenue Fund, and any loss resulting on the sale thereof shall be charged against General Account of the Revenue Fund. Such investments shall be sold at the best price reasonably obtainable whenever it shall be necessary so to do in order to provide money to make any transfer, withdrawal, payment or disbursement from said fund or account. In the case of any required transfer of money to another such fund or account, such investments may be transferred to that fund or account in lieu of the required money if permitted hereby as an investment of money in that fund or account.

The Issuer acknowledges that regulations of the Comptroller of the Currency grant the Issuer the right to receive brokerage confirmations of the security transactions as they occur. To the extent permitted by law, the Issuer specifically waives compliance with 12 C.F.R. 12, and hereby notifies the Trustee hereunder, that no brokerage confirmations need be sent relating to the security transactions as they occur.

The Trustee shall not be liable or responsible for any loss resulting from any investment made in accordance with this Indenture.

In computing for any purpose hereunder the amount in any fund or account on any date, obligations so purchased shall be valued at Fair Market Value.

*Section 4.09. Money Held for Particular Bonds; Funds Held in Trust.* The amounts held by the Trustee for the payment of the interest, principal or redemption price due on any date with respect to particular Bonds pending such payment, shall be set aside and held in trust by it for the Owners of the Bonds entitled thereto, and for the purposes hereof such interest, principal or redemption price, after the due date thereof, shall no longer be considered to be unpaid.

All money held by the Trustee, as such, at any time pursuant to the terms of this Indenture shall be and hereby are assigned, transferred and set over unto the Trustee in trust for the purposes and under the terms and conditions of this Indenture.

*Section 4.10. Accounting Records.* The Trustee shall maintain accurate books and records for all funds and accounts established under this Indenture.

*Section 4.11. Amounts Remaining in Funds.* After full payment of the Bonds (or provision for payment thereof having been made in accordance with Section 9.01 hereof) and full payment of the fees, charges and expenses of the Issuer and the Trustee and other amounts required to be paid hereunder or under any Bond Mortgage Loan Document, including, but not

limited to, the Credit Facility and the Reimbursement Agreement, any amounts remaining in any fund or account hereunder other than the Rebate Fund shall be paid to the Borrower; *provided however*, that if a default shall have occurred and remain uncured under any Bond Mortgage Loan Document of which the Trustee shall have received written notice from the Credit Facility Provider or the Servicer, then any such amounts remaining in any fund or account hereunder shall be paid to the Credit Facility Provider in accordance with the Reimbursement Agreement.

*Section 4.12. Rebate Fund; Compliance with Tax Certificate.* The Rebate Fund shall be established by the Trustee and held and applied as provided in this Section. On any date on which any amounts are required by applicable federal tax law to be rebated to the federal government, amounts shall be deposited into the Rebate Fund by the Borrower for such purpose. All money at any time deposited in the Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the rebate requirement (as set forth in the Tax Certificate) and as calculated by the Rebate Analyst, for payment to the United States Government, and neither the Issuer, the Borrower, the Credit Facility Provider nor the Bondholders shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section and by the Tax Certificate. The Trustee shall conclusively be deemed to have complied with such provisions if it follows the written instructions of the Issuer, Bond Counsel or the Rebate Analyst, including supplying all necessary information in the manner set forth in the Tax Certificate, and shall not be required to take any actions under the Tax Certificate in the absence of written instructions from the Issuer, Bond Counsel or the Rebate Analyst.

Within 55 days of the end of each fifth Bond Year, the Borrower shall cause the Rebate Analyst to calculate the amount of rebatable arbitrage, in accordance with Section 148(f)(2) of the Code and Section 1.148-3 of the Rebate Regulations [taking into account any exceptions with respect to the computation of the rebatable arbitrage, described, if applicable, in the Tax Certificate (*e.g.*, the temporary investments exceptions of Section 148(f)(4)(b) and (c) of the Code)], for this purpose treating the last day of the applicable Bond Year as a (computation) date, within the meaning of Section 1.148-1(b) of the Rebate Regulations (the “*Rebatable Arbitrage*”).

Within 55 days of the end of each fifth Bond Year, upon the written direction of the Issuer, Bond Counsel or the Rebate Analyst, an amount shall be deposited to the Rebate Fund by the Trustee from amounts provided by the Borrower, if and to the extent required so that the balance in the Rebate Fund shall equal the amount of Rebatable Arbitrage so calculated in accordance with the preceding paragraph.

The Trustee shall pay, as directed by the Issuer, Bond Counsel or the Rebate Analyst, to the United States Treasury, out of amounts in the Rebate Fund:

- (i) Not later than 60 days after the end of (a) the fifth Bond Year, and (b) each applicable fifth Bond Year thereafter, an amount equal to at least 90% of the Rebatable Arbitrage calculated as of the end of such Bond Year; and

(ii) Not later than 60 days after the payment of all the Bonds, an amount equal to 100% of the Rebatale Arbitrage calculated as of the end of such applicable Bond Year, and any income attributable to the Rebatale Arbitrage, computed in accordance with Section 148(f) of the Code.

Each payment required to be made under this Section shall be made to the Internal Revenue Service Center, Ogden, Utah 84201 (or such other address specified by the Internal Revenue Service), on or before the date on which such payment is due, and shall be accompanied by Internal Revenue Service Form 8038-T, which shall be prepared by the Rebate Analyst and provided to the Trustee.

Notwithstanding any provision of this Indenture to the contrary, the obligation to remit payment of the Rebatale Arbitrage to the United States of America and to comply with all other requirements of this Section 4.12, Sections 2.4 and 4.3 of the Financing Agreement and the requirements of the Tax Certificate shall survive the defeasance or payment in full of the Bonds.

Any funds remaining in the Rebate Fund after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Requirement, or provision made therefor satisfactory to the Trustee, shall be withdrawn and remitted to the Borrower.

The Trustee shall obtain and keep such records of the computations made pursuant to this Section 4.12 as are required under Section 148(f) of the Code to the extent furnished to the Trustee. The Borrower shall or shall cause the Rebate Analyst to provide to the Issuer and the Trustee copies of all rebate computations made pursuant to this Section 4.12. The Trustee shall keep and make available to the Borrower such records concerning the investments of the gross proceeds of the Bonds and the investments of earnings from those investments made by the Trustee as may be requested by the Borrower in order to enable the Borrower to cause the Rebate Analyst to make the aforesaid computations as are required under Section 148(f) of the Code.

Notwithstanding the foregoing, the computations and payments of Rebatale Arbitrage need not be made to the extent that neither the Issuer nor the Borrower will thereby fail to comply with any requirements of Section 148(f) of the Code based on an opinion of Bond Counsel, to the effect that such failure does not adversely affect the exclusion of the interest on the Bonds from gross income for federal income tax purposes, a copy of which shall be provided to the Trustee, at the expense of the Borrower.

*Section 4.13. Cost of Issuance Fund.* The Trustee shall use moneys on deposit to the credit of the Cost of Issuance Fund to pay the costs of issuance on the Delivery Date or as soon as practicable thereafter, upon delivery to the Trustee of appropriate invoices for such expenses and a requisition in the form attached as *Exhibit D*. Amounts remaining on deposit in the Cost of Issuance Fund six (6) months after the Delivery Date shall be transferred to the Borrower. Upon such final disbursement, the Trustee shall close the Cost of Issuance Fund.

*Section 4.14. Reports from the Trustee.* The Trustee shall, on or before the fifteenth (15th) day of each month, file with the Multifamily Loan Servicing Department of the Credit

Facility Provider and the Issuer (at its written request) a statement setting forth in respect of the preceding calendar month:

- (i) the amount withdrawn or transferred by it and the amount deposited within or on account of each fund and account held by it under the provisions of this Indenture, including the amount of investment income on each fund and account;
- (ii) the amount on deposit with it at the end of such month to the credit of each fund and account;
- (iii) a brief description of all obligations held by it as an investment of money in each such fund and account; and
- (iv) any other information which the Credit Facility Provider or the Issuer may reasonably request and to which the Trustee has access in the ordinary course of its operations.

Upon the written request of any Bondholder, the Trustee, at the cost of the Borrower, shall provide a copy of such statement to such Bondholder. All records and files pertaining to the Trust Estate shall be open at all reasonable times to the inspection of the Issuer and the Credit Facility Provider and their agents and representatives upon reasonable prior notice during normal business hours.

*Section 4.15. Payments under Bond Mortgage Loan.* The Trustee and the Issuer hereby expressly acknowledge that references in this Indenture to payments or prepayments of the Bond Mortgage Loan shall, for all purposes of this Indenture, refer solely to such portion of such payments or prepayments actually paid by the Credit Facility Provider to the Trustee as Guaranteed Payments pursuant to the Credit Facility for which the Owner has correspondingly reimbursed the Credit Facility Provider in an amount equal to the Guaranteed Payments. Without in any way limiting the foregoing, the Trustee and the Issuer hereby acknowledge that, pursuant to the Guide, the Servicer will pay the Freddie Mac Credit Enhancement Fee, the Freddie Mac Reimbursement Amount and the Ordinary Servicing Fees and Expenses from payments under the Bond Mortgage Loan made by the Borrower prior to remitting the balance of such payments or prepayments to the Trustee for application as provided in this Indenture.

*Section 4.16. Drawings under Credit Facility.* The Credit Facility shall be held by the Trustee and drawn upon in accordance with its terms and the provisions of this Indenture. Money derived from draws upon the Credit Facility shall be deposited in the Credit Facility Account of the Revenue Fund and applied by the Trustee to pay the principal of and interest on the Bonds, and, in the event of a purchase of the Bonds, to pay, to the extent provided in the Credit Facility, the Purchase Price of the Bonds in accordance with this Indenture.

The Trustee shall draw money under the Credit Facility in accordance with the terms thereof when needed and in amounts sufficient to make timely payments of the principal of and interest, but not premium, on the Bonds when due and payable (*i.e.*, on any Interest Payment Date, any Settlement Date, any redemption date or the Maturity Date). The Trustee shall not,

however, be permitted to draw on the Credit Facility to pay the principal of and interest on Purchased Bonds.

While the Bonds are bearing interest at the Variable Rate, should any Variable Interest Computation Date fall between the date of the draw on the Credit Facility and the next Interest Payment Date on the Bonds, the Trustee shall assume that the Bonds will bear interest at the Maximum Rate from such Variable Interest Computation Date to the next Interest Payment Date, and shall draw on the Credit Facility accordingly. In the event that the Maximum Rate exceeds the actual interest rate during such period, the excess interest shall be immediately returned to the Credit Facility Provider.

Should the Credit Facility Provider become the owner of the Project by foreclosure or otherwise, the Trustee shall nevertheless continue to make payments on the Bonds only from draws on the Credit Facility or from other Eligible Funds.

The Trustee shall send to the Borrower a copy of any documents which are presented to the Credit Facility Provider in connection with a drawing on the Credit Facility concurrently with its submission of those documents to the Credit Facility Provider, if requested to do so by the Borrower. The Borrower shall be permitted to provide the Trustee with an Alternate Credit Facility in accordance with this Indenture and the Financing Agreement.

*Section 4.17. Notices under Credit Enhancement Agreement.* The Trustee hereby agrees to provide to the Credit Facility Provider all such notices, including any notice of failure to receive a payment, as shall be required under the Credit Facility in the manner and within the periods of time provided therein and the Trustee, and the Issuer each hereby acknowledges that certain notices constitute a condition precedent to payment by the Credit Facility Provider under the Credit Facility.

## ARTICLE V

### GENERAL COVENANTS AND REPRESENTATIONS

*Section 5.01. Payment of Principal and Interest.* The Issuer covenants that it will promptly pay or cause to be paid, but only from the sources identified herein, sufficient amounts to provide for the payment of the principal of, premium, if any, the Purchase Price of and interest on the Bonds at the place, on the dates and in the manner provided herein and in the Bonds, according to the true intent and meaning thereof.

*Section 5.02. Performance of Covenants.* The Issuer covenants that it will faithfully perform at all times any and all of its covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond executed, authenticated and delivered hereunder and in all proceedings pertaining thereto.

*Section 5.03. Instruments of Further Assurance.* The Issuer covenants that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such indentures supplemental hereto, and such further acts, instruments and transfers as may be

reasonably required for the better assuring, transferring, conveying, pledging, assigning and confirming unto the Trustee all and singular its interest in the property herein described and the revenues, receipts and other amounts pledged hereby to the payment of the principal of, premium, if any, and interest on the Bonds. Any and all interest in property hereafter acquired which is of any kind or nature herein provided to be and become subject to the lien hereof shall and without any further conveyance, assignment or act on the part of the Issuer or the Trustee, become and be subject to the lien of this Indenture as fully and completely as though specifically described herein, but nothing in this sentence contained shall be deemed to modify or change the obligations of the Issuer under this Section of this Indenture. The Issuer covenants and agrees that, except as herein otherwise expressly provided, it has not and will not sell, convey, mortgage, encumber or otherwise dispose of any part of its interest in the Trust Estate or the revenues or receipts therefrom.

The Issuer will promptly notify the Trustee and, so long as Freddie Mac is the Credit Facility Provider, the Servicer in writing of the occurrence of any of the following:

- (A) the submission of any claim or the initiation of any legal process, litigation or administrative or judicial investigation against the Issuer with respect to the Bonds;
- (B) any change in the location of the Issuer's principal office or any change in the location of the Issuer's books and records relating to the transactions contemplated hereby;
- (C) the occurrence of any default or Event of Default of which the Issuer has actual knowledge;
- (D) the commencement of any proceedings or any proceedings instituted by or against the Issuer in any federal, state or local court or before any governmental body or agency, or before any arbitration board, relating to the Bonds; or
- (E) the commencement of any proceedings by or against the Issuer under any applicable bankruptcy, reorganization, liquidation, rehabilitation, insolvency or other similar law now or hereafter in effect or of any proceeding in which a receiver, liquidator, conservator, trustee or similar official shall have been, or may be, appointed or requested for the Issuer or any of its assets relating to the Bonds.

*Section 5.04. Inspection of Project Books.* The Issuer covenants and agrees that all books and documents in its possession relating to the Project shall, upon reasonable prior notice, during normal business hours, be open to inspection and copying by such accountants or other agents as the Trustee or the Credit Facility Provider may from time to time reasonably designate.

*Section 5.05. No Modification of Security; Additional Indebtedness.* The Issuer covenants that it will not, without the written consent of the Trustee and the Credit Facility Provider, alter, modify or cancel, or agree to consent to alter, modify or cancel any agreement to which the Issuer is a party, or which has been assigned to the Issuer, and which relates to or affects the security for the Bonds or the payment of any amount owed to the Credit Facility

Provider. The Issuer further covenants not to create or suffer to be created any lien upon the Trust Estate or any part thereof, other than the lien created hereby and by the Bond Mortgage and the Reimbursement Mortgage without the prior written consent of the Credit Facility Provider.

*Section 5.06. Damage, Destruction or Condemnation.* Net Proceeds resulting from casualty to or condemnation of the Project shall be applied as provided in the Bond Mortgage Loan Documents and, to the extent consistent therewith, Section 3.01(b)(i) of this Indenture.

*Section 5.07. Tax Covenant.*

(a) *Issuer's Covenants.* The Issuer covenants to and for the benefit of the Owners of the Bonds that:

(i) to the extent it has control over the proceeds of the Bonds, and solely in reliance on the Borrower, it will neither make or use nor cause to be made or used any investment or other use of the proceeds of the Bonds or the money and investments held in the funds and accounts in any manner which would cause the Bonds to be arbitrage bonds under Section 148 of the Code and the Regulations issued under Section 148 of the Code (the “*Regulations*”) or which would otherwise cause the interest payable on the Bonds to be includible in gross income for federal income tax purposes;

(ii) it will not knowingly take or omit to take any other action or actions over which it exercises control, which action or omissions would cause the interest payable on the Bonds to be includible in gross income for federal income tax purposes;

(iv) to the extent it has control over the proceeds of the Bonds, and solely in reliance on the Borrower, it will at all times do and perform all acts and things permitted by law and necessary or desirable in order to assure that the interest paid by the Issuer on the Bonds will be excluded from the gross income for federal income tax purposes, of the Bondholders pursuant to Section 103 of the Code, except in the event where any such owner of Bonds is a “substantial user” of the facilities financed with the Bonds or a “related person” within the meaning of the Code; and

(v) it will not knowingly take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code and the Regulations.

In furtherance of the covenants in this Section, the Issuer and the Borrower shall execute, deliver and comply with the provisions of the Tax Certificate, which is by this reference incorporated into this Indenture and made a part of this Indenture as if set forth in this Indenture in full, and by its acceptance of this Indenture the Trustee acknowledges receipt of the Tax Certificate, and acknowledges its incorporation into this Indenture by this reference, and agrees to comply with the terms specifically applicable to it.

(b) *Trustee's Covenants.* The Trustee hereby agrees that it will invest funds held under this Indenture in accordance with the terms of this Indenture and the Tax Certificate (this

covenant shall extend throughout the term of the Bonds, to all funds and accounts created under this Indenture and all money on deposit to the credit of any fund or account). The Trustee covenants to and for the benefit of the Bondholders that, notwithstanding any other provisions of this Indenture or of any other Bond Financing Document, it will not make or cause to be made any investment or other use of the money in the funds or accounts which would cause the Bonds to be classified as “arbitrage bonds” within the meaning of Sections 103(b) and 148 of the Code or would cause the interest on the Bonds to be includible in gross income for federal income tax purposes; *provided*, that the Trustee shall be deemed to have complied with these requirements, and shall have no liability to the extent it follows the written directions of the Borrower, the Issuer or the Rebate Analyst. The Trustee further covenants that should the Issuer or the Borrower file with the Trustee (it being understood that neither the Issuer nor the Borrower has an obligation to so file), or should the Trustee receive, an Opinion of Bond Counsel to the effect that any proposed investment or other use of proceeds of the Bonds would cause the Bonds to become “arbitrage bonds,” then the Trustee will comply with any written instructions of the Issuer, the Borrower or Bond Counsel regarding such investment or use so as to prevent the Bonds from becoming “arbitrage bonds,” and the Trustee will bear no liability to the Issuer, the Borrower, the Owners of the Bonds or the Credit Facility Provider for investments made in accordance with such instructions.

*Section 5.08. Representations of the Issuer.* The Issuer hereby represents as follows:

- (a) The Issuer is a political subdivision duly organized and validly existing under the Constitution and the laws of the State.
- (b) The Issuer has all necessary power and authority to issue the Bonds and to execute and deliver this Indenture, the Financing Agreement and the other Bond Financing Documents to which it is a party, and to perform its duties and discharge its obligations hereunder and thereunder.
- (c) The Revenues pledged for the repayment of the Bonds are and will be free and clear of any pledge, lien or encumbrance prior to, or equal with, the pledge created by this Indenture, and all action on the part of the Issuer to that end has been duly and validly taken.
- (d) The Bond Financing Documents to which the Issuer is a party have been duly authorized, executed and delivered by the Issuer, and assuming due authorization, execution and delivery by the other parties thereto, constitute valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium or other laws affecting creditors’ rights generally and the application of equitable principles.

For the purposes of making all of the representations and warranties made in this Section 5.08, the Issuer has relied, and hereby is relying, upon the opinion of Bond Counsel, dated the Delivery Date, as to the qualification of the Project under the Act.

## ARTICLE VI

### DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND BONDHOLDERS

*Section 6.01. Events of Default.* Each of the following shall be an event of default with respect to the Bonds (an “*Event of Default*”) under this Indenture:

(a) failure to pay the principal or Purchase Price of, premium, if any, or interest on any Bond (other than Purchased Bonds) when due, whether on an Interest Payment Date, at the stated maturity thereof, by proceedings for redemption thereof, by acceleration or otherwise; or

(b) failure by the Credit Facility Provider to make when due a required payment under the Credit Facility; or

(c) failure to observe or perform any of the covenants, agreements or conditions on the part of the Issuer (other than those set forth in Section 5.01 hereof) set forth in this Indenture or in the Bonds and the continuance thereof for a period of thirty (30) days (or such longer period, if any, as is specified herein for particular defaults) after written notice thereof (which notice shall be effective only with the written consent of the Credit Facility Provider if no Event of Default has occurred and is then continuing under Section 6.01(b) hereof) to the Issuer from the Trustee or the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding at such time, specifying such default and requiring the same to be remedied; *provided*, that if such default cannot be cured within such thirty (30) day period through the exercise of diligence and the Issuer commences the required cure within such thirty (30) day period and continues the cure with diligence and the Issuer reasonably anticipates that the default could be cured within sixty (60) days, the Issuer shall have sixty (60) days following receipt of such notice to effect the cure.

The Trustee and the Issuer agree that, notwithstanding the provisions hereof, no default under the terms of this Indenture shall be construed as resulting in a default under the Bond Mortgage Note, the Bond Mortgage or any other Bond Mortgage Loan Document, unless such event also constitutes an event of default thereunder.

The Trustee will immediately notify the Issuer, the Remarketing Agent, the Servicer and the Credit Facility Provider after a Responsible Officer obtains actual knowledge of the occurrence of an Event of Default or obtains actual knowledge of the occurrence of an event which would become an Event of Default with the passage of time or the giving of notice or both.

*Section 6.02. Acceleration; Other Remedies upon Event of Default.* (a) Upon the occurrence of an Event of Default as provided in Section 6.01(a) hereof, the Trustee shall, but so long as no Event of Default has occurred and is then continuing under Section 6.01(b) hereof, only upon receipt from the Credit Facility Provider of a notice directing such acceleration (which notice may be given in the sole discretion of the Credit Facility Provider), by notice in writing

delivered to the Issuer, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable, and interest on the Bonds shall cease to accrue, anything contained in this Indenture or in the Bonds to the contrary notwithstanding.

(b) Upon the occurrence of an Event of Default as provided in Section 6.01(c) hereof, the Trustee may, but so long as no Event of Default has occurred and is then continuing under Section 6.01(b) hereof, only upon receipt of the written consent of the Credit Facility Provider (which consent may be given in the sole discretion of the Credit Facility Provider), by notice in writing delivered to the Issuer, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable and interest on the Bonds shall cease to accrue, anything contained in this Indenture or in the Bonds to the contrary notwithstanding.

(c) Upon the occurrence of an Event of Default under Section 6.01(b) hereof, the Trustee may, and upon the written request of the Owners of more than 51% of the aggregate principal amount of the Bonds then Outstanding and receipt of indemnity satisfactory to it shall, by notice in writing delivered to the Issuer, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable and interest on the Bonds shall cease to accrue upon such declaration, anything contained in this Indenture or in the Bonds to the contrary notwithstanding.

The payment on the Bonds resulting from a declaration of acceleration on the Bonds as the result of an Event of Default occurring under Section 6.01(a) or (c) hereof shall be made from the Credit Facility.

If at any time after the Bonds shall have been so declared due and payable, and before any judgment or decree for the payment of the money due shall have been obtained or entered, the Issuer, the Borrower or the Credit Facility Provider, as applicable, shall pay to or deposit with the Trustee a sum sufficient to pay all principal of the Bonds then due (other than solely by reason of such declaration) and all unpaid installments of interest (if any) upon all the Bonds then due, with interest at the rate borne by the Bonds on such overdue principal and (to the extent legally enforceable) on such overdue installments of interest, and the reasonable fees and expenses of the Trustee shall have been made good or cured or adequate provision shall have been made therefor, and all outstanding amounts then due and unpaid under the Reimbursement Agreement (including with respect to Freddie Mac all outstanding Freddie Mac Reimbursement Amounts and all Freddie Mac Credit Enhancement Fees) shall have been paid in full, and all other defaults hereunder shall have been made good or cured or waived in writing by the Credit Facility Provider (or, if an Event of Default under Section 6.01(b) hereof has occurred and is then continuing, by the Owners of more than 51% of the aggregate principal amount of the Bonds then Outstanding), then and in every case, the Trustee on behalf of the Owners of all the Outstanding Bonds shall rescind and annul such declaration and its consequences; but no such rescission and annulment shall extend to or shall affect any subsequent default, nor shall it impair or exhaust any right or power consequent thereon.

Upon the occurrence and during the continuance of an Event of Default, the Trustee in its own name and as trustee of an express trust, on behalf and for the benefit and protection of the Owners of all Bonds with respect to which such an Event of Default has occurred and of the Credit Facility Provider (if no Event of Default has occurred and is continuing under Section 6.01(b) hereof), may also proceed to protect and enforce any rights of the Trustee and, to the full extent that the Owners of such Bonds themselves might do, the rights of such Bondholders under the laws of the State or under this Indenture by such of the following remedies as the Trustee shall deem most effectual to protect and enforce such rights; *provided*, that, so long as no Event of Default has occurred and is then continuing under Section 6.01(b) hereof, the Trustee may undertake any such remedy only upon the receipt of the prior written consent of the Credit Facility Provider (which consent may be given in the sole discretion of the Credit Facility Provider):

(i) by mandamus or other suit, action or proceeding at law or in equity, to enforce the payment of the principal of, premium, if any, or interest on the Bonds then Outstanding and to require the Issuer or the Credit Facility Provider to carry out any covenants or agreements with or for the benefit of the Bondholders and to perform its duties under the Act, the Bond Resolution, the Financing Agreement, the Tax Regulatory Agreement or the Credit Facility (as applicable) to the extent permitted under the applicable provisions thereof;

(ii) by pursuing any available remedies under the Financing Agreement, the Tax Regulatory Agreement or the Credit Facility;

(iii) by realizing or causing to be realized through sale or otherwise upon the security pledged hereunder; and

(iv) by action or suit in equity enjoin any acts or things that may be unlawful or in violation of the rights of the Owners of the Bonds and execute any other papers and documents and do and perform any and all such acts and things as may be necessary or advisable in the opinion of the Trustee in order to have the respective claims of the Bondholders against the Issuer allowed in any bankruptcy or other proceeding.

No remedy by the terms of this Indenture conferred upon or reserved to the Trustee or to the Bondholders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee, the Credit Facility Provider or the Bondholders hereunder or under the Financing Agreement, the Tax Regulatory Agreement, the Credit Facility or the Reimbursement Agreement, as applicable, or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient. No waiver of any Event of Default hereunder, whether by the Trustee, the Credit Facility Provider or the Bondholders, shall extend to or shall affect any subsequent default or event of default or shall impair any rights or remedies consequent thereto.

In all events the rights of the Trustee to exercise remedies under this Indenture upon the occurrence of an Event of Default shall be subject to the provisions of the Intercreditor Agreement.

*Section 6.03. Rights of Bondholders.* If an Event of Default under Section 6.01(b) hereof shall have occurred and is then continuing, and if requested in writing so to do by the Owners of more than 51% of the aggregate principal amount of the Bonds then Outstanding with respect to which there is a default, and if indemnified to its satisfaction, the Trustee shall exercise one or more of the rights and powers conferred by this Article as the Trustee, being advised by counsel, shall deem to be in the best interests of the affected Bondholders. If an Event of Default under Section 6.01(b) hereof shall have occurred and is then continuing, the Owners of more than 51% of the aggregate principal amount of the Bonds then Outstanding with respect to which an Event of Default has occurred shall have the right at any time, subject to the provisions of Section 6.08 hereof, by an instrument in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder, in accordance with the provisions of law and of this Indenture.

*Section 6.04. Waiver by Issuer.* Upon the occurrence of an Event of Default, to the extent that such right may then lawfully be waived, neither the Issuer nor anyone claiming through or under it shall set up, claim or seek to take advantage of any appraisal, valuation, stay, extension or redemption laws now or hereinafter in force, in order to prevent or hinder the enforcement of this Indenture; and the Issuer, for itself and all who may claim through or under it, hereby waives, to the extent that it lawfully may do so, the benefit of all such laws and all right of appraisal and redemption to which it may be entitled under the laws of the State and the United States of America.

*Section 6.05. Application of Moneys after Default.* All money collected by the Trustee at any time pursuant to this Article shall, except to the extent, if any, otherwise directed by a court of competent jurisdiction, be credited by the Trustee to the General Account of the Revenue Fund. Such money so credited to the General Account of the Revenue Fund and all other money from time to time credited to the General Account of the Revenue Fund shall at all times be held, transferred, withdrawn and applied as prescribed by the provisions of Article IV hereof and this Section 6.05.

In the event that at any time the money credited to the Revenue Fund, the Bond Fund, the Redemption Fund, the Administration Fund and the Principal Reserve Fund available for the payment of interest or principal then due with respect to the Bonds shall be insufficient for such payment, such money (other than money held for the payment or redemption of particular Bonds as provided in Section 4.09 hereof) and amounts drawn from the Credit Facility under Section 6.02 hereof shall be applied as follows and in the following order of priority:

- (a) For payment of all amounts due to the Trustee incurred in the performance of its duties under this Indenture, including, without limitation, the payment of all reasonable fees and expenses of the Trustee incurred in exercising any remedies under this Indenture.

(b) So long as no Event of Default has occurred and is then continuing under Section 6.01(b) hereof, for the payment to the Credit Facility Provider of all amounts then due and unpaid under the Reimbursement Agreement (including with respect to Freddie Mac all Freddie Mac Credit Enhancement Fees and Freddie Mac Reimbursement Amounts).

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

FIRST: to the payment to the Persons entitled thereto of all installments of interest then due on the Bonds (other than Purchased Bonds) in the order of the maturity of such installments, and, if the amount available is not sufficient to pay in full any installment, then to the payment thereof ratably, according to the amounts due on such installment, to the Persons entitled thereto, without any discrimination or preference;

SECOND: to the payment to the Persons entitled thereto of the unpaid principal of and premium, if any (which payment of premium shall not be restricted to Eligible Funds), on any Bonds (other than Purchased Bonds) which shall have become due, whether at maturity or by call for redemption, in the order in which they became due and payable, and, if the amount available is not sufficient to pay in full all the principal of and premium, if any, on the Bonds (other than Purchased Bonds) so due on any date, then to the payment of principal ratably, according to the amounts due on such date, to the Persons entitled thereto, without any discrimination or preference, and then to the payment of any premium due on the Bonds (other than Purchased Bonds), ratably, according to the amounts due on such date, to the Persons entitled thereto, without any discrimination or preference; and

THIRD: to the payment of the interest on, principal of and premium, if any, on the Purchased Bonds (in the order of priority listed).

(d) If the principal of all of the Bonds shall have become or have been declared due and payable, FIRST, to the payment of the principal of, premium, if any (which payment of premium shall not be restricted to Eligible Funds), and interest then due and unpaid upon the Bonds (other than Purchased Bonds) without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due, respectively, for principal, premium and interest, to the Persons entitled thereto without any discrimination or preference except as to any differences in the respective rates of interest specified in the Bonds, and, SECOND, to the payment of the principal of, premium, if any, and interest then due and unpaid on the Purchased Bonds.

(e) If an Event of Default has occurred and is then continuing under Section 6.01(b) hereof, for the payment to the Credit Facility Provider of all amounts then

due and unpaid under the Reimbursement Agreement to the date of such Event of Default.

*Section 6.06. Rights of the Credit Facility Provider.* If an Event of Default under Section 6.01(a) or (c) hereof shall have occurred and so long as no Event of Default has occurred and is then continuing under Section 6.01(b) hereof, upon receipt of the written direction of the Credit Facility Provider (which direction may be given in the sole discretion of the Credit Facility Provider), the Trustee shall be obligated to exercise any right or power conferred by this Article in the manner set forth in such written direction of the Credit Facility Provider. If such written direction expressly states that the Trustee may exercise one or more of the rights and powers conferred in this Article as the Trustee shall deem to be in the interest of the Bondholders and the Credit Facility Provider, the Trustee shall exercise one or more of such rights and powers as the Trustee, being advised by counsel, shall deem to be in the best interests of the Bondholders and the Credit Facility Provider; *provided, however*, that in any event, so long as no Event of Default has occurred and is then continuing under Section 6.01(b) hereof, the Trustee may not undertake any action to realize, through sale or otherwise, upon the Bond Mortgage Loan without the express written direction of the Credit Facility Provider. So long as no Event of Default has occurred and is then continuing under Section 6.01(b) hereof, in the case of an Event of Default under Section 6.01(a) or (c) hereof, the Credit Facility Provider shall have the right, by an instrument in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder, in accordance with the provisions of law and of this Indenture.

*Section 6.07. Remedies Vested in Trustee.* All rights of action, including the right to file proof of claims, under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any Owners of the Bonds, and any recovery or judgment shall be for the mutual benefit as provided herein of all of the Owners of the Outstanding Bonds.

*Section 6.08. Remedies of Bondholders.* No Owner of any Bond shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereunder or for the appointment of a receiver or any other remedy hereunder, unless (a) a default shall have occurred of which the Trustee shall have been notified as provided herein; (b) such default shall have become an Event of Default under Section 6.01(b) hereof; (c) the Owners of more than 51% of the aggregate principal amount of the Bonds then Outstanding with respect to which there is such an Event of Default shall have made written request to the Trustee and shall have offered reasonable opportunity to the Trustee either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (d) such Owners shall have offered to the Trustee indemnity as provided in this Indenture; and (e) the Trustee shall within sixty (60) days thereafter fail or refuse to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding; it being understood and intended that no one or more Owners of the Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture or the rights of

any other Owners of Bonds or to obtain priority or preference over any other Owners or to enforce any right under this Indenture, except in the manner herein provided with respect to the equal and ratable benefit of all Owners of Bonds with respect to which there is a default. Nothing contained in this Indenture shall, however, affect or impair the right of any Bondholder to enforce the payment of the principal of, the premium, if any, and interest on any Bond at the maturity thereof or the obligation of the Issuer to pay the principal of, premium, if any, and interest on the Bonds issued hereunder to the respective Owners thereof, at the time, in the place, from the sources and in the manner expressed herein and in said Bonds.

*Section 6.09. Termination of Proceedings.* In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver, by entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Issuer, the Trustee, the Credit Facility Provider, the Borrower and the Bondholders shall be restored to their former positions and rights hereunder with respect to the Trust Estate herein conveyed, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

*Section 6.10. Waivers of Events of Default.* So long as no Event of Default has occurred and is then continuing under Section 6.01(b) hereof, the Trustee shall waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of, premium, if any, and interest on the Bonds only upon the written direction of the Credit Facility Provider. If there shall have occurred and is then continuing an Event of Default under Section 6.01(b) hereof, the Trustee shall waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of, premium, if any, and interest on the Bonds upon the written request of the Owners of 100% of the Bonds then Outstanding with respect to which there is a default; *provided, however,* that there shall not be waived (a) any Event of Default in the payment of the principal of any Bonds (other than Purchased Bonds) at the date of maturity specified therein, or upon proceedings for mandatory redemption or in the Purchase Price of any Bonds (other than Purchased Bonds), (b) any default in the payment when due of the interest or premium on any such Bonds (other than Purchased Bonds), unless prior to such waiver or rescission all arrears of interest, with interest (to the extent permitted by law) at the rate borne by the Bonds in respect of which such default shall have occurred on overdue installments of interest or all arrears of payments of principal or premium, if any, when due (whether at the stated maturity thereof or upon proceedings for mandatory redemption) as the case may be, and all expenses of the Trustee in connection with such default shall have been paid or provided for, and in case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the Issuer, the Trustee, the Credit Facility Provider and the Bondholders shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereto.

*Section 6.11. Notice to Bondholders If Default Occurs.* Upon the occurrence of an Event of Default of which the Trustee is required to take notice pursuant to Section 7.02(1) hereof, the Trustee shall, within thirty (30) days, give written notice thereof by first class mail to the registered Owners of all Bonds then Outstanding. Notwithstanding the foregoing, except in the

case of an Event of Default with respect to the payment of principal of or premium, if any, and interest on the Bonds, the Trustee shall be protected in withholding such notice if and so long as the board of directors of the Trustee, the executive committee, or a trust committee of directors or officers of the Trustee in good faith determines that the withholding of such notice is in the best interests of the Owners of the Bonds.

## ARTICLE VII

### CONCERNING THE TRUSTEE

*Section 7.01. Standard of Care.* The Trustee, prior to an Event of Default as defined in Section 6.01 and after the curing or waiver of all such events which may have occurred, shall perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations should be read into this Indenture against the Trustee. The Trustee, during the existence of any such Event of Default (which shall not have been cured or waived), shall exercise such rights and powers vested in it by this Indenture and use the same degree of care and skill in their exercise as a prudent Person would exercise or use under similar circumstances in the conduct of such Person's own affairs.

No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligence or willful misconduct, except that:

(a) prior to an Event of Default hereunder, and after the curing or waiver of all such Events of Default which may have occurred:

(i) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture; and

(ii) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificate or opinion furnished to the Trustee by the Person or Persons authorized to furnish the same;

(b) at all times, regardless of whether or not any such Event of Default shall exist:

(i) the Trustee shall not be liable for any error of judgment made in good faith by an officer or employee of the Trustee; and

(ii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Credit Facility Provider or the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding (or such lesser or greater percentage as is specifically required or permitted by this Indenture) relating to

the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture.

*Section 7.02. Reliance Upon Documents.* Except as otherwise provided in Section 7.01 hereof:

(a) the Trustee may rely upon the authenticity or truth of the statements and the correctness of the opinions expressed in, and shall be protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, notarial seal, stamp, acknowledgment, verification, request, consent, order, bond, or other paper or document of the proper party or parties;

(b) any notice, request, direction, election, order or demand of the Issuer mentioned herein shall be sufficiently evidenced by an instrument signed in the name of the Issuer by an Authorized Officer of the Issuer (unless other evidence in respect thereof be herein specifically prescribed), and any resolution of the Issuer may be evidenced to the Trustee by a copy of such resolution duly certified by the County Clerk of the Issuer;

(c) any notice, request, certificate, statement, requisition, direction, election, order or demand of the Borrower mentioned herein shall be sufficiently evidenced by an instrument purporting to be signed in the name of the Borrower by any Authorized Officer of the Borrower (unless other evidence in respect thereof be herein specifically prescribed), and any resolution or certification of the Borrower may be evidenced to the Trustee by a copy of such resolution duly certified by an authorized representative of the Borrower;

(d) any notice, request, certificate, statement, requisition, direction, election, order or demand of the Servicer mentioned herein shall be sufficiently evidenced by an instrument signed in the name of the Servicer by an Authorized Officer of the Servicer (unless other evidence in respect thereof be herein specifically prescribed);

(e) any notice, request, direction, election, order or demand of the Credit Facility Provider mentioned herein shall be sufficiently evidenced by an instrument purporting to be signed in the name of the Credit Facility Provider by any Authorized Officer of the Credit Facility Provider (unless other evidence in respect thereof be herein specifically prescribed);

(f) any notice, request, direction, election, order or demand of the Remarketing Agent mentioned herein shall be sufficiently evidenced by an instrument purporting to be signed in the name of the Remarketing Agent by any Authorized Officer of the Remarketing Agent (unless other evidence in respect thereof be herein specifically prescribed);

(g) any notice, request, direction, election, order or demand of the Tender Agent mentioned herein shall be sufficiently evidenced by an instrument purporting to be

signed in the name of the Tender Agent by any Authorized Officer of the Tender Agent (unless other evidence in respect thereof be herein specifically prescribed);

(h) in the administration of the trusts of this Indenture, the Trustee may execute any of the trusts or powers hereby granted directly or through its agents, receivers or attorneys, and the Trustee may consult with counsel (who may be counsel for the Issuer, the Servicer or the Credit Facility Provider) and the opinion or advice of such counsel shall be full and complete authorization and protection in respect of any action taken or permitted by it hereunder in good faith and in accordance with the opinion of such counsel;

(i) whenever in the administration of the trusts of this Indenture, the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or permitting any action hereunder, such matters (unless other evidence in respect thereof be herein specifically prescribed), may in the absence of negligence or willful misconduct on the part of the Trustee, be deemed to be conclusively proved and established by a certificate of an officer or authorized agent of the Issuer or the Borrower and such certificate shall in the absence of bad faith on the part of the Trustee be full warrant to the Trustee for any action taken or permitted by it under the provisions of this Indenture, but in its discretion the Trustee may in lieu thereof accept other evidence of such matter or may require such further or additional evidence as it may deem reasonable;

(j) the recitals herein and in the Bonds (except the Trustee's Certificate of Authentication thereon) shall be taken as the statements of the Issuer and the Borrower, and shall not be considered as made by or imposing any obligation or liability upon the Trustee. The Trustee makes no representations as to the value or condition of the Trust Estate or any part thereof, or as to the title of the Issuer or the Borrower to the Trust Estate, or as to the security of this Indenture, or of the Bonds issued hereunder, and the Trustee shall incur no liability or responsibility in respect of any of such matters;

(k) the Trustee shall not be personally liable for debts contracted or liability for damages incurred in the management or operation of the Trust Estate; and every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this subsection (k);

(l) the Trustee shall not be required to ascertain or inquire as to the performance or observance of any of the covenants or agreements herein or in any contracts or securities assigned or conveyed to or pledged with the Trustee hereunder, except Events of Default that are evident under Section 6.01(a) or Section 6.01(b) of this Indenture. The Trustee shall not be required to take notice or be deemed to have notice or actual knowledge of any default or Event of Default specified in Section 6.01 hereof (except defaults under Section 6.01(a) or Section 6.01(b) hereof) unless a Responsible Officer of the Trustee shall receive from the Issuer, the Credit Facility Provider or the Owners of more than 51% of the aggregate principal amount of the Bonds then Outstanding written notice stating that a default or Event of Default has occurred and specifying the same, and in the absence of such notice the Trustee may conclusively

assume that there is not such default. Every provision contained in this Indenture or related instruments or in any such contract or security wherein the duty of the Trustee depends on the occurrence and continuance of such default shall be subject to the provisions of this subsection (l);

(m) the Trustee shall be under no duty to confirm or verify any financial or other statements or reports or certificates furnished pursuant to any provisions hereof, and shall be under no other duty in respect of the same, except to retain the same in its files and permit the inspection of the same at reasonable times by the Owner of any Bond;

(n) the Trustee shall be under no obligation to exercise those rights or powers vested in it by this Indenture, other than such rights and powers which it shall be obliged to exercise in the ordinary course of its trusteeship under the terms and provisions of this Indenture, at the request or direction of any of the Bondholders pursuant to Sections 6.03 and 6.08 of this Indenture, unless such Bondholders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in the compliance with such request or direction; and

(o) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty and the Trustee shall not be answerable for other than its negligence or willful default.

(p) Notwithstanding the effective date of this Indenture or anything to the contrary in this Indenture, the Trustee shall have no liability or responsibility for any act or event relating to this Indenture which occurs prior to the date the Trustee formally executes this Indenture and commences acting as Trustee under this Indenture.

(q) The Trustee shall have no responsibility with respect to any information, statement or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds, except for any information provided by the Trustee, and shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds.

(r) The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that the Borrower shall provide to the Trustee an incumbency certificate listing designated persons with the authority to provide such instructions, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the Borrower elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The Borrower agrees to assume all risks arising out of the use of such electronic methods to submit instructions

and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers.

The Trustee is authorized and directed to execute in its capacity as Trustee the Financing Agreement, the Tax Regulatory Agreement and the Intercreditor Agreement, and shall have no responsibility or liability with respect to any information, statement or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of the Bonds.

The Trustee or any of its affiliates may act as advisor or sponsor with respect to any Qualified Investments.

*Section 7.03. Use of Proceeds.* The Trustee shall not be accountable for the use or application of any of the Bonds authenticated or delivered hereunder or of the proceeds of the Bonds except as provided in Articles II and V of this Indenture.

*Section 7.04. Trustee May Hold Bonds.* The Trustee and its officers and directors may acquire and hold, or become pledgees of Bonds and otherwise may deal with the Issuer and the Owner in the same manner and to the same extent and with like effect as though it were not Trustee under this Indenture.

*Section 7.05. Trust Imposed.* All money received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other money, except to the extent required by law.

*Section 7.06. Compensation of Trustee.* The Trustee shall be entitled to its Ordinary Trustee's Fees and Expenses in connection with the services rendered by it in the execution of the trusts hereby created and in the exercise and performance of any of the powers and duties hereunder of the Trustee to the extent money is available therefor, in accordance with Section 4.06 hereof, exclusive of Extraordinary Services. The Trustee shall be entitled to Extraordinary Trustee's Fees and Expenses in connection with any Extraordinary Services performed consistent with the duties hereunder; *provided*, that the Trustee shall not incur any Extraordinary Trustee's Fees and Expenses without the consent of the Credit Facility Provider (except that no consent shall be required if an Event of Default under Section 6.01(b) hereof has occurred and is continuing). If any property, other than cash, shall at any time be held by the Trustee subject to this Indenture, or any supplemental indenture, as security for the Bonds, the Trustee, if and to the extent authorized by a receivership, bankruptcy, or other court of competent jurisdiction or by the instrument subjecting such property to the provisions of this Indenture as such security for the Bonds, shall be entitled to make advances for the purpose of preserving such property or of discharging tax liens or other liens or encumbrances thereon. Payment to the Trustee for its services and reimbursement to the Trustee for its expenses, disbursements, liabilities and advances, shall be limited to the sources described in Section 4.06 hereof and in

the Financing Agreement. The Issuer shall have no liability for Trustee's fees, costs or expenses. Subject to the provisions of Section 7.09 hereof, the Trustee agrees that it shall continue to perform its duties hereunder even in the event that money designated for payment of its fees shall be insufficient for such purposes or in the event that the Borrower fails to pay the Ordinary Trustee's Fees and Expenses, as required by the Financing Agreement.

The Borrower shall indemnify and hold harmless the Trustee and its officers, directors, officials, employees, agents, receivers, attorneys, accountants, advisors, consultants and servants, past, present or future, from and against (a) any and all claims by or on behalf of any person arising from any cause whatsoever in connection with this Indenture or transactions contemplated thereby, the Project, or the issuance, offering, sale or remarketing of the Bonds; (b) any and all claims arising from any act or omission of the Borrower or any of its agents, contractors, servants, employees or licensees in connection with the Project, or the issuance, offering, sale or remarketing of the Bonds; and (c) all costs, counsel fees, expenses or liabilities incurred in connection with any such claim or proceeding brought thereon; except that the Borrower shall not be required to indemnify any person for damages caused by the willful misconduct or unlawful acts of such person. In the event that any action or proceeding is brought or claim made against the Trustee, or any of its officers, directors, officials, employees, agents, receivers, attorneys, accountants, advisors, consultants or servants, with respect to which indemnity may be sought hereunder, the Borrower, upon written notice thereof from the indemnified party, shall assume the investigation and defense thereof, including the employment of counsel and the payment of all expenses. The indemnified party shall have the right to approve a settlement to which it is a party and to employ separate counsel in any such action or proceedings and to participate in the investigation and defense thereof, and the Borrower shall pay the reasonable fees and expenses of such separate counsel. The provisions of this Section shall survive the termination of this Indenture and the resignation or the removal of the Trustee.

*Section 7.07. Qualifications of Trustee.* There shall at all times be a Trustee hereunder which shall be a bank with trust powers or a corporation organized and doing business under the laws of the United States of America or any state thereof, authorized under such laws to exercise corporate trust powers. Any successor Trustee shall have a combined capital and surplus of at least \$50,000,000 (or shall be a wholly-owned subsidiary of an association or corporation that has such combined capital and surplus), and be subject to supervision or examination by federal or state authority, or shall have been appointed by a court of competent jurisdiction pursuant to Section 7.09 of this Indenture. If such association or corporation publishes reports of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority referred to above, then for the purposes of this Section, the combined capital and surplus of such association or corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section and another association or corporation is eligible, the Trustee shall resign immediately in the manner and with the effect specified in Section 7.09 of this Indenture.

*Section 7.08. Merger of Trustee.* Any association or corporation into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any

association or corporation resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party shall, *ipso facto*, be and become successor Trustee hereunder and vested with all the title to the whole property or the Trust Estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instruments or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding, and shall also be and become successor Trustee in respect of the beneficial interest of the Trustee in the Bond Mortgage Loan.

*Section 7.09. Resignation by the Trustee.* The Trustee may at any time resign from the trusts hereby created by giving written notice to the Issuer, the Borrower, the Tender Agent, the Remarketing Agent and the Credit Facility Provider, and by giving notice by certified mail or overnight delivery service to each Owner of the Bonds then Outstanding. Such notice to the Issuer, the Borrower, the Tender Agent, the Remarketing Agent and the Credit Facility Provider may be served personally or sent by certified mail. The resignation of the Trustee shall not be effective until a successor Trustee has been appointed as provided herein, and such successor Trustee shall have agreed in writing to be bound by the duties and obligations of the Trustee under the Intercreditor Agreement.

*Section 7.10. Removal of the Trustee.* (a) The Trustee may be removed at any time, either with or without cause, with the consent of the Credit Facility Provider (which consent of the Credit Facility Provider shall not be unreasonably withheld), by a written instrument signed by the Issuer and delivered to the Trustee, the Borrower, the Tender Agent and the Remarketing Agent, and if an Event of Default shall have occurred and be continuing, other than an Event of Default under Section 6.01(b) hereof, by a written instrument signed by the Credit Facility Provider and delivered to the Trustee, the Issuer, the Borrower, the Tender Agent and the Remarketing Agent. The Trustee may also be removed, if an Event of Default under Section 6.01(b) hereof shall have occurred and be continuing, by a written instrument or concurrent instruments signed by the Owners of more than 51% of the aggregate principal amount of the Bonds then Outstanding and delivered to the Trustee, the Issuer, the Borrower, the Tender Agent, the Remarketing Agent and the Credit Facility Provider. The Trustee may also be removed by the Credit Facility Provider following notice to the Issuer and after a 30-day period during which the Issuer may attempt to cause the Trustee to discharge its duties in a manner acceptable to the Credit Facility Provider, and in each case written notice of such removal shall be given to the Servicer, the Borrower, the Remarketing Agent and to each Registered Owner of the Bonds then Outstanding as shown on the Bond Register. Any such removal shall take effect on the day specified in such written instrument(s), but the Trustee shall not be discharged from the trusts hereby created until a successor Trustee has been appointed, and has accepted such appointment, and has agreed in writing to be bound by the duties and obligations of the Trustee under the Intercreditor Agreement.

*Section 7.11. Appointment of Successor Trustee.* (a) In case at any time the Trustee shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or shall be adjudged a bankrupt or insolvent, or if a receiver of the Trustee or of its property shall be appointed, or if a public supervisory office shall take charge or control of the Trustee or of its property or affairs, a vacancy shall forthwith

and *ipso facto* be created in the office of such Trustee hereunder, and the Issuer, with the written consent of the Credit Facility Provider, shall promptly appoint a successor Trustee, and give notice of such appointment to the Remarketing Agent. Any such appointment shall be made by a written instrument executed by an Authorized Officer of the Issuer.

(b) If, in a proper case, no appointment of a successor Trustee shall be made pursuant to subsection (a) of this Section within sixty (60) days following delivery of all required notices of resignation given pursuant to Section 7.09 hereof or of removal of the Trustee pursuant to Section 7.10 hereof, the retiring Trustee may apply to any court of competent jurisdiction to appoint a successor Trustee. The court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

*Section 7.12. Concerning Any Successor Trustee.* Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Issuer a written instrument accepting such appointment hereunder, accepting assignment of the beneficial interest in the Bond Mortgage, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the Trust Estate and the rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the written request of the Issuer, the Borrower or the Credit Facility Provider, or of its successor, and upon payment of all amounts due such predecessor, including but not limited to fees and expenses of counsel, execute and deliver such instruments as may be appropriate to transfer to such successor Trustee all the Trust Estate and the rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities, including, but not limited to, the existing Credit Facility, and money held by it as Trustee hereunder to its successor. Should any instrument in writing from the Issuer be required by a successor Trustee for more fully and certainly vesting in such successor the Trust Estate and all rights, powers and duties hereby vested or intended to be vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article, shall be filed and/or recorded by the successor Trustee in each recording office where this Indenture shall have been filed and/or recorded. Each successor Trustee shall mail notice by first class mail, postage prepaid, at least once within 30 days of such appointment, to the Owners of all Bonds Outstanding at their addresses on the Bond Register.

*Section 7.13. Successor Trustee as Trustee, Paying Agent and Bond Registrar.* In the event of a change in the office of Trustee, the predecessor Trustee which shall have resigned or shall have been removed shall cease to be trustee and paying agent on the Bonds and Bond Registrar, and the successor Trustee shall become such Trustee, Paying Agent and Bond Registrar.

*Section 7.14. Appointment of Co-Trustee or Separate Trustee.* It is the intent of the Issuer and the Trustee that there shall be no violation of any law of any jurisdiction (including particularly the laws of the State) denying or restricting the right of banking corporations or associations to transact business as Trustee in such jurisdiction. It is recognized that in case of litigation under or connected with this Indenture, the Financing Agreement or any of the other

Bond Financing Documents, and, in particular, in case of the enforcement of any remedies on default, or in case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein or therein granted to the Trustee or hold title to the properties in trust, as herein granted, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee, with the consent of the Issuer, appoint an additional individual or institution as a co-trustee or separate trustee.

In the event that the Trustee appoints an additional individual or institution as a co-trustee or separate trustee, in the event of the incapacity or lack of authority of the Trustee, by reason of any present or future law of any jurisdiction, to exercise any of the rights, powers, trusts and remedies granted to the Trustee herein or to hold title to the Trust Estate or to take any other action that may be necessary or desirable in connection therewith, each and every remedy, power, right, obligation, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be imposed upon, exercised by or vested in or conveyed to the Trustee with respect thereto shall be imposed upon, exercisable by and vest in such separate trustee or co-trustee, but only to the extent necessary to enable such co-trustee or separate trustee to exercise such powers, rights, trusts and remedies, and every covenant and obligation necessary to the exercise thereof by such co-trustee or separate trustee shall run to and be enforceable by either of them, subject to the remaining provisions of this Section. Such co-trustee or separate trustee shall deliver an instrument in writing acknowledging and accepting its appointment hereunder to the Issuer and the Trustee.

Should any instrument in writing from the Issuer be required by the co-trustee or separate trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to him or it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer, the Trustee and the Borrower. If the Issuer shall fail to deliver the same with thirty (30) days of such request, the Trustee is hereby appointed attorney-in-fact for the Issuer to execute, acknowledge and deliver such instruments in the Issuer's name and stead. In case any co-trustee or separate trustee, or a successor to either, shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such co-trustee or separate trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new trustee or successor to such co-trustee or separate trustee.

Every co-trustee or separate trustee shall, to the extent permitted by law, but to such extent only, be appointed subject to the following terms, namely:

The Bonds shall be authenticated and delivered, and all rights, powers, trusts, duties and obligations by this Indenture conferred upon the Trustee in respect of the custody, control or management of money, papers, securities and other personal property shall be exercised solely by the Trustee;

- (a) all rights, powers, trusts, duties and obligations conferred or imposed upon the Trustee shall be conferred or imposed upon or exercised or performed by the Trustee, or by the Trustee and such co-trustee, or separate trustee jointly, as shall be provided in

the instrument appointing such co-trustee or separate trustee, except to the extent that under the law of any jurisdiction in which any particular act or acts are to be performed the Trustee shall be incompetent or unqualified to perform such act or acts, in which event such act or acts shall be performed by such co-trustee or separate trustee;

(b) any request in writing by the Trustee to any co-trustee or separate trustee to take or to refrain from taking any action hereunder shall be sufficient warrant for the taking or the refraining from taking of such action by such co-trustee or separate trustee;

(c) any co-trustee or separate trustee to the extent permitted by law shall delegate to the Trustee the exercise of any right, power, trust, duty or obligation, discretionary or otherwise;

(d) the Trustee at any time by an instrument in writing with the concurrence of the Issuer evidenced by a certified resolution may accept the resignation of or remove any co-trustee or separate trustee appointed under this Section and in case an Event of Default shall have occurred and be continuing, the Trustee shall have power to accept the resignation of or remove any such co-trustee or separate trustee without the concurrence of the Issuer, and upon the request of the Trustee, the Issuer shall join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to effectuate such resignation or removal. A successor to any co-trustee or separate trustee so resigned or removed may be appointed in the manner provided in this Section;

(e) no Trustee or co-trustee hereunder shall be personally liable by reason of any act or omission of any other Trustee hereunder;

(f) any demand, request, direction, appointment, removal, notice, consent, waiver or other action in writing executed by the Bondholders and delivered to the Trustee shall be deemed to have been delivered to each such co-trustee or separate trustee; and

(g) any money, papers, securities or other items of personal property received by any such co-trustee or separate trustee hereunder shall forthwith, so far as may be permitted by law, be turned over to the Trustee.

The total compensation of the Trustee and co-trustee or separate trustee shall be as, and may not exceed the amount, provided in Section 7.06 of this Indenture.

*Section 7.15. Notice of Certain Events.* The Trustee shall give written notice to the Issuer, the Servicer and the Credit Facility Provider of any failure by the Borrower to comply with the terms of the Tax Regulatory Agreement or any Market Risk Event of which a Responsible Officer has actual knowledge.

*Section 7.16. Record of Freddie Mac Credit Enhancement Payments and Freddie Mac Reimbursement Amounts.* The Trustee shall maintain records of all Freddie Mac Credit

Enhancement Payments received by it from Freddie Mac under the Credit Enhancement Agreement and of all Freddie Mac Reimbursement Amounts paid by the Trustee to Freddie Mac or known by the Trustee to be due to Freddie Mac, but unpaid from time to time. The Trustee hereby agrees, upon receipt of a written request from Freddie Mac, to cooperate with Freddie Mac and the Servicer in connection with the reconciliation of the Trustee's records maintained pursuant to this Section 7.16 and any similar records maintained by Freddie Mac or the Servicer.

*Section 7.17. Filing of Financing Statements.* The Trustee shall file or record or cause to be filed or recorded all UCC continuation statements for the purpose of continuing without lapse the effectiveness of those financing statements which have been filed on or approximately on the Delivery Date in connection with the security for the Bonds pursuant to the authority of the UCC. Upon the filing of any such continuation statement the Trustee shall immediately notify the Issuer, the Borrower, the Credit Facility Provider and the Servicer that the same has been done. If direction is given by the Servicer or the Credit Facility Provider, the Trustee shall file all continuation statements in accordance with such directions. In addition, unless the Trustee shall have been notified in writing by the Issuer or the Borrower that any such initial filing or description of collateral was or has become defective, the Trustee shall be fully protected in (i) relying on such initial filing and descriptions in filing any financing or continuation statements or modifications thereto pursuant to this Section 7.17, and (ii) filing any continuation statements in the same filing offices as the initial filings were made. The Borrower shall be responsible for the reasonable costs incurred by the Trustee in the preparation and filing of all continuation statements under this Indenture.

## **ARTICLE VIII**

### **SUPPLEMENTAL INDENTURES AND AMENDMENTS OF CERTAIN DOCUMENTS**

*Section 8.01. Supplemental Indentures Not Requiring Consent of Bondholders.* The Issuer and the Trustee may from time to time and at any time, without the consent of, or notice to, any of the Bondholders, but with the prior written consent of the Credit Facility Provider, enter into an indenture or indentures supplemental to this Indenture for any one or more of the following purposes:

- (a) to cure any formal defect, omission, inconsistency or ambiguity herein in a manner not materially adverse to the Owner of any Bond to be Outstanding after the effective date of the change;
- (b) to grant to or confer upon the Trustee for the benefit of the Owners of the Bonds any additional rights, remedies, powers or authority that may lawfully be granted or conferred and that are not contrary to or inconsistent with this Indenture or the rights of the Trustee hereunder as theretofore in effect;
- (c) to subject to the lien and pledge of this Indenture additional revenues, properties or collateral;

(d) to modify, amend or supplement this Indenture or any indenture supplemental hereto in such manner as to permit the qualification hereof and thereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect or to permit the qualification of the Bonds for sale under any state blue sky laws;

(e) to make such additions, deletions or modifications as may be necessary, in the opinion of Bond Counsel delivered to the Issuer, the Trustee and the Credit Facility Provider, necessary to maintain the exclusion from gross income for federal income tax purposes of interest on the Bonds;

(f) to modify, amend or supplement this Indenture as required by the Rating Agency to obtain or maintain a rating or ratings for the Bonds, except no change may be made that will adversely affect the interests of the Owners of the Bonds to be Outstanding after the effective date of the change;

(g) during a Variable Period, to modify, amend or supplement this Indenture in any other respect, including amendments which would otherwise be described in Section 8.02 hereof, if notice of the proposed supplemental indenture is given to Bondholders (in the same manner as notices of redemption are given) at least thirty (30) days before the effective date thereof and, on or before such effective date, the Bondholders have the right to demand purchase of their Bonds pursuant to Section 10.01 hereof;

(h) to modify, alter, amend or supplement this Indenture in connection with the delivery of any Alternate Credit Facility or upon the occurrence of any Reset Adjustment Date, Variable Rate Adjustment Date or Fixed Rate Adjustment Date;

(i) to implement or modify any secondary market disclosure requirements;  
and

(j) to modify, amend or supplement this Indenture in any other respect which is not materially adverse to the Owners of the Bonds to be Outstanding after the effective date of the change and which does not involve a change described in Section 8.02 of this Indenture.

*Section 8.02. Supplemental Indentures Requiring Consent of Bondholders.* With the prior written consent of the Credit Facility Provider, the Owners of more than 51% of the aggregate principal amount of the Bonds then Outstanding shall have the right, from time to time, to consent to and approve the execution by the Issuer and the Trustee of such indenture or indentures supplemental hereto as shall be deemed necessary and desirable by the Issuer for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture; *provided, however,* that nothing in this Section contained shall permit, or be construed as permitting, (a) an extension of the time for payment of or reduction in the Purchase Price, or an extension of the time for payment of, or an extension of the stated maturity or reduction in the principal amount or reduction in the rate of interest on or

extension of the time of payment, of interest on, or reduction of any premium payable on the redemption of, any Bonds, or a reduction in the Borrower's obligation on the Bond Mortgage Note, without the consent of the Owners of all of the Bonds then Outstanding, (b) the creation of any lien prior to or on a parity with the lien of this Indenture, (c) a reduction in the aforesaid percentage of the principal amount of Bonds which is required in connection with the giving of consent to any such supplemental indenture, without the consent of the Owners of all of the Bonds then Outstanding, (d) the modification of the rights, duties or immunities of the Trustee, without the written consent of the Trustee, (e) a privilege or priority of any Bond over any other Bonds, or (f) any action that results in the interest on the Bonds becoming included in gross income for federal income tax purposes.

If at any time the Issuer shall request the Trustee to enter into any such supplemental indenture for any of the purposes of this Section, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such supplemental indenture to be mailed, postage prepaid, to all registered Bondholders and to the Credit Facility Provider. Such notice shall briefly set forth the nature of the proposed supplemental indenture, and shall state that copies thereof are on file at the corporate trust office of the Trustee for inspection by all Bondholders.

Thirty (30) days after the date of the mailing of such notice, the Issuer and the Trustee may enter into such supplemental indenture substantially in the form described in such notice, but only if there shall have first been or is simultaneously delivered to the Trustee the required consents, in writing, of the Credit Facility Provider and the Owners of not less than the percentage of Bonds required by this Section. If the Owners of not less than the percentage of Bonds required by this Section shall have consented to and approved the execution and delivery of a supplemental indenture as provided herein, no Owner of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such supplemental indenture as in this Section permitted and provided, this Indenture shall be and be deemed to be modified and amended in accordance therewith. The Trustee may rely upon an opinion of counsel as conclusive evidence that execution and delivery of a supplemental indenture has been effected in compliance with the provisions of this Article

Anything in this Article VIII to the contrary notwithstanding, unless the Borrower shall then be in default of any of its obligations under the Financing Agreement, the Reimbursement Agreement, the Tax Regulatory Agreement, the Bond Mortgage Note, the Bond Mortgage or the Reimbursement Mortgage, a supplemental indenture under this Article which affects any rights of the Borrower shall not become effective unless and until the Borrower shall have expressly consented in writing to the execution and delivery of such supplemental indenture. In this regard, the Trustee shall cause notice of the proposed execution and delivery of any such supplemental indenture to be mailed by certified or registered mail to the Borrower or the Borrower's attorney at least fifteen (15) days prior to the proposed date of execution and delivery of any supplemental indenture.

Notwithstanding any other provision of this Indenture, the Issuer and the Trustee may consent to any supplemental indenture upon receipt of the consent of the Credit Facility Provider, the Owners of all Bonds then Outstanding and, as applicable, the Borrower.

*Section 8.03. Amendments to Financing Agreement Not Requiring Consent of Bondholders.* The Trustee shall, without the consent of, or notice to, the Bondholders, but with the consent of the Borrower and the Credit Facility Provider, consent to any amendment, change or modification of the Financing Agreement as follows:

(a) as may be required by the provisions of the Credit Facility, the Financing Agreement or this Indenture;

(b) to cure any formal defect, omission, inconsistency or ambiguity in the Financing Agreement in a manner not materially adverse to the Owner of any Bond to be Outstanding after the effective date of the change;

(c) to make such additions, deletions or modifications as may be necessary, in the opinion of Bond Counsel delivered to the Issuer, the Trustee and the Credit Facility Provider, to maintain the exclusion from gross income for federal income tax purposes of interest on the Bonds;

(d) to modify, amend or supplement the Financing Agreement as required by the Rating Agency to obtain or maintain a rating or ratings for the Bonds, except no change may be made that will adversely affect the interests of the Owners of the Bonds to be Outstanding after the effective date of the change;

(e) during a Variable Period, to modify, amend or supplement the Financing Agreement in any other respect, including amendments which would otherwise be described in Section 8.04 hereof, if notice of the proposed amendments is given to Bondholders (in the same manner as notices of redemption are given) at least thirty (30) days before the effective date thereof and, on or before such effective date, the Bondholders have the right to demand purchase of their Bonds pursuant to Section 10.01 hereof;

(f) to modify, alter, amend or supplement the Financing Agreement in connection with the delivery of an Alternate Credit Facility or upon the occurrence of any Reset Adjustment Date, Variable Rate Adjustment Date or Fixed Rate Adjustment Date; or

(g) to modify, amend or supplement the Financing Agreement in any other respect which is not materially adverse to the Trustee or Owners of the Bonds to be Outstanding after the effective date of the change.

*Section 8.04. Amendments to Financing Agreement Requiring Consent of Bondholders.* Except for the amendments, changes or modifications of the Financing Agreement as provided in Section 8.03 hereof, neither the Issuer nor the Trustee shall consent to any other amendment,

change or modification of the Financing Agreement without the consent of the Credit Facility Provider and the Borrower and without the giving of notice and the written approval or consent of the Owners of at least 51% of the aggregate principal amount of the Bonds then Outstanding given and procured in accordance with the procedure set forth in Section 8.02 hereof; *provided, however*, that nothing contained in this Section 8.04 shall permit, or be construed as permitting, any amendment, change or modification of the Borrower's obligation to make the payments required under the Financing Agreement without the consent of the Owners of all of the Bonds then Outstanding. If at any time the Issuer and the Borrower shall request the consent of the Trustee to any such proposed amendment, change or modification of the Financing Agreement, the Trustee shall cause notice of such proposed amendment, change or modification to be given in the same manner as provided in Section 8.02 of this Indenture. Such notice shall briefly set forth the nature of such proposed amendment, change or modification, and shall state that copies of the instrument embodying the same are on file at the principal office of the Trustee for inspection by Bondholders.

*Section 8.05. Amendments to the Credit Facility.* The Trustee may, without the consent of, or notice to, any of the Bondholders enter into any amendment, change or modification of the Credit Facility (a) as may be required by the provisions of the Credit Facility (including but not limited to Section 3.4(b) of the Credit Enhancement Agreement), (b) to cure any formal defect, omission, inconsistency or ambiguity in the Credit Facility, (c) in a manner which is not prejudicial to the interests of the Bondholders (which shall be conclusively evidenced by an opinion of counsel delivered to the Trustee, the Issuer and the Credit Facility Provider or by a written confirmation from the Rating Agency of the then existing rating on the Bonds delivered to the Trustee, the Issuer and the Credit Facility Provider), or (d) as required by the Rating Agency to maintain the then current rating on the Bonds.

*Section 8.06. Opinion of Bond Counsel Required.* No supplement or amendment to the Financing Agreement or this Indenture, as described in this Article VIII shall be effective until the Issuer, the Trustee and the Credit Facility Provider shall have received an opinion of Bond Counsel to the effect that such supplement or amendment is authorized or permitted by this Indenture and, upon execution and delivery thereof, will be valid and binding upon the Issuer in accordance with its terms, and will not cause the interest on the Bonds to be includible in gross income of the Owners thereof for federal income tax purposes. The Trustee shall be entitled to receive, and shall be fully protected in relying upon, the opinion of any counsel approved by it as conclusive evidence that (i) any proposed supplemental indenture or amendment permitted by this Article VIII complies with the provisions of this Indenture, (ii) it is proper for the Trustee to join in the execution of that supplemental indenture or amendment under the provisions of this Article VIII, and (iii) if applicable, any such proposed supplemental indenture or amendment is not materially adverse to the interests of the Bondholders.

## ARTICLE IX

### SATISFACTION AND DISCHARGE OF INDENTURE

*Section 9.01. Discharge of Lien.* If the Issuer shall pay or cause to be paid to the Owners of the Bonds the principal, interest and premium, if any, to become due thereon at the times and in the manner stipulated therein and herein, in any one or more of the following ways:

(a) by the payment of the principal of (including redemption premium, if any) and interest on all Bonds outstanding; or

(b) by (i) the deposit or credit to the account of the Trustee, in trust, of money or securities in the necessary amount (as provided in Section 9.04 hereof) to pay the principal, redemption price or Purchase Price and interest to the date established for purchase or redemption (calculated at the Maximum Rate to the extent the Bonds then bear interest at a Variable Rate for any period for which the Variable Rate on such Bonds has not yet been established pursuant to Section 2.02 hereof) whether by redemption, purchase or otherwise, (ii) if the Bonds then bear interest at the Variable Rate, the delivery to the Trustee of a written confirmation by the Rating Agency of the rating then existing on the Bonds as of the date of such deposit or credit; and (iii) receipt by the Issuer and the Trustee of an Opinion of Bond Counsel to the effect that such deposit does not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes; or

(c) by the delivery to the Trustee, for cancellation by it, of all Bonds Outstanding;

and shall have paid all amounts due and owing to the Credit Facility Provider hereunder and under the Credit Facility and the Reimbursement Agreement, including but not limited to the Freddie Mac Reimbursement Amount and the Freddie Mac Credit Enhancement Fee, and shall have paid all fees and expenses of, and other amounts owing to, the Trustee, the Servicer, the Tender Agent, the Remarketing Agent and each Paying Agent, and if the Issuer shall keep, perform and observe all and singular the covenants and promises in the Bonds and in this Indenture expressed as to be kept, performed and observed by it or on its part, then these presents and the estates and rights hereby granted shall cease, determine and be void, and thereupon the Trustee shall cancel and discharge the lien of this Indenture and execute and deliver to the Issuer such instruments in writing as shall be requisite to satisfy the lien hereof, and reconvey to the Issuer the estate hereby conveyed, and assign and deliver to the Issuer any interest in property at the time subject to the lien of this Indenture which may then be in its possession, except amounts held by the Trustee for the payment of the principal of, interest and premium, if any, on the Bonds, the payment of any amounts owed to the United States of America pursuant to Section 4.12 hereof or the payment of any amounts payable to the Credit Facility Provider.

Any Outstanding Bond shall prior to the maturity or redemption date thereof be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section if, under circumstances which do not cause the interest on the Bonds to become

includible in the Owners' gross income for purposes of federal income taxation, the following conditions shall have been fulfilled: (a) in case such Bond is to be redeemed on any date prior to its maturity, the Trustee shall have given to the Bondholder irrevocable notice of redemption of such Bond on said date; (b) there shall be on deposit with the Trustee, pursuant to Section 9.04 hereof, either money or direct obligations of the United States of America in an amount, together with anticipated earnings thereon (but not including any reinvestment of such earnings), which will be sufficient to pay, when due, the principal or redemption price, if applicable, and interest due and to become due on such Bond on the redemption date or maturity date thereof, as the case may be; (c) in the case of Bonds which do not mature or will not be redeemed within 60 days of such deposit, the Trustee shall have received a verification report of a firm of certified public accountants reasonably acceptable to the Trustee as to the adequacy of the amounts so deposited to fully pay the Bonds deemed to be paid; and (d) the Trustee shall have received an opinion of nationally recognized bankruptcy counsel, if required by subpart (e) of the definition of "Eligible Funds" herein, to the effect that such money constitutes Eligible Funds.

The Trustee shall in no event cause the Bonds to be optionally redeemed from money deposited pursuant to this Article IX unless the requirements of Article III hereof have been met with respect to such redemption, including the requirements of Section 3.01(a)(iii) and (iv) of this Indenture.

*Section 9.02. Discharge of Liability on Bonds.* Upon the deposit with the Trustee, in trust, at or before maturity, of money or securities in the necessary amount (as provided in Section 9.01 hereof) to pay or redeem Outstanding Bonds (whether upon or prior to their maturity or the redemption date of such Bonds) provided that, if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as in Article III provided or provision satisfactory to the Trustee shall have been made for the giving of such notice, all liability of the Issuer in respect of such Bonds shall cease, terminate and be completely discharged, except only that thereafter the Owners thereof shall be entitled to payment by the Issuer, and the Issuer shall remain liable for such payment, but only out of the money or securities deposited with the Trustee as aforesaid for their payment, subject, however, to the provisions of Section 9.03 of this Indenture. If Outstanding Bonds bear interest at a Reset Rate upon a deposit sufficient to discharge the liability thereon pursuant to this Section 9.02, such Bonds must be redeemed on or before the last day of the current Reset Period.

*Section 9.03. Payment of Bonds After Discharge of Indenture.* Notwithstanding any provisions of this Indenture and except as may be require by [recite applicable State law], any money deposited with the Trustee or any paying agent in trust for the payment of the principal of, or interest or premium on, any Bonds remaining unclaimed for [five (5)] years after the principal of all the outstanding Bonds, or any interest thereon, has become due and payable (whether at maturity or upon call for redemption or by declaration as provided in this Indenture), shall then be paid to the Issuer, and the Owners of such Bonds shall thereafter be entitled to look only to the Issuer for payment thereof, and only to the extent of the amount so paid to the Issuer, and all liability of the Trustee or any paying agent with respect to such money shall thereupon cease. In the event of the payment of any such money to the Issuer as aforesaid, the Owners of the Bonds in respect of which such money were deposited shall thereafter be deemed to be unsecured creditors of the Issuer for amounts equivalent to the respective amounts so paid to the

Issuer and deposited for the payment of such Bonds (without interest to such Owners thereon). In the absence of any such written request, the Trustee shall from time to time deliver such unclaimed funds to or as directed by pertinent escheat authority, as identified by the Trustee in its sole discretion, pursuant to and in accordance with applicable unclaimed property laws, rules or regulations. Any such delivery shall be in accordance with the customary practices and procedures of the Trustee and the escheat authority. All moneys held by the Trustee and subject to this Section shall be held uninvested and without liability for interest thereon. Before making any payment under this Section, the Trustee shall be entitled to receive at the Borrower's expense an opinion of counsel to the effect that said payment is permitted under applicable law.

*Section 9.04. Deposit of Money or Securities with Trustee.* Whenever in this Indenture it is provided or permitted that there be deposited with or credited to the account of or held in trust by the Trustee money or securities in the necessary amount to pay or redeem any Bonds, the money or securities so to be deposited or held shall be Eligible Funds (or Government Obligations purchased with Eligible Funds) constituting:

(a) lawful money of the United States of America in an amount equal to the principal amount of such Bonds and all unpaid interest thereon to maturity, except that, in the case of Bonds which are to be redeemed prior to maturity and in respect of which there shall have been furnished to the Trustee proof satisfactory to it that notice of such redemption on a specified redemption date has been duly given or provision satisfactory to the Trustee shall be made for such notice, the amount so to be deposited or held shall be the principal amount of such Bonds and interest thereon to the redemption date, together with the redemption premium, if any; or

(b) noncallable and nonprepayable direct obligations of the United States of America or noncallable and nonprepayable obligations which as to principal and interest constitute full faith and credit obligations of the United States of America, in such amounts and maturing at such times that the proceeds of said obligations received upon their respective maturities and interest payment dates, without further reinvestment, will provide funds sufficient, in the opinion of a nationally recognized firm of certified public accountants, to pay the principal, premium, if any, and interest to maturity, or to the redemption date, as the case may be, with respect to all of the Bonds to be paid or redeemed, as such principal, premium and interest become due; *provided*, that the Trustee shall have been irrevocably instructed by the Issuer to apply the proceeds of said obligations to the payment of said principal, premium, if any, and interest with respect to such Bonds.

## **ARTICLE X**

### **REMARKETING AND PURCHASE OF BONDS**

*Section 10.01. Demand for and Mandatory Purchase of Bonds.* Any Bonds (other than Purchased Bonds), or any units of principal amount thereof in Authorized Denominations, shall be purchased from the proceeds of remarketing thereof as described in Section 10.03 or from the sources prescribed in Section 10.04 hereof, (a) on demand of the owner of such Bond (or, so long

as Bonds are in “book-entry only” form pursuant to Section 2.12 hereof, demand of a DTC Participant, as defined in Section 2.12 hereof, with respect to such Bonds) on any Business Day during a Variable Period which is an Optional Tender Date (as defined below), or (b) upon being tendered or deemed tendered pursuant to Section 2.13 or Section 10.02 hereof, on any Reset Adjustment Date, Variable Rate Adjustment Date, the Fixed Rate Adjustment Date and any Substitution Date (even if such Reset Adjustment Date, Variable Rate Adjustment Date, Fixed Rate Adjustment Date or Substitution Date for which notice has been given by the Trustee to the Bondholders fails to occur). Bonds shall be purchased for a Purchase Price equal to the principal amount thereof, or of any units thereof purchased in Authorized Denominations, plus interest accrued thereon, if any, to the Settlement Date. Bonds shall be purchased upon (i) in the case of a purchase upon the demand of an owner or DTC Participant, delivery to the Tender Agent, with a copy to the Trustee and the Remarketing Agent, of a written notice in the form set forth as *Exhibit B* attached hereto and made a part hereof (a “*Tender Notice*”) which states (A) the principal amount of such Bond for which payment is demanded, (B) that such demand is irrevocable, and (C) the date on which such Bond or units of principal amount thereof in Authorized Denominations shall be purchased pursuant to this Section 10.01, which date shall be a Business Day not prior to the seventh (7th) day next succeeding the date of the receipt of the Tender Notice by the Tender Agent (an “*Optional Tender Date*”); and (ii) in all cases, delivery of such Bond (with an appropriate transfer of registration form executed in blank and in form satisfactory to the Tender Agent) to the Tender Agent, at or prior to 9.30 a.m., Washington, D.C. time, on the Settlement Date. In the event that a depository is appointed pursuant to Section 2.12 hereof and a “book-entry only” system is in effect with respect to the Bonds, delivery of Bonds for purchase on the Settlement Date shall be effected in the manner set forth by such depository.

Bonds not delivered to the Tender Agent on or prior to 9:30 a.m., Washington, D.C. time, on the Settlement Date shall be deemed tendered and purchased for all purposes of this Indenture, and interest shall cease to accrue on such Bonds on the related Settlement Date.

Payment of the Purchase Price of any Bond shall be made on the Settlement Date by check or by wire transfer (if requested in writing by the Bondholder) or as designated in the Tender Notice with respect to such Bond, but only upon delivery and surrender of such Bond to the Tender Agent.

If the Trustee shall have received the items required by Section 2.02 or Section 2.13 hereof, as the case may be, the Trustee shall (a) not later than the fifteenth (15th) day before any such Reset Adjustment Date, Variable Rate Adjustment Date, the Fixed Rate Adjustment Date or Substitution Date (or, if such day is not a Business Day, then on the next succeeding Business Day), notify the Tender Agent by telephone, promptly confirmed in writing, with a copy to the Remarketing Agent, and (b) not later than the ninth (9th) day before any such Reset Adjustment Date, Variable Rate Adjustment Date, Fixed Rate Adjustment Date or Substitution Date, notify the Bondholders by first class mail, that all Outstanding Bonds (other than Purchased Bonds) shall be subject to mandatory tender, and if not so tendered, shall be deemed to have been tendered for purchase on each such Reset Adjustment Date as provided in Section 2.02(c) hereof, Variable Rate Adjustment Date as provided in Section 2.02(b) hereof, Fixed Rate Adjustment Date as provided in Section 2.02(d) hereof or the Substitution Date as provided in Section 2.13

hereof, at the Purchase Price. Such notices from the Trustee shall be treated as a Tender Notice for all purposes of this Indenture, including this Section and Article X of this Indenture.

If all of the Bonds shall have been called for redemption during any Variable Period, the Bonds may continue to be remarketed until the redemption date, provided the purchasers of such Bonds are given notice of the call for redemption prior to purchase of any Bonds.

Anything herein to the contrary notwithstanding, no Bonds shall be purchased pursuant to this Section or remarketed pursuant to Section 10.03 hereof if an Event of Default hereunder (other than an Event of Default under Section 6.01(c) hereof) shall have occurred and be continuing, and would not be cured as a result of such tender and remarketing of the Bonds or following a declaration of acceleration of the Bonds; nor shall any Bond be purchased pursuant to this Section if such Bond is registered in the name of the Issuer, the Borrower or the Credit Facility Provider, or known by the Trustee (the Trustee shall have no duty to inquire as to any such nominees) to be registered in the name of any general partner, member or guarantor of the Borrower or any nominee of the Issuer, the Borrower, the Credit Facility Provider, or any such general partner, member or guarantor of the Borrower unless the Credit Facility will be in full force and effect after such purchase with respect to such Bonds after such purchase.

*Section 10.02. Mandatory Tender of Bonds.* (a) The Owners of Bonds shall be required to tender their Bonds to the Tender Agent on:

- (i) any Reset Adjustment Date, Variable Rate Adjustment Date, or the Fixed Rate Adjustment Date in accordance with the provisions of Section 2.02 hereof; and
- (ii) any Substitution Date in accordance with and subject to the provisions of Section 2.13 of this Indenture.

(b) Any Bond required to be tendered on a Reset Adjustment Date, a Variable Rate Adjustment Date, the Fixed Rate Adjustment Date or a Substitution Date which is not tendered as of such date shall be deemed to have been tendered to the Tender Agent on such date and shall thereafter cease to bear interest and no longer be considered to be Outstanding under this Indenture.

*Section 10.03. Remarketing of Bonds.* Upon the receipt by the Remarketing Agent of any notice from the Tender Agent that any Bondholder (or DTC Participant, with respect to any Bonds in “book-entry only” form) has delivered a Tender Notice pursuant to Section 10.01 hereof, or upon receipt of any notice from the Trustee of Bonds deemed to have been tendered in accordance with the provisions of Section 2.02(c), Section 2.02(d) or Section 2.13 hereof, the Remarketing Agent shall offer for sale and use its best efforts to market the Bonds referred to in such Tender Notice or such notice from the Trustee (which shall be deemed to be a Tender Notice as provided in Section 10.01 hereof) at a price of par plus accrued interest to the Settlement Date, in accordance with the Remarketing Agreement; *provided, however*, that the Remarketing Agent shall not knowingly offer for sale or sell such Bonds to the Issuer, the Borrower or any general partner, member or any guarantor of the Borrower. The Remarketing Agent has no obligation to remarket Bonds registered in the name of the Borrower, the Credit

Facility Provider or any general partner, member or guarantor of the Borrower unless the Credit Facility shall be in full force and effect after such remarketing. On the Business Day immediately prior to each Settlement Date (each, a "*Remarketing Date*"), the Remarketing Agent shall give telephonic notice, promptly confirmed in writing and transmitted by facsimile, to the Trustee, the Tender Agent, the Borrower and the Credit Facility Provider by 11:00 a.m., Washington, D.C. time, stating whether all tendered Bonds have been remarketed successfully, specifying the names, addresses, and taxpayer identification numbers of the purchasers of, and the principal amount and denominations of, such Bonds, if any, for which it has found purchasers as of such Remarketing Date, and the Purchase Price at which the Bonds are to be sold (which shall be par plus accrued interest to the Settlement Date). The Remarketing Agent shall deliver to the Tender Agent, no later than 9:30 a.m., Washington, D.C. time, on the Settlement Date, in immediately available funds, the remarketing proceeds to the extent the Bonds have been successfully remarketed. Upon receipt by the Tender Agent of such amount from the Remarketing Agent, the Tender Agent, as co-authenticating agent, shall transfer the registered ownership of the Bonds to the respective new purchasers and deliver such Bonds to such purchasers upon deposit of the Purchase Price with the Tender Agent. The Tender Agent shall hold all Bonds delivered to it in trust for the benefit of the respective Bondholders which shall have so delivered such Bonds until money representing the Purchase Price of such Bonds shall have been delivered to or for the account of or to the order of such Bondholders. The Tender Agent shall remit the Purchase Price of such Bonds to the tendering Bondholder or Bondholders entitled to the same as provided in Section 10.01 of this Indenture. In the event that the Remarketing Agent or any purchaser which shall have been identified by the Remarketing Agent to the Trustee and the Tender Agent shall fail to pay the Purchase Price for any Bonds prior to 10:00 a.m., Washington, D.C. time, on the Settlement Date, the Tender Agent shall not be obligated to accept such amount after such time. The Tender Agent will immediately notify by telephone the Trustee, the Credit Facility Provider, the Borrower and the Remarketing Agent of any such failure to receive the Purchase Price for such Bonds. On the Settlement Date, the Tender Agent shall notify by telephone the Trustee, the Credit Facility Provider, the Borrower and the Remarketing Agent of the amount of funds held by the Tender Agent as of 10:00 a.m., Washington, D.C. time, on such date constituting the Purchase Price of the Bonds remarketed by the Remarketing Agent, promptly confirmed in writing and transmitted by facsimile. The Tender Agent shall hold all money delivered to it for the purchase of Bonds (including any remarketing proceeds or proceeds of draws on the Credit Facility) in trust in a non-commingled account to be known as the "Bond Purchase Fund" for the benefit of the Person or entity which shall have so delivered such money until the Bonds purchased with such money shall have been delivered to or for the account of such Person. Such money shall be held uninvested, except as directed in writing by the Credit Facility Provider, and then only in Qualified Investments of the type described in clauses (a) and (b) of the definition thereof. The Issuer and the Borrower shall not have any right, title or interest in such money.

Except with respect to Bonds to be held under the terms of the Pledge Agreement and any Bonds purchased in lieu of redemption or acceleration pursuant to the provisions hereof, the Issuer, the Borrower or any general partner, member or any guarantor of the Borrower may not purchase any Bonds, from the Remarketing Agent or otherwise.

*Section 10.04. Purchase of Bonds Not Remarketed.* In the event that either the Tender Agent shall not have received notice of successful remarketing of tendered Bonds by the day which is one (1) Business Day prior to the Settlement Date, or the proceeds of remarketing of any tendered Bond have not been received by the Tender Agent on or prior to 10:00 a.m., Washington, D.C. time on the Settlement Date, the Trustee shall, within the time required by the terms of the Credit Facility, draw on the then existing Credit Facility (not the Alternate Credit Facility on a Substitution Date) in an amount sufficient to enable the Tender Agent to pay the Purchase Price of each such Bond when due. On each Settlement Date, the Trustee shall pay or cause to be paid to the Tender Agent the Purchase Price of any Bonds tendered pursuant to, and in accordance with, Section 10.01 or Section 10.02 hereof and which have not been remarketed pursuant to Section 10.03 hereof, but only from (i) money obtained by the Trustee pursuant to the Credit Facility then in effect to enable the Trustee to pay the Purchase Price of such tendered Bonds, which amounts shall be transferred by the Trustee to the Tender Agent at or before 3:00 p.m., Washington, D.C. time, on the Settlement Date; and (ii) Eligible Funds from the Borrower to the extent that money obtained pursuant to clause (i) above are insufficient on any date to pay the Purchase Price of tendered Bonds.

Upon receipt of such Purchase Price and upon receipt of the Bonds tendered for purchase pursuant to Section 10.01 or Section 10.02 hereof, the Tender Agent shall pay such Purchase Price to the registered Owners thereof; *provided*, that if the Purchase Price was theretofore paid from the proceeds of a draw on the Credit Facility, the Tender Agent shall pay such amount to the Credit Facility Provider. Any amounts drawn under the Credit Facility to purchase Bonds shall be used solely for such purpose. Any Bonds so purchased with amounts drawn under the Credit Facility by the Trustee shall be purchased for the account of the Borrower and registered as provided in the Pledge Agreement. Amounts drawn under the Credit Facility which are not used to purchase Bonds pursuant to this Section 10.04 shall be remitted by the Trustee or the Tender Agent to the Credit Facility Provider promptly upon payment of the Purchase Price of the Bonds.

*Section 10.05. Remarketing Agent.* The Issuer, with the approval of the Credit Facility Provider and the Borrower (which approval shall not be unreasonably withheld or delayed), shall appoint a Remarketing Agent for the Bonds, subject to the conditions set forth in Section 10.05 of this Indenture. The Remarketing Agent initially appointed hereunder is Banc of America Securities, LLC. The Remarketing Agent shall designate to the Trustee its Principal Office and signify its acceptance of the duties and obligations imposed upon it hereunder by the execution of the Remarketing Agreement. The Remarketing Agent shall, and shall agree in the Remarketing Agreement to, do each of the following:

- (a) act as agent for the Issuer in determining the interest rates to be borne by the Bonds and act as agent for Bondholders in receiving and holding money to pay the Purchase Price thereof;
- (b) use its best efforts to remarket bonds tendered for purchase (including Purchased Bonds), except in the circumstances described in the last paragraph of Section 10.01 hereof and in the Remarketing Agreement;

(c) notify the Issuer, the Trustee, the Credit Facility Provider, the Servicer, the Borrower and the Tender Agent of the Variable Rate determined in accordance with Section 2.02(b) hereof, the Reset Rate determined in accordance with Section 2.02(c) hereof and the Fixed Rate determined in accordance with Section 2.02(d) hereof, on the Variable Interest Computation Date or other date required for such determination, each such notification to be in writing or by telex or telecopier or other communication device which produces a written record thereof, or by telephone confirmed within one Business Day by any such written communication; and upon request by the Issuer, submit copies of any such notices to the Issuer;

(d) hold all money delivered to it hereunder for the purchase of Bonds in trust for the benefit of the Person which shall have so delivered such money until the Bonds purchased with such money shall have been delivered to the Tender Agent, and not commingle such money with other funds of the Remarketing Agent;

(e) keep such books and records with regard to the remarketing of the Bonds as shall be consistent with prudent industry practice and make such books and records available for inspection by the Issuer, the Trustee, the Borrower and the Credit Facility Provider at all reasonable times;

(f) perform the duties of the Remarketing Agent and comply with the provisions set forth in Article X hereof; and

(g) notify the Tender Agent, the Trustee, the Borrower and the Credit Facility Provider of the status of the remarketing of tendered Bonds one (1) Business Day prior to the Settlement Date and if remarketing proceeds for all tendered Bonds have not been received by the Remarketing Agent by 10:00 a.m., Washington, D.C. time, on the Settlement Date.

*Section 10.06. Qualifications and Resignation or Removal of Remarketing Agent.* (a) The initial and any successor Remarketing Agent shall be a commercial bank or trust company or a member of the National Association of Securities Dealers, Inc., and authorized by law to perform all the duties imposed upon it by this Indenture and the Remarketing Agreement.

(b) The Remarketing Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least sixty (60) days' written notice to the Issuer, the Borrower, the Credit Facility Provider, the Trustee and the Tender Agent, but any such resignation shall not be effective until a successor is appointed, and has accepted such appointment. The Borrower shall, promptly upon receipt of any notice of resignation by the Remarketing Agent, use its best efforts to cause the appointment of a successor Remarketing Agent within such sixty (60) day period.

(c) The Remarketing Agent may be removed at any time (i) by the Issuer with the written consent of the Credit Facility Provider (which consent shall not be unreasonably withheld, conditioned or delayed), (ii) by direction of the Issuer at the written request of the Credit Facility Provider (which direction shall not be unreasonably withheld, conditioned or

delayed), or (iii) by direction of the Issuer at the request of the Borrower with the consent of the Credit Facility Provider (which direction and consent shall not be unreasonably withheld, conditioned or delayed), in each case by an instrument signed by the Issuer and filed with the Remarketing Agent, the Issuer, the Borrower, the Credit Facility Provider, the Trustee and the Tender Agent (A) if the Remarketing Agent suspends its remarketing efforts, or (B) without cause, upon at least thirty (30) days' notice to the Remarketing Agent. Any successor Remarketing Agent shall be selected by the Issuer with the written consent of the Credit Facility Provider (unless the Credit Facility Provider shall have failed to honor a properly presented and conforming draw under the Credit Facility) (which consent shall not be unreasonably withheld, conditioned or delayed) and the written consent of the Borrower. No removal of the Remarketing Agent shall be effective until a successor is appointed and has accepted such appointment.

(d) In the event of the resignation or removal of the Remarketing Agent, the Remarketing Agent shall pay over, assign and deliver any money held by it in such capacity to its successor.

*Section 10.07. Tender Agent.* The Trustee, with the written consent of the Credit Facility Provider, shall appoint the Tender Agent for the Bonds, subject to the conditions set forth in Section 10.08 of this Indenture. The Trustee shall initially serve as the Tender Agent. The Tender Agent shall designate to the Trustee its Principal Office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer, the Trustee and the Remarketing Agent under which the Tender Agent acknowledges its qualifications and authority to act as Tender Agent under this Indenture and agrees, particularly, as follows:

(1) The Tender Agent shall, upon receipt of a Tender Notice from any Bondholder (or DTC Participant, with respect to a Bond in "book-entry only" form), give prompt telephonic notice thereof to the Trustee and the Remarketing Agent, specifying the amount of Bonds to be purchased and the Settlement Date, and shall, not later than the following Business Day, confirm such telephonic notice in writing and deliver to the Remarketing Agent, the Trustee and the Credit Facility Provider a copy of such Tender Notice.

(2) On each Settlement Date, the Tender Agent shall give the Remarketing Agent, the Credit Facility Provider and the Trustee telephonic notice, confirmed in writing by the following Business Day, of the principal amount of Bonds delivered pursuant to Section 10.01 of this Indenture.

(3) The Tender Agent shall hold all Bonds delivered to it pursuant to Section 10.01 hereof in trust for the benefit of the respective Bondholders which shall have so delivered such Bonds until such Bonds are required by this Indenture to be delivered to the respective purchasers thereof.

(4) The Tender Agent shall cancel all Bonds for which it has received written notice of remarketing from the Remarketing Agent, and shall authenticate new Bonds in a

like aggregate principal amount in the names and in the denominations set forth in the written notice given to the Tender Agent by the Remarketing Agent pursuant to Section 10.03 of this Indenture.

(5) The Tender Agent shall deliver Bonds to the purchasers thereof in accordance with Section 10.04 of this Indenture. The Tender Agent shall establish the Bond Purchase Fund as provided in Section 10.03 of this Indenture. The Tender Agent shall remit the Purchase Price of tendered Bonds to the tendering Bondholders in accordance with Section 10.03 of this Indenture.

(6) The Tender Agent shall deliver to the Trustee all tendered Bonds canceled.

(7) The Tender Agent shall keep such books and records as shall be consistent with prudent industry practice and shall make such books and records available for inspection by the Issuer, the Trustee and the Credit Facility Provider at all reasonable times.

(8) The Tender Agent shall send to the Trustee a copy of its transfer journal evidencing all changes in registration of the Bonds within two (2) days of making such changes.

The Tender Agent shall pay to tendering Bondholders the Purchase Price of any Bonds for which it has received a Tender Notice and which have not been remarketed pursuant to Section 10.03 hereof, but solely from the sources listed in Section 10.04 hereof; and the Tender Agent shall pay to tendering Bondholders the Purchase Price of any Bonds for which it has received a Tender Notice and which have been remarketed pursuant to Section 10.03 hereof, but solely from amounts received from the Remarketing Agent.

*Section 10.08. Qualifications of Tender Agent.* The Tender Agent shall be a commercial bank with trust powers or trust company with a principal office, or with an affiliate with an office, in New York, New York, having a capitalization of at least \$10,000,000 and authorized by law to perform all the duties imposed upon it by this Indenture; provided that, in any event, the Trustee may serve as the Tender Agent so long as the Bonds are in “book-entry-only” form. The Tender Agent shall be an affiliate of the Trustee (unless the Tender Agent is the Trustee), unless the Trustee has no affiliate meeting the requirements of the first sentence of this Section, in which case the selection of the Tender Agent shall be an entity appointed by the Trustee with the written consent of the Credit Facility Provider, the Issuer and the Borrower.

The Tender Agent may at any time resign and be discharged by giving at least sixty (60) days’ written notice to the Trustee, the Issuer, the Borrower and the Credit Facility Provider. The Tender Agent may be removed at any time, with the written consent of the Credit Facility Provider, by an instrument signed by the Trustee and filed with the Tender Agent, the Remarketing Agent and the Issuer.

In the event of the resignation or removal of the Tender Agent, the Tender Agent shall pay over, assign and deliver any money and Bonds held by it in such capacity, and shall deliver all books and records relating thereto, to its successor or, if there be no successor, to the Trustee.

In the event that the Trustee shall fail to appoint a Tender Agent hereunder, or in the event that the Tender Agent shall resign or be removed, or be dissolved, or if the property or affairs of the Tender Agent shall be taken under the control of any state or federal court or administrative body because of bankruptcy or insolvency, or for any other reason, and the Trustee shall not have appointed its successor as Tender Agent, the Trustee, notwithstanding the provisions of the first paragraph of this Section 10.08, shall be deemed to be the Tender Agent for all purposes of this Indenture until the appointment by the Trustee of the Tender Agent or a successor Tender Agent, as the case may be, notwithstanding the fact that the Trustee may not meet the qualifications set forth in the first paragraph of this Section 10.08.

Insofar as such provisions may be applicable, the Tender Agent shall enjoy the same protective provisions in the performance of its duties hereunder as are specified in Sections 7.01 and 7.02 hereof with respect to the Trustee. The Tender Agent shall perform such duties, and only such duties, as are specifically set forth in this Indenture and the Financing Agreement, and no implied covenants shall be read into this Indenture or the Financing Agreement against the Tender Agent.

*Section 10.09. Dealing in Bonds.* The Credit Facility Provider, the Trustee, the Tender Agent or the Remarketing Agent, in its individual capacity, may each in good faith buy, sell, own, hold and deal in any of the Bonds, and may join in any action which any Bondholder may be entitled to take with like effect as if it did not act in any capacity under this Indenture. The Trustee, the Tender Agent, the Credit Facility Provider or the Remarketing Agent, in its individual capacity, either as principal or agent, may also engage in or be interested in any financial or other transaction with the Issuer or the Credit Facility Provider, and may act as depository, trustee or agent for any committee or body of Bondholders secured hereby or other obligations of the Issuer as freely as if it did not act in any capacity under this Indenture. It is expressly understood that the Trustee and the Tender Agent in carrying out their respective duties hereunder shall each be acting as a conduit with respect to deliveries of Bonds for purchase pursuant to Section 10.01 of this Indenture.

*Section 10.10. Purchased Bonds.*

(a) *Unremarketed Bonds as Purchased Bonds; No Credit Facility Support.* Bonds for which the Purchase Price is funded with money provided under the Credit Facility and which are not remarketed in accordance with the Remarketing Agreement shall be deemed to be Purchased Bonds. The Credit Facility shall not constitute security for or provide liquidity for Purchased Bonds.

(b) *Ownership and Pledge of Purchased Bonds.* Purchased Bonds shall be owned by the Borrower and pledged to the Custodian under the Pledge Agreement for the benefit of the Credit Facility Provider pursuant to the Pledge Agreement. As set forth in the Pledge Agreement, the Tender Agent shall either (i) ensure that Purchased Bonds are delivered to the

Custodian in registered certificate form under the Pledge Agreement, or (ii) if, and only if, delivery of the Bonds is not possible, deliver a written entitlement order to the applicable financial intermediaries on whose records ownership of the Purchased Bonds is reflected directing the intermediaries to credit the security entitlement to the Purchased Bonds to the account of the Custodian for the benefit of the Credit Facility Provider and deliver to the Custodian a written confirmation of such credit, whether or not the Borrower notifies the Remarketing Agent to do so.

(c) *Payment Failure Not a Default.* Failure to pay the interest on Purchased Bonds when due or failure to pay the principal of and interest on Purchased Bonds upon any date fixed for redemption, Settlement Date or the Maturity Date shall not constitute an Event of Default. Upon the Maturity Date, any redemption date or date of acceleration, all Purchased Bonds shall be deemed canceled. Purchased Bonds shall also be canceled upon direction of the Credit Facility Provider.

(d) *Remarketing of Purchased Bonds.* At such time as Purchased Bonds are remarketed by the Remarketing Agent (i) the Trustee or the Tender Agent, as appropriate, shall remit the proceeds of the remarketing to the Credit Facility Provider to reimburse the Credit Facility Provider for unreimbursed amounts paid under the Credit Facility to purchase the Bonds, (ii) the Trustee or the Tender Agent, as appropriate, upon receipt of notice from the Credit Facility Provider that it has received reimbursement for the amount provided under the Credit Facility (or notice from the Tender Agent that the Tender Agent has received funds that it will immediately remit to the Credit Facility Provider) and that the Credit Facility has been reinstated in accordance with its terms, the Custodian shall release all remarketed Purchased Bonds in accordance with the Pledge Agreement, and (iii) the Trustee or the Tender Agent shall give written notice to the Remarketing Agent, the Borrower and the Credit Facility Provider that such Bonds are no longer Purchased Bonds.

## ARTICLE XI

### MISCELLANEOUS

*Section 11.01. Consents and Other Instruments of Bondholders.* Any consent, request, direction, approval, waiver, objection, appointment or other instrument required by this Indenture to be signed and executed by the Bondholders may be signed and executed in any number of concurrent writings of similar tenor, and may be signed or executed by such Bondholders in Person or by agent appointed in writing. Proof of the execution of any such instrument, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken under such instrument, namely:

(a) the fact and date of the execution by any Person of any such instrument may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgments of deeds, certifying that the Person signing such instrument acknowledged the execution thereof. Where such execution is by an officer of a

corporation or association or a member of a partnership on behalf of such corporation, association or partnership, such affidavit or certificate shall also constitute sufficient proof of such authority;

(b) the ownership of registered Bonds shall be proved by the Bond Register; and

(c) any request, consent or vote of the Owner of any Bond shall bind every future Holder of the same Bond and the Owner of every Bond issued in exchange therefor or in lieu thereof, in respect of anything done or permitted to be done by the Trustee or the Issuer in pursuance of such request, consent or vote.

*Section 11.02. Servicing the Bond Mortgage Loan.* There shall be engaged at all times that Freddie Mac is the Credit Facility Provider an eligible servicing institution designated by Freddie Mac as the Servicer (which may be Freddie Mac if Freddie Mac elects to service the Bond Mortgage Loan) to service the Bond Mortgage Loan pursuant to the Guide.

*Section 11.03. Limitation of Rights.* With the exception of rights herein expressly conferred, nothing expressed or to be implied from this Indenture or the Bonds is intended or shall be construed to give to any Person other than the Parties hereto, the Credit Facility Provider, the Servicer, the Borrower and the Owners of the Bonds, any legal or equitable right, remedy or claim under or in respect to this Indenture or any covenants, conditions and provisions of this Indenture.

*Section 11.04. Construction of Conflicts; Severability.* Notwithstanding anything provided herein, or in any of the documents referred to herein, in the event that any contracts or other documents executed by the Borrower or any other arrangements agreed to by the Borrower in order to finance or refinance the Project with the proceeds of the Bonds, the interest on which is excluded from gross income for federal income tax purposes under Section 103(a) of the Code are inconsistent with the Bond Mortgage Loan Documents, then the Bond Mortgage Loan Documents shall be controlling in all respects. If any provision of this Indenture shall be held or deemed to be, or shall in fact be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution, statute, rule of law or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever; *provided, however*, that no such invalidity or unenforceability shall require the Issuer to make any payments from revenues other than the proceeds derived from the sale of the Bonds issued under the Indenture and the proceeds derived from the Financing Agreement (except such proceeds as may be derived by the Issuer pursuant to its Unassigned Rights, as defined in the Indenture) or impose any personal liability on any past, present or future director, member, elected or appointed officer, official, employee, attorney or agent of the Issuer.

The invalidity of any one or more phrases, sentences, clauses or sections in this Indenture contained, shall not affect the remaining portions of this Indenture, or any part of this Indenture.

*Section 11.05. Notices.* (a) Any provision of this Indenture relating to the mailing of notice or other communication to Bondholders shall be deemed fully complied with if such notice or other communication is mailed, by first class mail, postage prepaid, to each registered Owner of any Bonds then Outstanding at the address of such registered Owner as it appears on the Bond Register. Whenever in this Indenture the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the Person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

(b) Any notice, request, complaint, demand, communication or other paper required or permitted to be delivered to the Issuer, the Trustee, the Credit Facility Provider, the Remarketing Agent, the Borrower or the Servicer shall be sufficiently given and shall be deemed given (unless another form of notice shall be specifically set forth herein) on the Business Day following the date on which such notice or other communication shall have been delivered to a national overnight delivery service (receipt of which to be evidenced by a signed receipt from such overnight delivery service) addressed to the appropriate party at the addresses set forth below. The Issuer, the Trustee, the Credit Facility Provider, the Remarketing Agent, the Borrower or the Servicer may, by notice given as provided in this paragraph, designate any further or different address to which subsequent notices or other communication shall be sent.

The Issuer:                   The County of Lake, Illinois  
18 North County Street  
Waukegan, Illinois 60085  
Attention: County Clerk  
Telephone: (847) 377-2400  
Facsimile: (847) 360-3608

with a copy to:           Lake County Partners  
28055 Ashley Circle  
Suite 212  
Libertyville, Illinois 60048  
Attention: President  
Telephone: (847) 247-0137  
Facsimile: (847) 247-0243

The Trustee:               The Bank of New York Mellon Trust Company, N.A.  
Two North LaSalle Street  
Chicago, Illinois 60602  
Attention: Corporate Trust Department  
Telephone:  
Facsimile:

The Borrower: Whispering Oaks Associates, L.P.  
c/o ATWO Development  
1755 East Martin Luther King, Jr. Blvd.  
Los Angeles, CA 90058  
Attention: Tim English  
Telephone: (323) 231-4174  
Facsimile: (323) 234-3072

with a copy to: Resch, Polster & Berger, LLP  
9200 Sunset Blvd., 9th Floor  
Los Angeles, CA 90069  
Attention: Jeffrey A. Rabin  
Telephone: (310) 277-8300  
Facsimile: (310) 552-3209

Credit Facility  
Provider: Federal Home Loan Mortgage Corporation  
8100 Jones Branch Drive  
Mail Stop B4Q  
McLean, Virginia 22102  
Attention: Director of Multifamily Loan Accounting  
Telephone: (703) 903-2000  
Facsimile: (703) 714-3273

with a copy to: Federal Home Loan Mortgage Corporation  
8200 Jones Branch Drive  
McLean, Virginia 22102  
Attention: Associate General Counsel – Multifamily  
Legal Department  
Telephone: (703) 903-2000  
Facsimile: (703) 903-2885

with a copy to: Federal Home Loan Mortgage Corporation  
8100 Jones Branch Drive  
Mail Stop B4F  
McLean, Virginia 22102  
Attention: Director of Multifamily Loan Servicing  
Telephone: (703) 903-2000  
Facsimile: (703) 714-3003

The Servicer: Prudential Affordable Mortgage Corporation  
8401 Greensboro Drive, Suite 200  
McLean, Virginia 22102  
Attention: Loan Servicing (Whispering Oaks Apartments)  
Telephone:  
Facsimile:

The Remarketing  
Agent:

Banc of America Securities LLC  
600 Montgomery Street  
San Francisco, California 94111  
Attention:  
Telephone:  
Facsimile:

The Tender Agent:

The Bank of New York Mellon Trust Company, N.A.  
Two North LaSalle Street  
Chicago, Illinois 60602  
Attention: Corporate Trust Department  
Telephone:  
Facsimile:

Rating Agency:

Standard & Poor's Rating Services  
55 Water Street, 38th Floor  
New York, NY 10041  
Attention: Public Finance Surveillance Group  
Telephone: (212) 438-2054  
Telecopier: (212) 438-2157

A duplicate copy of each notice or other communication given hereunder by any party to: the Servicer shall also be given to Freddie Mac; and Freddie Mac shall also be given to the Servicer.

The Trustee agrees to accept and act upon facsimile transmission of written instructions and/or directions pursuant to this Indenture; *provided, however*, that subsequent to such facsimile transmission of written instructions, the originally executed instructions and/or directions shall be provided to the Trustee in a timely manner.

(c) The Trustee shall provide to the Credit Facility Provider (i) prompt notice of the occurrence of any Event of Default pursuant to Section 6.01 hereof, and (ii) any written information or other communication received by the Trustee hereunder within ten (10) Business Days of receiving a written request from the Credit Facility Provider for any such information or other communication. The Trustee shall provide to the Rating Agency any information requested by the Rating Agency needed to maintain the rating on the Bonds.

(d) The Trustee shall provide to the Rating Agency notice of (i) any change in Trustee, Tender Agent or Remarketing Agent hereunder, (ii) any material amendment to any of the Bond Financing Documents, (iii) any substitution, termination, expiration or extension of the Credit Facility, (iv) any change of the interest rate on the Bonds to a Reset Rate or Fixed Rate, and (v) any acceleration or redemption in whole or defeasance of the Bonds.

*Section 11.06. Credit Facility Provider.* Following the release of the Credit Enhancement Agreement by the Trustee pursuant to the terms of this Indenture and the provision of an

Alternate Credit Facility, all notices to be provided Freddie Mac and/or the Servicer hereunder shall be provided to the Alternate Credit Facility Provider, and payments to be made to Freddie Mac or the Servicer from the Administration Fund shall be paid to the Alternate Credit Facility Provider.

*Section 11.07. Trustee as Paying Agent and Bond Registrar.* The Trustee is hereby designated and agrees to act as Paying Agent and Bond Registrar for and in respect to the Bonds.

*Section 11.08. Payments Due on Non-Business Days.* In any case where a date of payment with respect to any Bonds shall be a day other than a Business Day, then such payment need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on such date, and no interest shall accrue for the period after such date providing that payment is made on such next succeeding Business Day.

*Section 11.09. Counterparts.* This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

*Section 11.10. Laws Governing Indenture and Administration of Trust.* The effect and meanings of this Indenture and the rights of all parties hereunder shall be governed by, and construed according to, the laws of the State without regard to conflicts of laws principles.

*Section 11.11. No Personal Liability; No Recourse.* No past, present or future director, member, elected or appointed officer, agent, employee, official or attorney of the Issuer, including any person executing this Indenture or the Bonds, will be liable personally on the Bonds or for any reason relating to the issuance of the Bonds. No recourse will be had for the payment of the principal of or the interest on the Bonds, or for any claim based on such Bonds, or otherwise in respect of such Bonds, or based on or in respect of this Indenture or any indenture supplemental to this Indenture, against any past, present or future director, member, elected or appointed officer, employee, official, attorney or agent, as such, of the Issuer or any successor, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance of this Indenture and as part of the consideration for the issue of the Bonds, expressly waived and released.

No pledge, agreement, covenant, representation, obligation or undertaking by the Issuer contained in this Indenture and no other pledge, agreement, covenant, representation, obligation or undertaking by the Issuer contained in any document executed by the Issuer in connection with the Project, the Bond Mortgage Loan or the Bonds shall give rise to any pecuniary liability of the Issuer or charge against its general credit, or shall obligate the Issuer financially in any way except out of payments to be made by the Borrower under the Financing Agreement, other than payments to be made by the Borrower pursuant to the Unassigned Rights. No failure of the Issuer to comply with any term, condition, covenant, obligation or agreement herein shall subject the Issuer to liability for any claim for damages, costs or other financial or pecuniary charge except to the extent the same is paid by the Borrower; and no execution of any claim, demand, cause of action or judgment shall be levied upon or collected from the general credit, general funds or other property of the Issuer. Nothing herein shall preclude a proper party in interest

from seeking and obtaining specific performance against the Issuer for any failure to comply with any term, condition, covenant, obligation or agreement herein; *provided*, that no costs, expenses or other monetary relief shall be recoverable from the Issuer, except as may be payable by the Borrower. No owner of the Bonds shall have the right to compel any exercise of the taxing power of the Issuer, the State or any political subdivision thereof to pay the Bonds or the premium, if any, or interest thereon. The Bonds shall not constitute an indebtedness of the Issuer, the State or any political subdivision thereof within the meaning of any constitutional or statutory provision.

Anything in this Indenture to the contrary notwithstanding, it is expressly understood and agreed by the parties hereto that (a) the Issuer may rely conclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Issuer by the Trustee or the Borrower as to the existence of any fact or state of affairs required hereunder to be noticed by the Issuer; (b) the Issuer shall not be under any obligation hereunder to perform any recordkeeping or to provide any legal services, it being understood that such services shall be performed either by the Trustee or the Borrower upon request of the Issuer; and (c) none of the provisions of this Indenture shall require the Issuer to expend or risk its own funds or to otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers hereunder, unless it shall first have been adequately indemnified to its satisfaction against the cost, expenses and liability which may be incurred thereby.

All covenants, stipulations, representations, promises, agreements and obligations of the Issuer contained in this Indenture or in any of the Bonds or in any other document executed in connection herewith or therewith shall be deemed to be the limited covenants, stipulations, representations, promises, agreements and obligations of the Issuer, and not of any past, present or future director, member, elected or appointed officer, official, employee, attorney or agent of the Issuer in his or her individual capacity. No recourse shall be had against any such individual, either directly or through the Issuer or otherwise for the payment for or to the Issuer or any sum that may be due and unpaid by the Issuer, upon the Bonds or under any obligation, covenant, stipulation, promise or agreement contained herein, in the Bonds or in any other document executed in connection herewith or therewith and no recourse shall be had against any of such persons on account of the issuance and sale of the Bonds or on account of any representations made in connection therewith. Any and all personal liability or obligation, whether in common law or in equity or by reason of statute or constitution or by the enforcement of any assessment or otherwise, of any such person to respond by reason of any act or omission on his or her part or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to the owner of any of the Bonds or otherwise, of any sum that may remain due and unpaid upon the Bonds or under any of the documents executed in connection with the issuance thereof is hereby expressly waived and released as a condition to and consideration for the issuance of the Bonds and the execution of this Indenture and related documents.

The Issuer shall not be obligated to take any action or execute any instrument pursuant to any provision hereof or of any related document until it shall have been requested to do so by the Borrower, the Trustee or the Credit Facility Provider and shall have received from the Borrower, the Trustee or the owners of the Bonds, assurance satisfactory to the Issuer that the Issuer will be

reimbursed for its expenses, including attorneys' fees and expenses, incurred or to be incurred in connection with the taking of such action or execution of such instrument.

*Section 11.12. Successors and Assigns.* All the covenants and representations contained in this Indenture by or on behalf of the parties hereto shall bind and inure to the benefit of their successors and assigns, whether so expressed or not.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Issuer and the Trustee have caused this Trust Indenture to be executed and delivered by duly authorized officers thereof as of the day and year first written above.

THE COUNTY OF LAKE, ILLINOIS

By \_\_\_\_\_  
Name: Suzi Schmidt  
Title: Chairman

Attest:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: County Clerk

THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A., as Trustee

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

**EXHIBIT A**

**FORM OF BOND  
UNITED STATES OF AMERICA  
STATE OF ILLINOIS**

**\$26,000,000  
THE COUNTY OF LAKE, ILLINOIS  
VARIABLE RATE DEMAND MULTIFAMILY HOUSING REVENUE BONDS  
(WHISPERING OAKS APARTMENTS PROJECT)  
SERIES 2008**

No. R-1

\$26,000,000

NOTICE: Unless this Bond certificate is presented by an authorized representative of The Depository Trust Company to the Issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owners hereof, Cede & Co., has an interest in this Bond certificate.

INTEREST RATE: VARIABLE

MATURITY DATE: NOVEMBER 1, 2045

DATED DATE: NOVEMBER \_\_, 2008

DELIVERY DATE: NOVEMBER \_\_, 2008

CUSIP No.:

REGISTERED OWNER: CEDE & Co.

PRINCIPAL AMOUNT: TWENTY-SIX MILLION AND NO DOLLARS

The County of Lake, Illinois (together with its successors and assigns, the "*Issuer*"), a political subdivision duly organized and validly existing under the Constitution and the laws of the State of Illinois (the "*State*"), for value received, hereby promises (but solely from the sources and in the manner provided for in the hereinafter defined Indenture) to pay to the registered owner identified above, or registered assigns, on the Maturity Date set forth above, unless previously called for redemption, the Principal Amount set forth above, together with interest thereon at the rate provided in the Indenture (as hereinafter defined) from the Interest Payment Date next preceding the date of authentication of this Bond to which interest has been paid or duly provided for, unless the date of authentication is an Interest Payment Date to which interest has been paid or duly provided for, in which case from the date of authentication of this

Bond, or unless no interest has been paid or duly provided for on this Bond, in which case from the Delivery Date identified above, until the Principal Amount hereof shall have been fully paid, at the rate per annum provided in the Indenture, payable (a) during the Variable Period, on the first (1st) Business Day of each calendar month, commencing on December 1, 2008, (b) during a Reset Period or the Fixed Rate Period (defined below), on May 1 and November 1 of each year, commencing on the May 1 or November 1 immediately following the commencement of such period, (c) on each Reset Adjustment Date, Variable Rate Adjustment Date, Fixed Rate Adjustment Date and Substitution Date, (d) the maturity date, and (e) the date of redemption of this Bond (each, an "*Interest Payment Date*"), calculated as provided in the Indenture. Notwithstanding the foregoing, if this Bond is authenticated after a Record Date and before the following Interest Payment Date, this Bond shall bear interest from such Interest Payment Date; *provided, however*, that if there shall be a default in the payment of interest due on such Interest Payment Date, then this Bond shall bear interest from the next preceding Interest Payment Date to which interest has been paid or duly provided for, or, if no interest has been paid or duly provided for on this Bond, from the Delivery Date. Payment of the principal of, premium, if any, and interest on this Bond are payable in lawful money of the United States of America. Payment of the principal of this Bond and premium, if any, will be made only upon presentation and surrender hereof at the Principal Office of the Trustee. Payment of the interest on this Bond will be made by check mailed to the Registered Owner of this Bond as such address shall appear on the registration books for the Bonds (i) during the Variable Period, on the Business Day immediately preceding an Interest Payment Date, and (ii) during a Reset Period or the Fixed Rate Period, on the 15th day of the month preceding each Interest Payment Date (a "*Record Date*"). Upon written request of a registered owner of at least \$1,000,000 aggregate principal amount of the Bonds received by The Bank of New York Mellon Trust Company, N.A., as trustee (together with any successor trustee appointed in accordance with the terms of the Indenture, the "*Trustee*"), at least five (5) days prior to a Record Date, all payments of principal, premium, if any, and interest will be paid by wire transfer of immediately available funds to an account designated by such owner, less any reasonable wire transfer fees imposed by the Trustee. All capitalized terms not defined herein shall have the meaning set forth in the Trust Indenture dated as of November 1, 2008, by and between the Issuer and the Trustee (the "*Indenture*"). Capitalized terms used in this Bond, but not otherwise defined in this Bond, shall have the meanings assigned to such terms in the Indenture.

THE BONDS ARE NOT A DEBT OF THE UNITED STATES OF AMERICA, OR ANY AGENCY OF THE UNITED STATES OF AMERICA, OR THE FEDERAL HOME LOAN MORTGAGE CORPORATION ("*FREDDIE MAC*"), AND ARE NOT GUARANTEED BY THE FULL FAITH AND CREDIT OF THE UNITED STATES OF AMERICA OR BY FREDDIE MAC, AND PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS IS NOT GUARANTEED BY FREDDIE MAC. THE OBLIGATIONS OF FREDDIE MAC UNDER THE CREDIT ENHANCEMENT AGREEMENT (AS HEREINAFTER DEFINED) ARE OBLIGATIONS SOLELY OF FREDDIE MAC AND ARE NOT BACKED BY THE FULL FAITH AND CREDIT OF THE UNITED STATES OF AMERICA.

THE BONDS, TOGETHER WITH THE INTEREST THEREON, AND REDEMPTION PREMIUM, IF ANY, ARE ISSUED UNDER THE ACT, AND CONSTITUTE SPECIAL, LIMITED OBLIGATIONS OF THE ISSUER SECURED BY THE TRUST ESTATE, ARE AND SHALL ALWAYS BE PAYABLE SOLELY FROM THE REVENUES AND RECEIPTS DERIVED FROM THE TRUST ESTATE, AND ARE AND SHALL ALWAYS BE A

VALID CLAIM OF THE OWNERS THEREOF ONLY AGAINST THE REVENUES AND RECEIPTS DERIVED FROM THE TRUST ESTATE, WHICH REVENUES AND RECEIPTS SHALL BE USED FOR NO OTHER PURPOSE THAN TO PAY THE PRINCIPAL OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THE BONDS, EXCEPT AS MAY BE EXPRESSLY AUTHORIZED OTHERWISE IN THIS INDENTURE AND IN THE FINANCING AGREEMENT. THE BONDS AND THE OBLIGATION TO PAY INTEREST THEREON AND PREMIUM, IF ANY, THEREON DO NOT NOW AND SHALL NEVER CONSTITUTE A DEBT OR A LOAN OF CREDIT OF THE ISSUER, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION, OR A PECUNIARY LIABILITY OR A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWERS OF ANY OF THEM, BUT SHALL BE SECURED AS AFORESAID, AND SHALL BE PAYABLE SOLELY FROM THE REVENUES AND RECEIPTS DERIVED FROM THE TRUST ESTATE. NO OWNER OF THE BONDS SHALL HAVE THE RIGHT TO COMPEL THE EXERCISE OF THE TAXING POWER OF THE ISSUER, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF TO PAY ANY PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS. NEITHER THE MEMBERS OF THE GOVERNING BODY OF THE ISSUER NOR ANY PAST, PRESENT OR FUTURE DIRECTORS, MEMBERS, ELECTED OR APPOINTED OFFICERS, OFFICIALS, EMPLOYEES, ATTORNEYS OR AGENTS OF THE ISSUER, NOR ANY PERSONS EXECUTING THE BONDS, SHALL BE LIABLE PERSONALLY ON THE BONDS.

This Bond is one of a duly authorized issue of bonds of the Issuer known as its Variable Rate Demand Multifamily Housing Revenue Bonds (Whispering Oaks Apartments Project) Series 2008, issued in the original aggregate principal amount of \$26,000,000 (the “*Bonds*”) under and pursuant to the Constitution and the laws of the State, particularly 50 *Illinois Compiled Statutes 2006, 445/1 et seq.*, as supplemented and amended (the “*Act*”), and a bond resolution adopted by the County Board of the Issuer on November 18, 2008. The Bonds are special, limited obligations of the Issuer payable solely from and secured by the Trust Estate pledged therefor pursuant to the Indenture. The Bonds are issued to provide funds to finance a portion of the cost of the acquisition, rehabilitation and equipping of a multifamily rental housing development known as Whispering Oaks Apartments located in Waukegan, Lake County, Illinois, and owned by Whispering Oaks Associates, L.P., an Illinois limited partnership (the “*Borrower*”).

The Bonds are issuable as fully registered bonds in Authorized Denominations of \$100,000 or integral multiples of \$5,000 in excess of \$100,000 during any period that the Bonds bear interest at a rate determined weekly (the “*Variable Period*”), and \$5,000 or integral multiples thereof during any period that the rate of interest on the Bonds is fixed for a period of five (5) years or more or such shorter period as may be consented to in writing by the Credit Facility Provider (a “*Reset Period*”) or fixed to the maturity date of the Bonds (the “*Fixed Rate Period*”). The Bonds will be initially issued in a Variable Rate mode.

To secure its obligation to make payments on the Bond Mortgage Note in accordance with its terms, the Borrower has caused to be delivered to the Trustee a Multifamily Mortgage, Assignment of Rents and Security Agreement dated as of November 1, 2008 (the “*Bond Mortgage*”), and a direct pay Credit Enhancement Agreement dated as of November 1, 2008 (the “*Credit Enhancement Agreement*”) between Freddie Mac and the Trustee. Under the Credit Enhancement Agreement, Freddie Mac has agreed to make advances to the Trustee (against proper draw requests made by the Trustee thereunder) in the amounts necessary to pay principal

of and interest due under the Bond Mortgage Loan and to pay the Purchase Price of the Bonds during any period the Bonds bear interest at the Variable Rate, to the extent there are insufficient remarketing proceeds to pay the Purchase Price of the Bonds tendered for purchase (other than Purchased Bonds).

Reference is hereby made to the Indenture and all indentures supplemental thereto for a description of the Trust Estate under the Indenture, the nature and extent of the security, the terms and conditions upon which the Bonds are issued and secured and the rights of the owners thereof, to all of the provisions of which Indenture the Registered Owner of this Bond, by acceptance hereof, assents and agrees. This Bond is equally and ratably secured under the Indenture with all other Bonds issued thereunder.

*Variable Interest Accrual Period.* From the Delivery Date of the Bonds to, but excluding, the earlier of (a) the date of adjustment to a Reset Rate (a “*Reset Adjustment Date*”) or the Fixed Rate (a “*Fixed Rate Adjustment Date*”) or (b) the maturity date, this Bond shall bear interest at the Variable Rate determined weekly on the Variable Interest Computation Date by the Remarketing Agent, as provided in the Indenture, for each Variable Interest Accrual Period, *provided*, that in no event shall such rate exceed the Maximum Rate of interest which may be charged pursuant to the terms of the Indenture. The Variable Interest Computation Date shall be Wednesday of each week during the Variable Period or, if any such Wednesday is not a Business Day, then the next day which is a Business Day. Interest on the Bonds during the Variable Period shall be computed on the basis of a 365- or 366-day year, as applicable, for the actual number of days elapsed. Bonds purchased with proceeds made available under the Credit Facility shall bear interest at the rate established pursuant to the Reimbursement Agreement.

*Reset Period.* The Borrower may, upon compliance with certain conditions of the Indenture, cause the interest rate on the Bonds to be adjusted to a Reset Rate, which shall be determined by the Remarketing Agent as provided in the Indenture. During the Reset Period, the Bonds shall bear interest at the Reset Rate, payable on each Interest Payment Date (commencing on the first Interest Payment Date occurring at least 30 days after the Reset Adjustment Date) to and including the next succeeding Reset Adjustment Date. Such interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. At the conclusion of a Reset Period, the Borrower may, upon compliance with certain conditions of the Indenture, cause the interest rate on the Bonds to be adjusted to a Variable Rate, a new Reset Date or a Fixed Rate, which shall be determined and redetermined by the Remarketing Agent as provided in the Indenture.

*Fixed Rate Period.* The Borrower may, upon compliance with certain conditions of the Indenture, cause the interest rate on the Bonds to be adjusted to a Fixed Rate, which shall be determined by the Remarketing Agent as provided in the Indenture. During the Fixed Rate Period, the Bonds shall bear interest at the Fixed Rate, payable on each Interest Payment Date (commencing on the first Interest Payment Date occurring at least 30 days after the Fixed Rate Adjustment Date) to and including the maturity of the Bonds. Such interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months.

*Redemption.* The Bonds are subject to optional and mandatory redemption or purchase in lieu of redemption in accordance with the provisions of the Indenture.

*Purchase in Lieu of Redemption.* At any time that Bonds are subject to redemption in whole pursuant to the Indenture the Trustee may purchase such Bonds for the account of the Borrower or the Credit Facility Provider. The Purchase Price of such Bonds, excluding accrued interest, shall not exceed the applicable redemption price of the Bonds that would otherwise have been redeemed.

*Purchase of Bonds at Option of Registered Owner.* During the Variable Period, this Bond shall be purchased by the Trustee, as Tender Agent (the “*Tender Agent*”), on behalf of and as agent for the owner of this Bond, on the demand of the beneficial owner the Bond, on any Business Day (following notice) at a Purchase Price equal to one hundred percent (100%) of the principal amount thereof plus accrued interest, if any, to the date of purchase upon delivery to the Tender Agent, at its Principal Office specified in the Indenture, of a notice as required by the Indenture (a “*Tender Notice*”). The date stated in the Tender Notice on which such Bond shall be purchased shall be a Business Day not prior to the seventh day next succeeding the date of delivery of such notice to the Tender Agent.

*Mandatory Tender on Certain Dates.* The registered owners of the Bonds shall be required to tender their Bonds to the Tender Agent for purchase by the Trustee on behalf of and as agent for the owner of the Bonds for a Purchase Price equal to one hundred percent (100%) of the principal amount thereof plus accrued interest to the applicable Settlement Date on each Reset Adjustment Date, each Variable Rate Adjustment Date, the Fixed Rate Adjustment Date, and on the date of any substitution of any Alternate Credit Facility pursuant to the Indenture. Bonds shall be subject to mandatory tender and purchase on any date specified by the Trustee following a default under the Bond Mortgage Loan or the Reimbursement Agreement and receipt by the Trustee of notice from the Credit Facility Provider that the Bonds are to be tendered for purchase on the Settlement Date selected by the Credit Facility Provider. Bondholders may not elect to retain their Bonds in any such event (even if such Reset Adjustment Date, Variable Rate Adjustment Date, the Fixed Rate Adjustment Date or any Substitution Date fails to occur).

In the event of a redemption of less than all of the Bonds, the Bonds shall be selected by lot. Bonds shall only be redeemed in Authorized Denominations.

Unless notice of redemption is not required under this Bond and the terms of the Indenture, notice of redemption of this Bond shall be given by first class mail, postage prepaid, to the Registered Owner hereof at the address of such Registered Owner shown on the registration books maintained by the Trustee, as bond registrar. All such notices shall be given not less than ten (10) days (not less than thirty (30) days in the case of optional or mandatory sinking fund redemptions) nor more than sixty (60) days prior to the date fixed for redemption. Notice shall also be sent by certified mail, overnight delivery service or other secure means, postage prepaid, to the Credit Facility Provider and to certain information services as described in the Indenture. Failure to give notice by mailing to the registered owner of any Bond designated for redemption shall not affect the validity of the proceedings for the redemption of any other Bond if notice shall have been mailed as herein provided. The Trustee may provide a

conditional notice of redemption upon the direction of the Credit Facility Provider or the Borrower (with the prior written consent of the Credit Facility Provider).

The Registered Owner of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Indenture.

Modifications or alterations of the Indenture or of any indenture supplemental thereto may be made only to the extent and in the circumstances permitted by the Indenture.

This Bond is transferable by the Registered Owner hereof in person or by such Registered Owner's attorney duly authorized in writing at the principal corporate trust office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon such transfer, a new registered Bond or Bonds of the same series, maturity and interest rate and of authorized denomination or denominations for the same aggregate principal amount will be issued to the transferee in exchange therefor. The Bonds are issuable only as fully registered Bonds without coupons.

The Issuer and the Trustee may deem and treat the Registered Owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and interest due hereon and for all other purposes and neither the Issuer nor the Trustee shall be affected by any notice to the contrary.

No recourse shall be had for the payment of the principal, purchase price, or redemption price of, or interest on, this Bond, or for any claim based hereon or upon any obligation, covenant, or agreement in the Indenture, against any past, present or future member, director, elected or appointed officer, official, attorney, employee or agent of the Issuer or of any successor, body or person, as such, either directly or through the Issuer or any such successor body under any constitutional provision, statute or rule of law or equity or by the enforcement or any assessment or penalty or by any legal or equitable proceeding or otherwise, and all such liability of any past, present, or future member, director, elected or appointed officer, official, attorney, employee, or agent as such is hereby expressly waived and released as a condition of and in consideration for the execution of the Indenture, the Financing Agreement, and the issuance of any of the Bonds, including this Bond. Each owner of this Bond by accepting this Bond waives and releases all such liability. The waiver and release are part of the consideration for the issuance of this Bond. In addition, the owner of this Bond shall have no right to enforce the provisions of the Indenture or the Financing Agreement or to institute action to enforce the covenants therein, or to take any action with respect to any Events of Default under the Indenture or the Financing Agreement, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture or the Financing Agreement.

No pledge, agreement, covenant, representation, obligation or undertaking by the Issuer contained in the resolution of the County Board of the Issuer authorizing the issuance of the Bonds (the "*Resolution*") and no other pledge, agreement, covenant, representation, obligation

or undertaking by the Issuer contained in any other document executed by the Issuer in connection with the Project or the Bonds shall give rise to any pecuniary liability of the Issuer or charge against its general credit, or shall obligate the Issuer financially in any way, except out of payments to be made by the Borrower under the Financing Agreement, other than payments to be made by the Borrower pursuant to the Unassigned Rights. No failure of the Issuer to comply with any term, condition, covenant, obligation or agreement therein shall subject the Issuer to liability for any claim for damages, costs, or other financial or pecuniary charge except to the extent the same is paid by the Borrower; and no execution of any claim, demand, cause of action or judgment shall be levied upon or collected from the general credit, general funds or other property of the Issuer.

This Bond shall not be entitled to any benefit under the Indenture or become valid or obligatory for any purpose until this Bond shall have been authenticated by the certificate of the Trustee endorsed on this Bond.

In the event of a conflict between the terms of this Bond and the Indenture, the terms of the Indenture shall control.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Bond do exist, have happened and have been performed in the time, form and manner as required by law and that this Bond and the issue of which it forms a part does not exceed or violate any constitutional or statutory limitation.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS OF THE ABOVE, the Issuer has caused this Bond to be duly executed in its name as of the date of delivery shown above.

THE COUNTY OF LAKE, ILLINOIS

By: \_\_\_\_\_  
Name: Suzi Schmidt  
Title: Chairman

ATTEST:  
By: \_\_\_\_\_  
Name: Willard R. Helander  
Title: County Clerk

**CERTIFICATE OF AUTHENTICATION**

This Bond is one of the Bonds issued under the provisions of and described in the within-mentioned Indenture.

Date of Authentication: \_\_\_\_\_

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

By: \_\_\_\_\_  
Authorized Signer

**LEGAL OPINION CERTIFICATE**

I, the undersigned County Clerk of The County of Lake, Illinois, do hereby certify that there follows a true copy of the complete legal opinion of Chapman and Cutler LLP, the original of which was manually executed, dated and issued as of the date of payment for and delivery of this Bond.

[Insert Bond Counsel Opinion]

Respectfully submitted,

/s/ CHAPMAN & CUTLER LLP

I further certify that an executed copy of each legal opinion is on file in my office and that an executed copy thereof has been furnished to the Trustee for this Bond.

\_\_\_\_\_  
County Clerk

The following abbreviations, when used in the inscription on the face of this Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

UNIF GIFT/TRANS MIN ACT--

\_\_\_\_\_  
Custodian \_\_\_\_\_  
(Cust) (Minor)  
under Uniform Gifts/Trans to  
Minors Act \_\_\_\_\_  
(State)

TEN COM -- as tenants in common  
TEN ENT -- as tenants by the entireties  
JT TEN -- as joint tenants with right  
of survivorship and not as  
tenants in common

Additional abbreviations may also be used though not in the above list.

**ASSIGNMENT**

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

\_\_\_\_\_  
(Please print or typewrite name, address and Tax I.D. or Social Security No. of Transferee)

the within bonds and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_, attorney to register the transfer of the within bond on the books kept for registration thereof, with full power of substitution in the premises.

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

Signature Guaranteed

\_\_\_\_\_  
NOTICE: Signature(s) must be guaranteed by an eligible guaranty institution.

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Signature

NOTICE: The Signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

**EXHIBIT B**

**FORM OF TENDER NOTICE**

**\$26,000,000**

**THE COUNTY OF LAKE, ILLINOIS**

**VARIABLE RATE DEMAND MULTIFAMILY HOUSING REVENUE BONDS**

**(WHISPERING OAKS APARTMENTS PROJECT)**

**SERIES 2008**

To: The Bank of New York Mellon Trust Company, N.A., as Tender Agent

Notice is hereby given pursuant to Section 10.01 of the Trust Indenture dated as of November 1, 2008 (the "*Indenture*"), pursuant to which the above-captioned bonds (the "*Bonds*") are issued and outstanding, that the undersigned Bondholder demands the purchase of \$\_\_\_\_\_ in aggregate principal amount of Bonds, on \_\_\_\_\_, which date is a Business Day not prior to the seventh (7th) day next succeeding the date of your receipt of this Notice. The demand for purchase is irrevocable.

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

\_\_\_\_\_  
Authorized Signature

Copies to: The Bank of New York Mellon Trust Company, N.A., Trustee  
Banc of America Securities, LLC, Remarketing Agent

**EXHIBIT C**

**FORM OF PURCHASER'S LETTER**

[To be prepared on letterhead of Purchaser]

[Date]

The County of Lake, Illinois  
18 North County Street  
Waukegan, Illinois 60085  
Attention: County Clerk

The Bank of New York Mellon Trust Company, N.A., as Trustee  
Two North LaSalle Street  
Chicago, Illinois 60602  
Attention: Corporate Trust Department

Re: The County of Lake, Illinois \$26,000,000 Variable Rate Demand  
Multifamily Housing Revenue Bonds  
(Whispering Oaks Apartments Project) Series 2008

Ladies and Gentlemen:

The undersigned (the "*Purchaser*") hereby acknowledges receipt as transferee, from the previous owner thereof, of the above-referenced bonds (the "*Bonds*") in fully registered form and in the aggregate principal amount of \$\_\_\_\_\_, constituting all of the Bonds currently outstanding. The Bonds have been checked, inspected and approved by the Purchaser.

The undersigned acknowledges that the Bonds were issued for the purpose of financing a loan to assist in financing a multifamily rental housing development known as Whispering Oaks Apartments located in Waukegan, Illinois (the "*Project*"), as more particularly described in that certain Financing Agreement dated as of November 1, 2008, as may be amended and supplemented from time to time (the "*Financing Agreement*"), by and among The County of Lake, Illinois (the "*Issuer*"), Whispering Oaks Associates, L.P., a limited partnership duly organized and validly existing under the laws of the State of Illinois (the "*Borrower*"), and The Bank of New York Mellon Trust Company, N.A., as Trustee (the "*Trustee*"). The undersigned further acknowledges that the Bonds are secured by a certain Trust Indenture dated as of

November 1, 2008, as amended and supplemented (the “*Indenture*”), by and between the Issuer and the Trustee, which creates a security interest in loan repayments made pursuant to the Financing Agreement for the benefit of the owners of the Bonds, and by a Multifamily Mortgage, Assignment of Rents and Security Agreement with respect to the Project (the “*Bond Mortgage*”), which creates a security interest in the Project, subject to permitted encumbrances, as provided therein. Terms not otherwise defined herein shall have the meanings assigned thereto in the Indenture.

In connection with the sale of the Bonds to the Purchaser, the Purchaser hereby makes the following representations upon which you may rely:

1. The Purchaser hereby certifies that it is (a) a bank as defined in Section 3(a)(2) of the Securities Act of 1933, as amended (the “*Act*”), or a bank holding company or a wholly-owned subsidiary of a bank holding company, or a savings and loan association or other institution as defined in Section 3(a)(5)(a) of that act whether acting in its individual or fiduciary capacity; or (b) a broker or dealer registered pursuant to Section 15 of the Securities Exchange Act of 1934; or (c) an insurance company as defined in Section 2(13) of that act; or (d) an investment company registered under the Investment Company Act of 1940 or a business development company as defined in Section 2(a)(48) of that act; or (e) a Small Business Investment Company licensed by the U.S. Small Business Administration under Section 301(c) or (d) of the Small Business Investment Act of 1958; or (f) a plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivision for the benefit of its employees, if investment decisions are made by a plan fiduciary which is a bank, savings and loan association, insurance company, or registered investment advisor and the plan establishes fiduciary principles the same as or similar to those contained in Sections 404-407 of Title I of the Employee Retirement Income Security Act of 1974, as amended; or (g) an employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974, as amended, if investment decisions are made by a plan fiduciary, as defined in Section 3(21) of such act, which is either a bank, savings and loan association, insurance company, or registered investment advisor, or if the employee benefit plan has total assets in excess of \$5,000,000, or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors or (h) an “accredited investor” as defined in Rule 501 of Regulation D of the Act, as amended.

2. The Bonds are being acquired by the Purchaser for its own account and for investment and not with a view to, or for resale in connection with, any public distribution of the Bonds. The Purchaser understands that it may need to bear the risks of this investment for an indefinite time, since any sale prior to maturity may not be possible due to unmarketability of the Bonds.

3. The Purchaser understands that the Bonds have not been registered under the Act.

4. The Purchaser acknowledges that it is familiar with the conditions, financial and otherwise, of the Borrower, and understands that the Borrower has no significant assets other than the Project. To the extent deemed appropriate in making its investment decision, the Purchaser has discussed the Borrower's financial condition and the Borrower's current and proposed business activities with the Borrower. The Purchaser further acknowledges that it has such knowledge and experience in business matters that it is fully capable of evaluating the merits and risks of this investment and it is able to bear the economic risk of the investment. The Bonds are a security of the kind the Purchaser wishes to purchase and hold for investment, and the nature and amount of the Bonds are consistent with the Purchaser's investment program. The Purchaser has been furnished such information and such documents as the Purchaser deems necessary to make a decision to purchase the Bonds, including copies or forms of the Indenture, the Financing Agreement, the Bond Mortgage and the Tax Regulatory Agreement (as defined in the Indenture), and certain other documents relating to the Bonds and the Project, all of which documents the Purchaser has reviewed. Specifically, but without limitation, the Purchaser has reviewed information about the Project and the property manager for the Project, if any, as well as information about the investment risks relating to the Bonds, and the Purchaser understands that the Bonds involve a high degree of risk. SPECIFICALLY, AND WITHOUT IN ANY MANNER LIMITING THE FOREGOING, THE PURCHASER UNDERSTANDS AND ACKNOWLEDGES THAT, AMONG OTHER RISKS, THE BONDS ARE PAYABLE SOLELY FROM REVENUES DERIVED FROM THE PROJECT AND THAT THE BONDS ARE NOT ENTITLED TO THE BENEFIT OF ANY CREDIT FACILITY. The Purchaser has made such inquiry with respect to all of the foregoing as it believed to be desirable for its purposes.

5. The Purchaser has received from the Issuer no formal or informal offering or disclosure document relating to the Bonds and has concluded that the receipt of one prior to the purchase of the Bonds is not required. It is acknowledged that no written information has been provided by the Issuer, and that any written information furnished by any other party to the transaction does not purport to fully disclose all information pertinent to the Bonds.

6. Except as disclosed to the Issuer, the Purchaser is not now and has never been controlled by, or under common control with, the Borrower. Except as disclosed to the Issuer, the Borrower has never been and is not now controlled by the Purchaser. THE PURCHASER HAS ENTERED INTO NO ARRANGEMENTS WITH THE BORROWER OR WITH ANY AFFILIATE OF THE BORROWER IN CONNECTION WITH THE BONDS, OTHER THAN AS DISCLOSED TO THE ISSUER. The Purchaser hereby agrees to deliver to the Issuer a copy of any agreement between the Purchaser and the Borrower or any affiliate of the Borrower relating to the Bonds.

7. The Purchaser has authority to purchase the Bonds and to execute this letter and any other instruments and documents required to be executed by the Purchaser in connection with the purchase of the Bonds.

8. In entering into this transaction the Purchaser has not relied upon any representations or opinions made by the Issuer relating to the legal consequences or other

aspects of the transactions, nor has it looked to, nor expected, the Issuer to undertake or require any credit investigation or due diligence reviews relating to the Borrower, its financial condition or business operations, the Project (including the refinancing, operation or management thereof), or any other matter pertaining to the merits or risks of the transaction, or the adequacy of any collateral pledged to the Trustee to secure repayment of the Bonds.

9. The Purchaser understands that the Bonds and the interest on the Bonds are special, limited obligations of the Issuer, payable solely from the Trust Estate pledged therefor under the Indenture, including, without limitation, its interest in payments received under the Financing Agreement, the Bond Mortgage Note and the Credit Facility; that the Bonds are not a debt of the Issuer, the State or of any other political subdivision of the State, and neither the Issuer, the State nor any other political subdivision of the State will be liable for the payment of the Bonds; that the faith and credit of the Issuer, the State or any political subdivision of the State are not pledged to the payment of the principal of or interest on the Bonds; and that the liability of the Issuer with respect to the Bonds is subject to further limitations as set forth in the Bonds and the Indenture.

10. The Purchaser has been informed that the Bonds have not been and will not be registered or otherwise qualified for sale under the “Blue Sky” laws and regulations of any jurisdiction, (ii) will not be listed on any stock or other securities exchange, and (iii) will carry no rating from any rating service.

11. The Purchaser has obtained, from representatives of the Borrower and others, all information regarding the Bonds which it has deemed relevant. The Purchaser has asked of the Borrower and all other relevant parties all the questions to which the Purchaser desired answers, and has had those questions satisfactorily answered. Neither the Borrower nor the Issuer nor any other relevant party has refused to disclose any information that Purchaser deems necessary or appropriate to its decision to purchase the Bonds.

12. Although the Purchaser does not intend at this time to dispose of the Bonds, the Purchaser acknowledges that it has the right to sell and transfer the Bonds, subject to the following requirements:

(a) The Purchaser may not dispose of the Bonds to a person or entity other than as described in Section 1 without the prior written consent of the Issuer;

(b) The Purchaser will not sell or otherwise transfer the Bonds unless such transfer will not result in the transferee owning less than all of the Bonds, except with the prior written approval of the Issuer;

(c) Prior to any transfer of the Bonds, the Purchaser shall deliver to the Issuer and the Trustee a certificate identifying any and all documents that have

been executed by the Purchaser and the Borrower or any affiliate of the Borrower with respect to the Bonds; and

(d) The Purchaser will not sell or otherwise transfer the Bonds without requiring the transferee to deliver to the Issuer and to the Trustee an investor's letter to the same effect as this Purchaser's Letter, including this paragraph 12, with no revisions except as may be approved in writing by the Issuer.

[PURCHASER]

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

**EXHIBIT D**

**COSTS OF ISSUANCE REQUISITION  
(COSTS OF ISSUANCE FUND)**

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

Re: The County of Lake, Illinois \$26,000,000 Variable Rate Demand  
Multifamily Housing Revenue Bonds  
(Whispering Oaks Apartments Project) Series 2008

Trustee:

You are requested to disburse funds from the Costs of Issuance Fund pursuant to Section 4.13 of the Indenture in the amount(s), to the person(s) and for the purpose(s) set forth in this requisition (the "*Requisition*"). The terms used in this requisition shall have the meaning given to those terms in the Trust Indenture (the "*Indenture*"), dated as of November 1, 2008, by and between The County of Lake, Illinois, and The Bank of New York Mellon Trust Company, N.A., as trustee, securing the above referenced Bonds.

REQUISITION NO.: 1

PAYMENT DUE TO: [See Attached Payee in Closing Memorandum]

AMOUNT TO BE DISBURSED: \$ \_\_\_\_\_

The undersigned, on behalf of Whispering Oaks Associates, L.P., a limited partnership duly organized and existing under the laws of the State of Illinois (the "*Borrower*"), certifies that:

- (a) the expenditures for which moneys are requisitioned by this Requisition represent proper charges against the Costs of Issuance Fund, have not been included in any previous requisition and are set forth in the Schedule attached to this Requisition, with invoices attached for any sums for which reimbursement is requested; and
- (b) the moneys requisitioned are not greater than those necessary to meet obligations due and payable or to reimburse the applicable party for funds actually advanced for Costs of Issuance.

Attached to this Requisition is a Schedule, together with copies of invoices or bills of sale covering all items for which payment is being requested.

Date of Requisition: \_\_\_\_\_, 2008

WHISPERING OAKS ASSOCIATES, L.P., an Illinois  
limited partnership

By: ATWO, LLC, a California limited liability  
company, its sole general partner

By: 1755 EFM 3, LLC, a California limited  
liability company, its Manager

By: \_\_\_\_\_  
Name: Tim English  
Title: Managing Member

**EXHIBIT E**

**FORM OF REQUISITION**

**(BOND PROCEEDS ACCOUNT OF THE BOND MORTGAGE LOAN FUND)**

(Complete in Triplicate)

The Bank of New York Mellon Trust Company, N.A. as trustee  
Two North LaSalle Street  
Chicago, Illinois 60602  
Attention: Corporate Trust Department

**\$26,000,000**

**THE COUNTY OF LAKE, ILLINOIS**  
**VARIABLE RATE DEMAND MULTIFAMILY HOUSING REVENUE BONDS**  
**(WHISPERING OAKS APARTMENTS PROJECT)**  
**SERIES 2008**

To Whom It May Concern:

Pursuant to Section 2.11A of the Indenture, you are requested to disburse funds from the Bond Proceeds Account of the Bond Mortgage Loan Fund in the amount(s), to the person(s) and for the purpose(s) set forth in this Requisition and the Indenture. The terms used in this Requisition shall have the meanings given to those terms in the Trust Indenture (the "*Indenture*") dated as of November 1, 2008, by and between The County of Lake, Illinois, and The Bank of New York Mellon Trust Company, N.A., as trustee, securing the above-referenced Bonds.

1. REQUISITION NO.:
2. PAYMENT DUE TO:
3. AMOUNT TO BE DISBURSED: \$
4. The amount requested to be disbursed pursuant to this Requisition will be used to pay Rehabilitation Costs of the Project detailed in Section I attached to this Requisition.
5. With respect to a disbursement from the Bond Mortgage Loan Fund, the undersigned certifies that:
  - (i) the amounts included in 3 above were made or incurred or financed and were necessary for the Project and were made or incurred in accordance with the Schedule of Work;

(ii) the amount paid or to be paid, as set forth in this Requisition, represents a part of the funds due and payable for Rehabilitation Costs of the Project, such funds were not paid in advance of the time, if any, fixed for payment and such funds are due in accordance with the terms of any contracts applicable to the Project and in accordance with usual and customary practice under existing conditions;

(iii) the expenditures for which amounts are requisitioned represent proper charges against the Bond Mortgage Loan Fund, have not been included in any previous requisition, have been properly recorded on the Owner's books and are set forth in Schedule I, with paid invoices attached for any sums for which reimbursement is requested;

(iv) the moneys requisitioned are not greater than those necessary to meet obligations due and payable or to reimburse the Borrower for its funds actually advanced for Rehabilitation Costs of the Project and do not represent a reimbursement to the Borrower for working capital;

(v) the amount remaining in the Bond Mortgage Loan Fund, together with expected Investment income on the Bond Mortgage Loan Fund, will, after payment of the amount requested by this Requisition, be sufficient to pay the costs of completing the Schedule of Work substantially in accordance with the rehabilitation contracts, plans and specifications and building permits therefor, if any, currently in effect;

(vi) all of the funds being requisitioned are being used in compliance with all tax covenants set forth in the Indenture, the Financing Agreement and the Regulatory Agreement;

(vii) not less than 95% of the sum of:

(A) the amounts requisitioned by this Requisition; plus

(B) all amounts previously requisitioned and disbursed from the Bond Mortgage Loan Fund; have been or will be applied by the Borrower to pay Qualified Project Costs (as that term is used in the Regulatory Agreement);

(viii) the Owner is not in default under the Financing Agreement, the Regulatory Agreement or the Bond Mortgage Loan Documents and nothing has occurred to the knowledge of the Borrower that would prevent the performance of its obligations under the Financing Agreement, the Regulatory Agreement or the Bond Mortgage Loan Documents;

(ix) no amounts being requisitioned by this Requisition will be used to pay, or reimburse, any Costs of Issuance incurred in connection with the issuance of the Bonds.

6. With respect to the disbursement from the Bond Mortgage Loan Fund, attached to this Requisition is Schedule I, together with copies of invoices or bills of sale covering all items for which payment is being requested.

Date of Requisition: \_\_\_\_\_

WHISPERING OAKS ASSOCIATES, L.P., an Illinois  
limited partnership

By: ATWO, LLC, a California limited liability  
company, its sole general partner

By: 1755 EFM 3, LLC, a California limited  
liability company, its Manager

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

Name: Tim English

Title: Managing Member

APPROVED:

PRUDENTIAL AFFORDABLE MORTGAGE  
CORPORATION

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

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

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