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CITY OF COLORADO SPRINGS, COLORADO,  
as Issuer

and

ZIONS BANCORPORATION, NATIONAL ASSOCIATION,  
as Trustee

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INDENTURE OF TRUST

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Dated as of [\_\_\_\_\_], 2025

Relating to:

\$[\_\_\_\_\_]

City of Colorado Springs, Colorado  
Multifamily Housing Revenue Bonds  
(Royal Pine Apartments Project), Series 2025A-1

\$[\_\_\_\_\_]

City of Colorado Springs, Colorado  
Multifamily Housing Revenue Bonds  
(Royal Pine Apartments Project), Series 2025A-2

\$[\_\_\_\_\_]

City of Colorado Springs, Colorado  
Multifamily Housing Revenue Bonds  
(Royal Pine Apartments Project), Series 2025A-T (Taxable)

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## INDENTURE OF TRUST

THIS INDENTURE OF TRUST dated as of [\_\_\_\_\_], 2025 (this “*Indenture*”), by and between the CITY OF COLORADO SPRINGS, COLORADO (together with its successors and assigns, the “*Issuer*”), a municipal corporation duly organized and existing as a home-rule city under Article XX of the Constitution of the State of Colorado (the “*State*”) and the home rule charter of the City of Colorado Springs, Colorado (the “*Charter*”), and ZIONS BANCORPORATION, NATIONAL ASSOCIATION, a national banking association, as trustee (the “*Trustee*”).

### WITNESSETH:

WHEREAS, the County and Municipality Development Revenue Bond Act, constituting Article 3, Title 29, Colorado Revised Statutes, as amended (the “*Act*”); the Colorado Supplemental Public Securities Act, constituting Part 2, Article 57, Title 11, Colorado Revised Statutes, as amended (the “*Supplemental Act*”); and the Charter authorize the Issuer to finance one or more projects, including any land, buildings or other improvements and all real and personal properties, whether or not in existence, which shall be suitable for residential facilities for low- and middle-income families or persons and intended for use as the sole place of residence by the owners or intended occupants to the end that more adequate residential housing facilities for low- and middle-income families and persons may be provided, which promote the public health, welfare, safety, convenience and prosperity; and

WHEREAS, the Issuer is further authorized by the Act, the Supplemental Act, and the Charter to issue revenue bonds for the purpose of defraying the cost of financing any project, including the payment of principal and interest on such revenue bonds for not exceeding three years, the funding of any reserve funds which the Issuer may deem advisable to establish in connection with the retirement of such revenue bonds or the maintenance of the project and all incidental expenses incurred in issuing such revenue bonds, and to secure payment of such revenue bonds as provided in the Act; and

WHEREAS, pursuant to the Act, the Supplemental Act, the Charter, and this Indenture, the Issuer proposes to finance the acquisition, construction, and equipping of an approximately 232-unit multifamily residential rental housing project to be located at 4150 Royal Pine Drive, Colorado Springs, Colorado 80920, and subordinate and related facilities thereto, to be known as Royal Pine Apartments (the “*Project Facilities*”); and

WHEREAS, the Internal Revenue Code of 1986, as amended (the “*Code*”), provides that the interest on fully registered obligations issued by or on behalf of a state or a political subdivision thereof which are used to provide financing for eligible projects meeting the requirements of Section 142(d) of the Code shall be excludable from federal income taxation if certain conditions specified in the Code are met; and

WHEREAS, Royal Pine Apartments LLC, a Colorado limited liability company (together with permitted successors and assigns the “*Borrower*”), has applied to the Issuer for financial assistance for the purpose of providing all or part of the funds required to finance the Project; and

WHEREAS, the Issuer has, pursuant to the Act, the Supplemental Act, and the Charter, authorized the issuance of its \$[SERIES A-1 PAR] City of Colorado Springs, Colorado

Multifamily Housing Revenue Bonds (Royal Pine Apartments Project), Series 2025A-1 (the “*Series 2025A-1 Bonds*”), \$[SERIES A-2 PAR] City of Colorado Springs, Colorado Multifamily Housing Revenue Bonds (Royal Pine Apartments Project), Series 2025A-2 (the “*Series 2025A-2 Bonds*”) and \$[SERIES A-T PAR] City of Colorado Springs, Colorado Multifamily Housing Revenue Bonds (Royal Pine Apartments Project), Series 2025A-T (Taxable) (the “*Series 2025A-T Bonds*”; collectively, with the Series 2025A-1 Bonds and the Series 2025A-2 Bonds, the “*Bonds*”) for the purpose of financing the cost of the acquisition, construction, installation and equipping of the Project, all pursuant to this Indenture and the Loan Agreement, dated as of [\_\_\_\_\_], 2025 (as amended, modified or supplemented from time to time, the “*Loan Agreement*”), between the Issuer and the Borrower; and

WHEREAS, Fannie Mae has agreed, subject to the satisfaction of certain conditions set forth in the Fannie Mae Commitment, to facilitate the financing of the Project Facilities by providing credit enhancement for the Bonds pursuant to the Credit Facility, from and after the Conversion Date; and

WHEREAS, the Issuer will initially, except for its Reserved Rights, assign and deliver all of its right, title and interest in and to the Loan, including the Note, the Security Instrument and the other Bond Documents, to the Trustee for the benefit of the Holders of the Bonds and, as of the Conversion Date, pursuant to the Credit Provider Assignment, the Issuer will, except for its Reserved Rights, assign and deliver all of its right, title and interest in and to the Loan, including the Note, the Security Instrument and the other Bond Documents, to the Trustee and the Credit Provider, as their interests may appear; and

WHEREAS, the Issuer is, pursuant to the Act, the Supplemental Act, the Charter and the Ordinance (as defined herein), authorized to execute and deliver this Indenture and to do or cause to be done all the acts and things herein provided or required to be done to finance the Project Costs (as defined herein) by the issuance of the Bonds, all as hereinafter provided; and

WHEREAS, all acts, conditions and things required to happen, exist, and be performed precedent to and in the issuance of the Bonds and the execution and delivery of this Indenture have happened, exist and have been performed in order to make the Bonds, when issued, delivered and authenticated, valid obligations of the Issuer in accordance with the terms thereof and hereof, and in order to make this Indenture a valid, binding and legal trust agreement for the security of the Bonds in accordance with its terms; and

WHEREAS, the Trustee has accepted the trusts created by this Indenture and has accepted its obligations hereunder, and in evidence thereof, this Indenture has been executed and delivered thereby.

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND OF THE COVENANTS AND UNDERTAKINGS HEREIN EXPRESSED, AND FOR OTHER GOOD AND VALUABLE CONSIDERATION, THE ADEQUACY AND RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, AND INTENDING TO BE LEGALLY BOUND HEREBY, THE PARTIES HERETO AGREE AS FOLLOWS:

## GRANTING CLAUSES

The Issuer, in consideration of the premises, the acceptance by the Trustee of the trusts hereby created, the purchase and acceptance of the Bonds by the Holders thereof, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to secure the payment of the principal of, redemption premium, if any, and interest on the Bonds according to their tenor and effect, and to secure the performance and observance by the Issuer of all the covenants, agreements and conditions herein and in the Bonds contained, and, on a parity basis, to secure all obligations owed following the Conversion Date to the Trustee and the Credit Provider under the Credit Facility Documents, does hereby transfer, pledge and assign, without recourse, to the Trustee and, following the Conversion Date, to the Credit Provider, as their interests may appear, subject to the Credit Provider Assignment and the provisions of this Indenture permitting the application of such property, and their respective successors and assigns in trust forever, and does hereby grant a security interest unto the Trustee and its successors in trust and its assigns, in and to all and singular the property described in paragraphs (a), (b), (c) and (d) below (said property shall exclude the hereinafter defined Reserved Rights in all cases and be herein referred to as the "*Trust Estate*"), to wit:

(a) All moneys from time to time paid by the Borrower pursuant to the terms of the Loan Agreement, the Note and the Bond Documents and all right, title and interest of the Issuer (including, but not limited to, the right to enforce any of the terms thereof) under and pursuant to and subject to the provisions of the Loan Agreement, the Bond Documents and the Note (but in each instance excluding the Reserved Rights, as defined herein); and

(b) All other moneys and securities from time to time held by the Trustee under the terms of this Indenture, excluding the Rebate Fund and the Expense Fund and excluding amounts required to be rebated to the United States Treasury under Section 148(f) of the Internal Revenue Code of 1986, as amended, whether or not held in the Rebate Fund; and

(c) Any and all property, rights and interests (real, personal or mixed) of every kind and nature from time to time hereafter, by delivery or by writing of any kind, pledged, assigned or transferred as and for additional security hereunder to the Trustee and, following the Conversion Date, the Credit Provider, which the Trustee is hereby authorized to receive at any and all times and to hold and apply the same subject to the terms of this Indenture; and

(d) All of the proceeds of the foregoing (except the amounts payable to or on behalf of the Issuer on account of its Reserved Rights), including without limitation investments thereof;

TO HAVE AND TO HOLD, all and singular, the Trust Estate with all rights and privileges hereby transferred, pledged, assigned and/or granted or agreed or intended so to be, to the Trustee and, following the Conversion Date, to the Credit Provider, as their interests may appear, and their respective successors and assigns in trust forever;

IN TRUST NEVERTHELESS, upon the terms and conditions herein set forth for the equal and proportionate benefit, security and protection of (i) all present and future Holders of the Bonds Outstanding, without preference, priority or distinction as to participation in the lien, benefit and protection of all present and future Holders of the Bonds and (ii) in addition, following the Conversion Date, the Credit Provider to secure the payment of all amounts owed to the Credit Provider under the Credit Facility Documents;

PROVIDED, NEVERTHELESS, and these presents are upon the express condition, that if the Issuer or its successors or assigns shall well and truly pay or cause to be paid the principal of and premium, if any, on such Bonds with interest, according to the provisions set forth in the Bonds, or shall provide for the payment or redemption of such Bonds by depositing or causing to be deposited with the Trustee the entire amount of funds or securities requisite for payment or redemption thereof when and as authorized by the provisions of Article V (it being understood that any payment with respect to the principal of or interest on Bonds made by the Borrower shall not be deemed payment or provision for the payment of the principal of or interest on Bonds, except Bonds purchased or paid and canceled by the Trustee, all such uncanceled Bonds to remain Outstanding and the principal of and interest thereon payable to the Holders thereof), and shall also pay or cause to be paid all other sums payable hereunder by the Issuer, or, following the Conversion Date, to the Credit Provider under the Credit Facility Documents, then these presents and the estate and rights hereby granted shall cease, terminate and become void, and thereupon the Trustee, on payment of its lawful charges and disbursements then unpaid, on demand of the Issuer and upon the payment by the Issuer of the cost and expenses thereof, shall duly execute, acknowledge and deliver to the Issuer such instruments of satisfaction or release as may be necessary or proper to discharge this Indenture of record, and if necessary shall grant, reassign and deliver to the Issuer all and singular the property, rights, privileges and interests by it hereby granted, conveyed and assigned, and all substitutes therefor, or any part thereof, not previously disposed of or released as herein provided; otherwise this Indenture shall be and remain in full force;

THIS INDENTURE FURTHER WITNESSETH, and it is hereby expressly declared, covenanted and agreed by and between the parties hereto, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and that all the Trust Estate is to be held and applied under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Issuer does hereby agree and covenant with the Trustee, for the benefit of the respective Holders from time to time of the Bonds as follows:

## **ARTICLE I. DEFINITIONS**

*Section 1.1 Defined Terms.* In addition to terms defined elsewhere in this Indenture, the following words and terms as used in this Indenture and the preambles hereto shall have the following meanings unless the context or use clearly indicates another or different meaning or intent.

“*Accountant*” means [\_\_\_\_\_], or such other accounting firm who is independent, appointed by the Borrower, actively engaged in the business of public accounting and duly licensed as a certified public accountant under the applicable laws of the relevant state.

*“Accounts”* means all funds and accounts established under this Indenture from time to time.

*“Act”* means the County and Municipality Development Revenue Bond Act, constituting Article 3, Title 29, Colorado Revised Statutes, as amended.

*“Act of Bankruptcy”* means any proceeding instituted under the Bankruptcy Code or other applicable insolvency law by or against the Issuer.

*“Advance”* means any disbursement from the Project Fund established under this Indenture made or to be made by the Trustee pursuant to the terms of the Loan Agreement.

*“Affiliate”* means, with respect to any designated Person, each Person who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, another designated Person, pursuant to the organizational document(s) of an entity or by other express, written agreement.

*“Amortization Commencement Date”* means the twenty-four (24) month anniversary of the Outside Termination Date.

*“Amortization Schedule”* means the loan amortization schedule with respect to the Series 2025A-1 Bonds attached as *Exhibit C* hereto prepared by the Servicer as amended as of the Conversion Date, if applicable, in connection with an extension of the Outside Conversion Date or in the event the Permanent Loan Amount is different than the Underwritten Permanent Loan Amount.

*“Annual Budget”* means, for any Fiscal Year, the capital and operating budget adopted by the Borrower and approved by the Controlling Person, or deemed approved, pursuant to Section 6.24 of the Loan Agreement.

*“Anti-Terrorism Regulations”* shall have the meaning ascribed to such term in Section 6.23 of the Loan Agreement.

*“Approved Buyer”* has the meaning set forth in Section 2.17 hereof.

*“Architect”* means [ARCHITECT], a [STATE] [ENTITY TYPE], together with any successors and assigns under the Architect’s Agreement.

*“Architect’s Agreement”* means the contract dated [\_\_\_\_\_, 202\_] between the Borrower and the Architect, providing for the design of the Project and the supervision of the construction thereof, including ongoing monthly inspection of the Project certification of Requisitions and certification of Final Completion, among other things, as the same may be amended, modified or supplemented from time to time.

*“as their interests may appear”* or *“as its interest may appear”* means, with reference to any of the Assigned Rights, the respective interests, exclusive of the Reserved Rights of the Issuer, of Fannie Mae and of the Trustee to such documents and rights as set forth in.

*“Assigned Documents”* has the meaning given to that term in the Credit Provider Assignment.

*“Assigned Rights”* has the meaning given to that term in the Credit Provider Assignment.

*“Assignment of Capital Contributions”* means the [Assignment of Capital Contributions], dated the date hereof, by the Borrower for the benefit of the Trustee.

*“Assignment of Management Agreement and Consent”* means the [Assignment of Management Agreement], dated as of the date hereof, by the Borrower to and for the benefit of the Trustee, consented to by the Managing Agent.

*“Assignment of Project Documents”* means the [Assignment of Project Documents], dated as of the date hereof, made by the Borrower in favor of the Trustee.

*“Authorized Denomination”* means denominations of \$100,000 and multiples of \$1.00 in excess thereof, but not in excess of the aggregate principal amount of the Bonds then Outstanding.

*“Authorized Officer”* means the Mayor, the Chief Financial Officer, the City Attorney, and any other officer or employee of the Issuer, or such other person at the time designated to act on behalf of the Issuer as evidenced by a written certificate furnished to the Trustee and the Borrower containing the specimen signature of such person and signed on behalf of the Issuer by an Authorized Officer. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Officer.

*“Authorized Person”* means one or more individuals duly authorized to bind the Borrower in connection with the administration of the Project Facilities. The initial Authorized Person of the Borrower is [\_\_\_\_\_].

*“Bankruptcy Code”* means Title 11 of the United States Code, as amended, and any successor statute or statutes having substantially the same function.

*“Beneficial Owner”* means the Person in whose name a Bond is recorded as beneficial owner of such Bond by the Securities Depository or a DTC Participant or an Indirect Participant on the records of such Securities Depository, DTC Participant or Indirect Participant, as the case may be, or such Person’s subrogee.

*“Bond”* or *“Bonds”* means, individually or collectively as context may dictate, the Series 2025A-1 Bonds, the Series 2025A-2 Bonds and the Series 2025A-T Bonds.

*“Bond Counsel”* means (i) Kutak Rock LLP, as bond counsel to the Issuer, or (ii) such other attorney, or firm of attorneys, nationally recognized and experienced in legal work relating to the financing of facilities through the issuance of tax-exempt bonds which, following the Conversion Date, shall be acceptable to the Credit Provider.

*“Bond Documents”* means, collectively, [the Bonds, this Indenture, the Loan Agreement, the Note, the Bond Placement Agreement, the Regulatory Agreement, the Project Certificate, the Tax Certificate, the Security Instrument, the Environmental Indemnity, the Assignment of

Management Agreement and Consent, the Continuing Disclosure Agreement, the Assignment of Project Documents, the Member Pledge, the Developer Fee Pledge, the Assignment of Capital Contributions, the Guaranty of Recourse Obligations, the Guaranty of Debt Service and Conversion, the Guaranty of Completion, and, following the Conversion Date, the Credit Provider Assignment and Credit Facility], and all other agreements or instruments relating to, or executed in connection with the issuance and delivery of the Bonds, including all modifications, amendments or supplements thereto.

*“Bond Fund”* means the fund of that name created pursuant to Section 4.1(a) hereof.

*“Bond Interest Rate”* means: (a) with respect to the Series 2025A-1 Bonds, a per annum rate equal to [\_\_\_\_]% prior to the Rate Adjustment Date and [\_\_\_\_]% from and after the Rate Adjustment Date, (b) with respect to the Series 2025A-2 Bonds, [\_\_\_\_]%, and (c) with respect to the Series 2025A-T Bonds, [\_\_\_\_]% .

*“Bond Placement Agreement”* means that certain Bond Placement Agreement, dated [\_\_\_\_], 2025, by and among the Issuer, the Borrower, NewPoint Impact Fund I LP, and NewPoint Real Estate Capital Securities LLC.

*“Bond Proceeds Account”* means the account of that name within the Project Fund created pursuant to Section 4.1(a) hereof.

*“Bondholder”* or *“Holder”* or words of similar import, when used with reference to the Bonds, means the registered owner or owners or Beneficial Owner or Beneficial Owners of the Bonds, as applicable. For purposes of this Indenture, the Beneficial Owner shall possess all rights as the owner to direct the actions of the Trustee, execute consents, waivers, amendments, give indemnities and otherwise give directions and approve actions taken by the Trustee. The Trustee will verify the identity of the Beneficial Owner of the securities by any reasonable manner the Trustee deems satisfactory.

*“Book-Entry System”* means a book-entry system established and operated for the recordation of Beneficial Owners of the Bonds pursuant to Section 2.11 hereof.

*“Borrower”* shall have the meaning given to such term in the recitals to this Indenture.

*“Business Day”* means any day that is not (i) a Saturday or Sunday, (ii) a day on which the offices of the Trustee are closed for business, (iii) a day on which The New York Stock Exchange is closed, or (iv) so long as a Credit Facility is in effect, a day on which the Credit Provider is closed.

*“Capital Expenditures”* means the capital expenditures relating to any construction, renovation, rehabilitation, repair and replacement of the Improvements.

*“Capitalized Interest Account”* means the account of that name within the Project Fund created pursuant to Section 4.1(a) hereof.

*“Change Order”* means a change made to the Plans and Specifications relating to the Project Facilities, as evidenced by a written change order request in accordance with the terms of the Construction Contract.

*“Charter”* means the Home Rule Charter of the Issuer, as amended.

*“Class B Special Member”* means the Housing Authority of the City of Colorado Springs, Colorado, a public body corporate and politic of the State of Colorado, in its capacity as the Class B Special Member of Borrower.

*“Code”* means the Internal Revenue Code of 1986, as amended, and the rulings and regulations (including temporary and proposed regulations) promulgated thereunder.

*“Collateral”* means all property of the Borrower in which the Trustee is granted a security interest to secure payment of the Bonds.

*“Completion Date”* means the date by which the construction of the Improvements must achieve Final Completion. The initial Completion Date is [COMPLETION DATE]; *provided, however,* that at the request of the Borrower and with the prior written approval of the Controlling Person, the Completion Date may be extended one or more times for such periods as the Controlling Person may approve in its sole discretion, upon delivery of such other information and funds as reasonably requested by the Controlling Person or the Majority Owner.

*“Condemnation Award”* means the total condemnation proceeds actually paid by the condemnor as a result of the condemnation of all or any part of the property subject to the Security Instrument less the actual costs incurred, including attorneys’ fees and expenses, in obtaining such award.

*“Conditions to Conversion”* has the meaning given that term in the Fannie Mae Commitment.

*“Construction Contract”* means the contract, dated on or about [\_\_\_\_\_], 2025 between the Borrower and the Contractor, providing for the construction of the Improvements and certification of Requisitions, among other things, as the same may be amended, modified or supplemented from time to time.

*“Construction Phase”* has the meaning given to that term in the Fannie Mae Commitment.

*“Contamination”* means the uncontained release, discharge or disposal of any Hazardous Substances at, on, upon or beneath the Project Facilities, whether or not originating at the Project Facilities, or arising from the Project Facilities into or upon any land or water or air, or otherwise into the environment, which may require remediation under any applicable Legal Requirements.

*“Continuing Disclosure Agreement”* means the Continuing Disclosure Agreement dated as of [\_\_\_\_\_], 2025, between the Borrower and Zions Bancorporation, National Association, as dissemination agent, as the same may be amended, modified or supplemented from time to time.

“*Contractor*” means [\_\_\_\_\_], a(n) [STATE] [ENTITY TYPE].

“*Control*” (including, with the correlative meanings, the terms “controlling” (except in connection with the term “*Controlling Person*”), “controlled by” and “under common control with”) means, as used with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through contract, stock ownership, partnership interests, membership, voting rights, governing boards, committees, divisions or other bodies with one or more common members, directors, trustees or other managers, or otherwise.

“*Controlling Person*” means, prior to the Conversion Date, any entity designated in writing by the Majority Owner, or, if a Controlling Person has not been designated by the Majority Owner, “Controlling Person” shall refer to the Majority Owner. The initial Controlling Person is NewPoint Real Estate Investment Management LLC, a Delaware limited liability company. From and after the Conversion Date, the Controlling Person shall be the Credit Provider.

“*Conversion*” means the conversion of the Loan from the Construction Phase to the Permanent Phase.

“*Conversion Date*” has the meaning given that term in the Fannie Mae Commitment.

“*Conversion Notice*” means a written notice by the Servicer to the Issuer, the Trustee, the Borrower, the Bondholder and the Credit Provider given on or before the Termination Date (a) stating that each of the Conditions to Conversion has been satisfied on or before the Termination Date or, if any Condition to Conversion has not been satisfied on or before the Termination Date, has been waived in writing by the Credit Provider and the Servicer on or before the Termination Date, and (b) specifying the Conversion Date.

“*Costs of Issuance Account*” means the account of that name within the Project Fund created pursuant to Section 4.1(a) hereof.

“*Counsel*” means an attorney, or firm of attorneys, admitted to practice law before the highest court of any state in the United States of America or the District of Columbia, including any Bond Counsel.

“*Credit Facility*” means one or more Credit Enhancement Instruments, dated the Conversion Date, issued by Fannie Mae to the Trustee with respect to one or more Series of Bonds, as such facility may be amended, supplemented or restated from time to time.

“*Credit Facility Advance*” means an advance made under the Credit Facility.

“*Credit Facility Documents*” means the Reimbursement Agreement, the Certificate of Borrower, all Collateral Agreements (as that term is defined in the Security Instrument), and all other agreements and documents securing the Credit Provider or otherwise relating to the provision of the Credit Facility, as any such agreement may be amended, supplemented or restated from time to time.

*“Credit Facility Fund”* means the fund of that name created pursuant to Section 4.1(a) hereof.

*“Credit Provider”* means Fannie Mae.

*“Credit Provider Assignment”* means the Assignment and Intercreditor Agreement, dated the Conversion Date, among the Issuer, the Trustee, the Servicer and Fannie Mae, and acknowledged and agreed to by the Borrower, as it may be amended, supplemented or restated from time to time.

*“Default”* means an event or condition which is, or which after giving notice or lapse of time or both would be, an Event of Default.

*“Default Interest”* means, prior to Conversion, interest payable at the Default Rate.

*“Default Rate”* means, prior to Conversion, a rate per annum equal to the lower of (i) [4%] in excess of the rate of interest payable on the Bonds or (ii) the Maximum Rate.

*“Determination of Taxability”* means a determination that the interest accrued or paid on any of the Tax-Exempt Bonds is included in gross income of the Holders or former Holders for federal income tax purposes, which determination shall be deemed to have been made upon the occurrence of the first to occur of the following:

(i) the day on which the Borrower, the Issuer, the Trustee or any Holder is advised in writing by the Commissioner or any District Director of the Internal Revenue Service that the interest on the Tax-Exempt Bonds is included in the gross income of any Holder or former Holder thereof for federal income tax purposes;

(ii) the day on which the Borrower receives notice from the Trustee in writing that the Trustee has received (1) a notice in writing by any Holder or former Holder that the Internal Revenue Service has issued a statutory notice of deficiency or similar notice to such Holder or former Holder that asserts in effect that the interest on the Bonds received by such Holder or former Holder is included in the gross income of such Holder or former Holder for federal income tax purposes, or (2) an Opinion of Bond Counsel (at the sole expense of the Borrower) that concludes in effect that the interest on the Bonds is included in the gross income of any Holder or former Holder thereof for federal income tax purposes;

(iii) the day on which the Borrower, the Issuer, the Trustee or any Holder is advised in writing by the Commissioner or any District Director of the Internal Revenue Service that there has been issued a public or private ruling of the Internal Revenue Service or a technical advice memorandum issued by the national office of the Internal Revenue Service that the interest on the Tax-Exempt Bonds is included in the gross income of any Holder or former Holder thereof for federal income tax purposes; or

(iv) the day on which the Borrower, the Issuer, the Trustee or any Holder is advised in writing by Counsel that a final determination, from which no further right of appeal exists, has been made by a court of competent jurisdiction in the United States of

America in a proceeding with respect to which the Borrower has been given written notice and an opportunity to participate and defend that the interest on the Tax-Exempt Bonds is included in the gross income of any Holder or former Holder thereof for federal income tax purposes;

*provided, however*, no Determination of Taxability shall occur to the extent that the interest on any of the Tax-Exempt Bonds is included in the gross income of any Holder or former Holder for federal income tax purposes solely because such Tax-Exempt Bond was held by a Person who is a Substantial User or a Related Person.

*“Developer”* means DBG Royal Pine Apartments Developer LLC, a Colorado limited liability company, with its successors and its assigns that have been approved by the Controlling Person.

*“Developer Fee Pledge”* means the Developer Pledge and Security Agreement, dated as of the date hereof from Developer in favor of the Trustee.

*“Development Budget”* means the budget for the implementation and completion of the acquisition, construction and equipping of the Project Facilities, as provided to the Purchaser, together with any modifications or amendments thereto made in accordance with the Loan Agreement and with the prior written consent of the Controlling Person.

*“Dissemination Agent”* means, initially Zions Bancorporation, National Association, or any dissemination agent subsequently appointed in accordance with the Continuing Disclosure Agreement.

*“Dissemination Agent Fee”* means the fees and expenses payable by the Borrower which are charged or incurred by the Dissemination Agent in the fulfillment of its obligations under the Continuing Disclosure Agreement, including an annual fee of \$250.00 per filing with a \$1,000.00 minimum annual fee to be paid in advance on the Issue Date and on each anniversary thereof.

*“DTC Participant”* means a broker-dealer, bank or other financial institution for which the Securities Depository holds Bonds as a securities depository.

*“Effective Gross Revenues”* of the Borrower means, for the three (3) month period prior to the determination of Stabilized NOI, the annualized aggregate revenues during such period generated from all tenants and others physically occupying or having a right to occupy or use the Project Facilities or any portion thereof pursuant to leases, including (at the Controlling Person’s sole discretion, taking into account whether such income is recurring and is appropriate for a stabilized property) vending machine income, cable TV revenues, laundry service and parking income, as adjusted in the Controlling Person’s sole judgment for factors including but not limited to: (i) seasonal fluctuation in the rental rate in the market in which the Project Facilities are located; (ii) evidence of rent deterioration; (iii) concessions, reductions, inducements or forbearances (such as any cash reduction in monthly rent during the term of a lease, any free rent before, during or after the term of a lease, any rent coupons, gift certificates and tangible goods or any other form of rent reduction or forbearance); (iv) economic vacancy at the higher of: (1) five percent (5%), or (2) actual economic vacancy based on the annualized vacancies of the Project Facilities; (v) 30-day or more delinquencies; (vi) low-income restrictions required by any applicable federal, state or

local subsidy program, or any restrictive covenant or regulatory agreement; and (vii) other applicable adjustments as reasonably determined by the Controlling Person. Effective Gross Revenues shall exclude revenues from Section 8 vouchers to the extent such revenues cause the rent on any unit to exceed the maximum allowable tax credit rent designated for such unit.

*“Electronic Means”* means an email or facsimile transmission, or any other electronic means of communication approved in writing by an Authorized Officer of the Issuer, an Authorized Person of the Borrower and authorized representative of the Controlling Person (and if to the Trustee as approved by the Trustee); provided, that if a sender receives notice that the email or facsimile transmission is undeliverable, notice must be sent as otherwise required by Section 10.4 hereof.

*“Engineer’s Agreement”* means the agreement, if any, between the Borrower and the structural engineer for the Project Facilities approved by the Controlling Person, relating to the construction of the Improvements, as the same may be amended, modified or supplemented from time to time.

*“Engineering Consultant”* means a consultant licensed to practice in the State and chosen by the Controlling Person.

*“Environmental Audit”* means the written [Phase I Environmental Site Assessment] for the Project Facilities prepared by [\_\_\_\_\_] dated[\_\_\_\_\_, 20\_\_] .

*“Environmental Indemnity”* means the [Environmental Indemnity Agreement], dated as of the date hereof, by the Borrower and the Developer in favor of the Trustee.

*“Environmental Laws”* means all Legal Requirements governing or relating to the protection of the environment, natural resources or human health concerning (i) activities at any of the Project Facilities, (ii) repairs or construction of any Improvements, (iii) handling of any materials at any of the Project Facilities, (iv) releases into or upon the air, soil, surface water or ground water from any of the Project Facilities, and (v) storage, distribution, use, treatment, transport or disposal of any waste at or connected with any activity at any of the Project Facilities, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 42 U.S.C. §§ 9601 *et seq.*, as amended from time to time; the Hazardous Materials Transportation Act 49 U.S.C. §§ 5101 *et seq.*, as amended from time to time; the Resource Conservation and Recovery Act 42 U.S.C. §§ 6901 *et seq.*, as amended from time to time; the Federal Water Pollution Control Act 33 U.S.C. §§ 1251 *et seq.*, as amended from time to time; and comparable State statutes.

*“Environmentally Sensitive Area”* means (i) a wetland or other “water of the United States” for purposes of Section 404 of the federal Clean Water Act or any similar area regulated under any State or local Legal Requirements, (ii) a floodplain or other flood hazard area as defined pursuant to any applicable State Legal Requirements, (iii) a portion of the coastal zone for purposes of the federal Coastal Zone Management Act, or (iv) any other area development of which is specifically restricted under applicable Environmental Laws by reason of its physical characteristics or prior use.

“*EPA*” shall have the meaning ascribed to such term in Section 6.14(e) of the Loan Agreement.

“*Equity Account*” means the account of that name within the Project Fund created pursuant to Section 4.1(a) hereof.

“*ERISA*” shall have the meaning ascribed to such term in Section 5.11 of the Loan Agreement.

“*ERISA Affiliate*” shall have the meaning ascribed to such term in Section 5.11 of the Loan Agreement.

“*Event of Default*” means, with respect to this Indenture, any of the events specified in Section 6.1 hereof, or with respect to the Loan Agreement, any of the events specified in Section 7.01 thereof.

“*Expense Fund*” means the fund of that name created pursuant to Section 4.1(a) hereof.

“*Expenses*” means the greater of: (i) the aggregate annualized operating expenses (including replacement reserves) of the Project Facilities as determined by the Controlling Person in its sole discretion in an amount equal to the actual amount of aggregate annualized expenses for the three (3) month period prior to the determination of Stabilized NOI, *provided* that such actual expenses reflect normalized/stabilized operations as reasonably determined by the Controlling Person; or (ii) an amount equal to actual annual real estate taxes (as determined by the Controlling Person), (y) actual annual insurance expenses (as determined by the Controlling Person), and (z) an amount equal to \$[\_\_\_\_\_] (including underwritten replacement reserves, the annual trustee’s fee and the issuer fee), plus (but without duplication) all required deposits into the Reimbursement Agreement.

“*Facility Fee*” has the meaning given to that term in the Reimbursement Agreement.

“*Fannie Mae*” means Fannie Mae, a corporation organized and existing under the Federal National Mortgage Association Charter Act, 12 U.S.C., § 1716 *et seq.*, and its successors and assigns.

“*Fannie Mae Commitment*” means the Commitment Letter, dated [\_\_\_\_\_] , 2025, from Fannie Mae to NewPoint Real Estate Capital LLC, attached to the Standby Forward Commitment Letter, dated [\_\_\_\_\_] , 2025, from NewPoint Real Estate Capital LLC, to the Borrower.

“*Fannie Mae Transfer Release Conditions*” means each of the following: (i) The Bonds must be rated by a national rating agency; (ii) there shall have been delivered to the Trustee a disclosure document, describing the Bonds, the Project, the Borrower, Fannie Mae and security for the Bonds, including the Credit Facility, a summary of key financing documents and such other matters typically included in a Fannie Mae credit enhanced, publicly offered bond transaction (“*Disclosure Document*”); (iii) Borrower shall have entered into the Continuing Disclosure Agreement which shall satisfy the requirements of Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be

amended from time to time; (iv) the Disclosure Document and Continuing Disclosure Agreement must be available on the Municipal Securities Rulemaking Board Electronic Municipal Market Access (EMMA) system at [www.emma.msrb.org](http://www.emma.msrb.org); and (v) there shall have been delivered to the Trustee an indemnification agreement by the Majority Owner in favor of Fannie Mae with respect to its use of the Bonds.

*“Favorable Opinion of Bond Counsel”* means an opinion of Bond Counsel, addressed to the Issuer, the Trustee and the Majority Owner, with a copy to the Controlling Person, to the effect that a proposed action, event or circumstance (i) is permitted under this Indenture, (ii) does not affect the excludability from gross income of interest on the Tax-Exempt Bonds for federal income tax purposes, and (iii) does not affect the treatment of interest on the Tax-Exempt Bonds as not being an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals, which opinion may be subject to customary assumptions and exclusions.

*“Final Completion”* means, with respect to the Project Facilities, that each of the following conditions has been satisfied:

(i) the Controlling Person shall have received a copy of the final Plans and Specifications containing all Change Orders and there shall have been no Material Change Orders other than Material Change Orders approved by the Controlling Person;

(ii) the Borrower shall have obtained the Governmental Actions, if any, required by the Legal Requirements and all Governmental Authorities associated with the Project Facilities, including use and occupancy permits (if any are required), and shall have furnished true copies of all such Governmental Actions to the Controlling Person. Temporary certificates of occupancy, as opposed to final certificates of occupancy or their equivalent, shall be acceptable provided (A) that the Punchlist Items do not have a total cost to complete exceeding five percent (5%) of the contract price of the Work, nor an estimated time to complete exceeding sixty (60) days (except for items such as landscaping, the completion of which is subject to seasonal conditions), (B) such Punchlist Items do not substantially interfere with or prevent the use and occupancy of the Project Facilities, (C) such Punchlist Items do not include major appliances or materially affect the systems (including plumbing, electrical, HVAC, mechanical, roofing and sprinklers) serving the Project Facilities or major structural components of the Project Facilities, and (D) adequate reserves, in amounts equal to 110% of the cost of completion of such items as estimated by the Architect (or 125%, with respect to the items described in subsection (A) as being subject to seasonal conditions) have been deposited into the Project Fund;

(iii) as to all such Governmental Actions, no appeal or other action or proceeding challenging any such Governmental Actions shall have been filed or, if filed and decided, there shall have been no appeal (or further appeal) taken and all other statutory appeal periods must have expired, and there shall be no claim, litigation or governmental proceeding pending against the Borrower or the Project Facilities challenging the validity or the issuance of any zoning, subdivision or other land use ordinance, variance, permit or approval, or any Governmental Action of the kind described in this subparagraph (iii) which would adversely impact a material portion of the Project Facilities (as determined by the Controlling Person);

(iv) the Controlling Person shall have received from the Architect, a certificate of the Architect in the form attached as *Exhibit A* to the form of certificate of completion attached as Schedule 2 to the Loan Agreement (a copy of which shall also be provided to the Trustee) and otherwise customary for projects of the scope of the Work for the Project Facilities with respect to completion of the Work at the Project Facilities;

(v) all Work set forth in the Plans and Specifications for the Project Facilities shall have been incorporated into the Improvements at the Project Facilities;

(vi) except for Permitted Encumbrances and Impositions not then due and payable, the Project Facilities shall be free of any and all private or governmental charges, claims or Liens (filed or not) of any nature, excepting only the liens and security interests in favor of the Trustee and any other encumbrances approved by the Controlling Person in writing;

(vii) with respect to all contractors and subcontractors and materialmen (for contracts less than \$50,000, only as required by the Title Company; *provided* that the Title Company insures over any mechanics' and materialmen's liens arising from such excepted contractors, subcontractors or materialmen), either (i) the Borrower shall have obtained an unconditional waiver and release upon final payment of mechanics' and materialmen's liens if there are no Punchlist Items, or (ii) if there are Punchlist Items, the Borrower shall have obtained an unconditional waiver and release upon progress payment of mechanics' and materialmen's liens for all of the Improvements at the Project Facilities except for the Punchlist Items, and true copies thereof have been delivered to the Controlling Person; and

(viii) a recorded matters endorsement to the Title Policy insuring the Security Instrument as a first lien, subject to Permitted Encumbrances.

*"Financing Statements"* means any and all financing statements (including continuation statements) or other instruments filed or recorded to perfect the Security Interest created in this Indenture.

*"First Optional Redemption Date"* means the first day of the 174th month following the month in which the Conversion Date occurs.

*"Fiscal Year"* means the annual accounting year of the Borrower, which currently begins on [January 1] of each calendar year.

*"Fitch"* means Fitch Ratings, Inc., a corporation organized and existing under the laws of the State of Delaware, and its successors and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "Fitch" shall be deemed to refer to any other nationally recognized securities rating agency designated by the Controlling Person, by notice to the Borrower, the Issuer and the Trustee.

*"Force Majeure"* means circumstances beyond reasonable control, including, any act or provision of any present or future law or regulation or governmental authority, acts of God, strikes, walkouts or other labor disputes, riots, civil or military strife, war, terrorism, earthquakes; lightning, fires, explosions, storms or floods or shortages of labor or materials; sabotage;

epidemics; pandemics, or quarantines; interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications service, the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility, or other causes of a like nature beyond the control of the Borrower or the Trustee, as applicable; *provided, however*, that the unavailability of sources of financing, the insufficiency of funds, the loss of a tenant or changes in market conditions shall not constitute Force Majeure.

“GAAP” means generally accepted accounting principles in effect in the United States from time to time, consistently applied.

“*Government Obligations*” means (i) direct obligations of the United States of America for the full and timely payment of which the full faith and credit of the United States of America is pledged, and (ii) obligations issued by a Person controlled or supervised by and acting as an instrumentality of the United States of America, the full and timely payment of the principal of, premium, if any, and interest on which is fully guaranteed as a full faith and credit obligation of the United States of America (including any securities described in (i) or (ii) issued or held in book-entry form on the books of the Department of the Treasury of the United States of America), which obligations, in either case, are not subject to redemption prior to maturity at less than par at the option of anyone other than the holder thereof.

“*Governmental Action*” means all permits, authorizations, registrations, consents, certifications, approvals, waivers, exceptions, variances, claims, orders, judgments and decrees, licenses, exemptions, publications, filings, and notices to and declarations of or with any Governmental Authority and shall include all permits and licenses required to construct, use, operate and maintain any of the Project Facilities.

“*Governmental Authority*” means any federal, state, or local governmental or quasi-governmental subdivision, authority, or other instrumentality thereof and any entity asserting or exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and having jurisdiction over the Borrower and/or the Project Facilities.

“*Gross Cash Receipts*” means all cash receipts of the Borrower from whatever source derived, other than from (i) Required Equity Funds, (ii) any refinancing, sale, transfer or disposition of all or substantially all of the Borrower’s property, (iii) any casualty insurance funds or condemnation proceeds that will be used to repair or replace the Borrower’s property, and (v) security deposits (not otherwise applied to defaulting tenant payment obligations) and interest thereon.

“*Guarantor*” means, individually and collectively, DBG Properties, LLC, a New Mexico limited liability company, Eric C. Grodahl, an individual, and Walter O. Grodahl, III, an individual, or any other person or entity which may hereafter become a guarantor of any of the Borrower’s obligations under the Loan Agreement and Note, together with their respective permitted assigns.

“*Guaranty of Completion*” means the Guaranty of Completion, dated as of the date hereof made by the Guarantor in favor of the Trustee.

*“Guaranty of Debt Service and Conversion”* means the Guaranty of Debt Service and Conversion, dated as of the date hereof, made by the Guarantor in favor of the Trustee.

*“Guaranty of Recourse Obligations”* means the Guaranty of Recourse Obligations, dated as of the date hereof, made by the Guarantors in favor of the Trustee.

*“Hazardous Substances”* means any petroleum or petroleum products and their by-products, flammable explosives, radioactive materials, toxic chemicals and substances, radon, asbestos in any form that is or could become friable, urea formaldehyde foam insulation and polychlorinated biphenyls (PCB), asbestos-containing materials (ACMs), lead-containing or lead-based paint (LBP), radon, Mold, medical waste and other bio-hazardous materials and any chemicals, pollutants, materials or substances defined as or included in the definition of “hazardous substances” as defined pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act, “regulated substances” within the meaning of subtitle I of the federal Resource Conservation and Recovery Act and words of similar import under applicable Environmental Laws.

*“Highest Rating Category”* has the meaning, with respect to an Investment, given in this definition. If the Bonds are rated by a Rating Agency, the term “Highest Rating Category” means, with respect to an Investment, that the Investment is rated by each Rating Agency in the highest rating given by that Rating Agency for that general category of security. If at any time the Bonds are not rated (and, consequently, there is no Rating Agency), then the term “Highest Rating Category” means, with respect to an Investment, that the Investment is rated by S&P or Moody’s in the highest rating given by that rating agency for that general category of security. By way of example, the Highest Rating Category for tax-exempt municipal debt established by S&P is “A-1+” for debt with a term of one year or less and “AAA” for a term greater than one year, with corresponding ratings by Moody’s of “MIG-1” (for fixed rate) or “VMIG-1” (for variable rate) for one year or less and “Aaa” for greater than one year. If at any time (i) the Bonds are not rated, (ii) both S&P and Moody’s rate an Investment and (iii) one of those ratings is below the Highest Rating Category, then such Investment will, nevertheless, be deemed to be rated in the Highest Rating Category if the lower rating is no more than one rating category below the highest rating category of that rating agency. For example, an Investment rated “AAA” by S&P and “Aa3” by Moody’s is rated in the Highest Rating Category. If, however, the lower rating is more than one full rating category below the Highest Rating Category of that rating agency, then the Investment will be deemed to be rated below the Highest Rating Category. For example, an Investment rated “AAA” by S&P and “A1” by Moody’s is not rated in the Highest Rating Category.

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

*“Impositions”* means, with respect to the Project Facilities, to the extent applicable, all taxes including, without limitation, all real and personal property taxes, water charges and sewer rents, any special assessments, charges or claims and any other item which at any time may be or become a lien upon the Project Facilities.

*“Improvements”* means all buildings and other improvements included in the Project Facilities.

*“Indebtedness”* means, collectively, and includes all present and future indebtedness, liabilities and obligations of any kind or nature whatsoever of the Borrower to the Issuer, the Controlling Person, the Trustee or the Holders from time to time of the Bonds, now existing and hereafter arising, under or in connection with this Indenture or any of the other Bond Documents, including future advances, principal, interest, indemnities, other fees, late charges, enforcement costs and other costs and expenses whether direct or contingent, matured or unmatured and all other obligations of the Borrower to the Controlling Person, the Trustee, the Issuer or the Holders from time to time of the Bonds.

*“Indemnified Parties”* shall have the meaning given to such term in Section 2.05 of the Loan Agreement.

*“Indenture”* shall have the meaning given to such term in the first paragraph hereof.

*“Indirect Participant”* means a broker-dealer, bank or other financial institution for which the Securities Depository holds Bonds as a securities depository through a DTC Participant.

*“Insurance and Condemnation Proceeds Account”* means the account within the Project Fund created pursuant to Section 4.1(a) hereof.

*“Insurance Proceeds”* means the total proceeds of insurance actually paid or payable by an insurance company in respect of the required insurance on the Project Facilities, less the actual costs incurred, including attorneys’ fees and expenses, in the collection of such proceeds.

*“Interest Payment Date”* means the first day of each month, commencing [\_\_\_\_\_] 1, 2025 and, following the Conversion Date, each [September 1] and [March 1], commencing [September 1, 2025], or if such day is not a Business Day, the immediately succeeding day that is a Business Day.

*“Investor Letter”* means that certain Investor Letter, substantially in the form attached hereto as *Exhibit B*, with such modifications as may be approved by the Issuer.

*“Investor Member”* means AHP Housing Fund 399, LLC, a Delaware limited liability company, and its successors and assigns in such capacity pursuant to the Operating Agreement.

*“Issuance Fee”* means a [fee equal to 1.0% of the initial aggregate principal amount of the Bonds], which is payable on the Issue Date to the Issuer from funds provided by or behalf of the Borrower.

*“Issue Date”* means [\_\_\_\_\_, 2025], the date on which the proceeds of the initial draw of the Bonds are delivered to the Purchaser.

*“Issuer”* means the City of Colorado Springs, Colorado, a municipal corporation duly organized and existing as a home-rule city under Article XX of the Constitution of the State of Colorado and the home rule charter of the City of Colorado Springs, Colorado.

*“Issuer Administrative Fee”* means, [the annual fee payable to the Issuer in an amount equal to [\_\_\_\_\_] % of the initial aggregate principal amount of the Bonds, payable by the Borrower

and remitted by the Trustee to the Issuer in advance on each [January 1], commencing [January 1, 2026]].

*“Issuer Fees and Expenses”* means, collectively, (i) the Issuance Fee, (ii) the Issuer Administrative Fee, and (iii) any other fees, charges, costs, advances, indemnities and expenses (including, without limitation, attorneys’ fees and expenses), whether out-of-pocket or internal, that may be incurred at any time by the Issuer hereunder or under or in connection with the Bond Documents or the Bonds, or in connection with questions or other matters arising under such documents or in connection with any federal or state tax audit, or otherwise in connection with the Bonds or the Project.

*“Legal Requirements”* means all statutes, codes, laws, ordinances, regulations, rules, policies, or other federal, state, local and municipal requirements of any Governmental Authority whether now or hereafter enacted or adopted, and all judgments, decrees, injunctions, writs, orders or like action of an arbitrator or a court or other Governmental Authority of competent jurisdiction (including those pertaining to health, safety or the environment).

*“Lien”* means any lien, mortgage, security interest, tax lien, pledge, encumbrance, conditional sale or title retention arrangement, or any other interest in property designed to secure the repayment of indebtedness, whether arising by agreement or under any statute or law, or otherwise.

*“Loan”* means the loan of proceeds of the Bonds from the Issuer to the Borrower, as evidenced by the Note and pursuant to the terms of the Loan Agreement.

*“Loan Agreement”* shall have the meaning given to such term in the recitals to this Indenture.

*“Majority Owner”* means any one Person that is the Owner of the Outstanding Bonds; *provided, however*, if no one Person owns all of the Outstanding Bonds, “Majority Owner” means the Owner or Owners of at least fifty-one percent (51%) in aggregate principal amount of all Outstanding Bonds.

*“Management Agreement”* shall have the meaning ascribed to such term in Section 6.19 of the Loan Agreement.

*“Managing Agent”* means [\_\_\_\_\_], a(n) [STATE] [ENTITY TYPE], together with any successor manager of the Project Facilities approved by the Controlling Person and their respective successors and assigns.

*“Managing Member”* means DBG Royal Pine Apartments Investors LLC, a Colorado limited liability company, authorized to conduct its business in the State, the Managing Member of the Borrower, together with its successors and assigns, as permitted by the Controlling Person and the restrictions described in the definition of “Permitted Transfer” herein.

*“Major Contract”* shall mean any subcontract for labor or materials, or both, in connection with the Improvements which is for an aggregate contract price equal to or greater than \$250,000,

whether pursuant to one contract or agreement or multiple contracts or agreements, after taking into account all change orders.

*“Material Change Order”* means, with respect to the Project Facilities, a Change Order which (i) would result in an increase or decrease of \$150,000 of contract price of the Work to be performed on the Project Facilities in a single Change Order; (ii) when aggregated with other Change Orders previously effected, would result in an increase or decrease in excess of \$300,000; (iii) would reduce the number of apartment units in the Project Facilities; (iv) would materially reduce the aggregate useable square footage of the apartment units or the parking areas in the Project Facilities; (v) would change the number of studio, one, two and three bedroom apartments in the Project Facilities; (vi) would alter the scope of the recreational facilities or ancillary facilities of the Project Facilities; (vii) would alter the number of apartment units in the Project Facilities designated for occupancy by low and moderate income tenants; (viii) makes a substitution for any material or product that is of lesser quality, than that specified in the Plans and Specifications relating to the Project Facilities; or (ix) would materially adversely impair the value of the Project Facilities once the Work is completed.

*“Material Contract”* means each indenture, mortgage, agreement or other written instrument or contract to which the Borrower is a party or by which any of its assets are bound (including, without limitation, any employment or executive compensation agreement, collective bargaining agreement, agreement relating to an Obligation, agreement for the acquisition, construction, repair or disposition of real or personal property, agreement for the purchasing or furnishing of services, operating lease, joint venture agreement, agreement relating to the acquisition or disposition of an Affiliate or agreement of merger or consolidation) which (i) evidences, secures or governs any outstanding obligation of the Borrower of \$100,000 or more per annum, or (ii) if canceled, breached or not renewed by any party thereto, would have a material adverse effect on the business operations, assets, condition (financial or otherwise) or prospects of the Borrower.

*“Maturity Date”* means, with respect to the Series 2025A-1 Bonds, [\_\_\_\_\_, 20\_\_], with respect to the Series 2025A-2 Bonds, [\_\_\_\_\_, 20\_\_], and with respect to the Series 2025A-T Bonds, [\_\_\_\_\_, 20\_\_].

*“Maximum Rate”* means the maximum rate allowed by law.

*“Member Pledge”* means the Pledge of Equity Interests and Security Agreement, dated as of the date hereof from the Managing Member and Class B Special Member in favor of the Trustee.

*“Moisture Management Program”* shall have the meaning ascribed to such term in Section 6.14(e) of the Loan Agreement.

*“Mold”* shall have the meaning ascribed to such term in Section 6.14(e) of the Loan Agreement.

*“Monthly Tax and Insurance Amount”* means, following the Conversion Date, an amount equal to the sum of (i) one-twelfth (1/12th) of the annual Impositions, plus (ii) one-twelfth (1/12th) of the annual insurance premiums for the insurance coverages for the Project Facilities required by Section 6.04 of the Loan Agreement, as any such amounts may be increased or decreased if the

Controlling Person determines that funds in the Tax and Insurance Escrow Fund will be insufficient or in excess of the amount required to pay Impositions and insurance premiums when due.

“*Moody’s*” means Moody’s Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, and its successors and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “*Moody’s*” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Controlling Person, by notice to the Borrower, the Issuer and the Trustee.

“*Note*” means, collectively, the Tax-Exempt Promissory Note (Series 2025A-1), the Tax-Exempt Promissory Note (Series 2025A-2), and the Taxable Promissory Note (Series 2025A-T), of the Borrower, dated the Issue Date as endorsed by the Issuer to the Trustee, in the form attached to the Loan Agreement as *Exhibit A-1*, *Exhibit A-2* and *Exhibit A-3*, respectively, as amended, supplemented or restated from time to time, or any promissory note or notes executed in substitution therefor, as such substitute promissory note or notes may be amended, supplemented or restated from time to time.

“*Note Interest Rate*” means: (a) with respect to the Series 2025A-1 Note referred to in the Loan Agreement, a per annum rate equal to [\_\_\_\_]% prior to the Rate Adjustment Date and [\_\_\_\_]% from and after the Rate Adjustment Date, (b) with respect to the Series 2025A-2 Note referred to in the Loan Agreement, [\_\_\_\_]%, and (c) with respect to the Series 2025A-T Note referred to in the Loan Agreement, [\_\_\_\_]%.

“*Note Payment Date*” means the first day of each month, commencing [\_\_\_\_], 2025, or if such day is not a Business Day, the immediately succeeding day that is a Business Day.

“*Obligations*” means any and all obligations of the Borrower for the payment of money including without limitation any and all (i) obligations for money borrowed, (ii) obligations evidenced by bonds, debentures, notes, guaranties or other similar instruments, (iii) construction contracts, installment sale agreements and other purchase money obligations in connection with the performance of work, sale of property or rendering of services, (iv) leases evidencing the acquisition of capital assets, (v) obligations under any applicable lease agreement, (vi) reimbursement obligations in connection with letters of credit and other credit enhancement facilities, (vii) obligations for unfunded pension liabilities, (viii) guaranties of any such obligation of a third party, and (ix) any such obligations of third parties secured by assets of the Borrower; but excluding obligations under contracts for supplies, services and pensions allocable to current Expenses during the current or future Fiscal Years in which the supplies are to be delivered, the services rendered or the pension paid.

“*Operating Agreement*” means the [Amended and Restated Operating Agreement] of the Borrower, dated as of [\_\_\_\_], 2025, as it may be further amended, modified or supplemented from time to time.

“*Operating Reserve Fund*” means the fund of that name created pursuant to the Operating Agreement.

*“Opinion of Bond Counsel”* means any opinion of Bond Counsel delivered pursuant to this Indenture with respect to the excludability of interest on the Tax-Exempt Bonds from gross income of the Holders thereof for federal income tax purposes or other matters specified in this Indenture. Each such opinion shall be addressed to (or accompanied by a customary reliance letter to) the Trustee, the Majority Owner, the Controlling Person and the Issuer.

*“Ordinance”* means the ordinance adopted by the Issuer authorizing and approving the issuance and sale of the Bonds and the execution and delivery of this Indenture, the Loan Agreement and the other Bond Documents to which the Issuer is a party.

*“Outside Conversion Date”* means [\_\_\_\_\_], 2028, which date may be extended in accordance with Section 6.37 of the Loan Agreement.

*“Outside Termination Date”* has the meaning given that term in the Fannie Mae Commitment.

*“Outstanding”* means, when used with reference to the Bonds at any date as of which the amount of outstanding Bonds is to be determined, all Bonds that have been authenticated and delivered by the Trustee hereunder, except:

- (i) Bonds cancelled or delivered for cancellation at or prior to such date;
- (ii) Bonds deemed to be paid in accordance with Section 5.2 hereof;
- (iii) Bonds in lieu of which others have been authenticated under Sections 2.8 and 2.9 hereof;
- (iv) Bonds authorized but not yet drawn-down; and
- (v) In determining whether the owners of a requisite aggregate principal amount of Outstanding Bonds have concurred in any request, demand, authorization, direction, notice, consent or waiver under the provisions of this Indenture, Bonds which are owned or held by or for the account of the Borrower will be disregarded and deemed not to be Outstanding under this Indenture for the purpose of any such determination unless all Bonds are owned by or held for the account of the Borrower. In determining whether the Trustee will be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which are registered in the name of or known by the Trustee to be held for the account of the Borrower will be disregarded.

*“Permanent Loan Amount”* means the Permanent Phase Loan Amount determined in accordance with the Fannie Mae Commitment.

*“Permanent Phase”* has the meaning given that term in the Fannie Mae Commitment.

*“Permitted Encumbrances”* means only:

- (i) the Regulatory Agreement;

(ii) the Security Instrument;

(iv) encumbrances in the final Title Policy;

(v) Impositions not yet due and payable or being contested in good faith and by appropriate proceedings promptly initiated and diligently conducted if such proceedings do not in the opinion of the Controlling Person involve the risk of the sale, forfeiture or loss of the property subject to such lien or interfere with the operation of the Project Facilities, and *provided* that the Borrower shall have established a reserve or made other appropriate provision, if any, as shall be required by the Controlling Person, and any foreclosure, distraint, sale or other similar proceedings shall have been effectively stayed;

(vi) statutory liens of landlords and liens of carriers, warehousemen, mechanics and materialmen incurred in the ordinary course of business for sums not yet due or being contested by appropriate proceedings promptly initiated and diligently conducted if (1) such proceedings do not in the opinion of the Controlling Person involve the risk of the sale, forfeiture or loss of the property subject to such lien or interfere with the operation of the Project Facilities, and provided (2) such liens have been bonded or the Borrower shall have established a reserve or made other appropriate provision, if any, as shall be required by the Controlling Person; and

(vii) utility easements for utilities servicing the Project as may be granted from time to time by the Borrower.

*“Permitted Investments”* means any one or more of the following investments, if and to the extent the same are then legal investments under the applicable laws of the State for moneys proposed to be invested therein:

(a) Government Obligations.

(b) Direct obligations of, and obligations on which the full and timely payment of principal and interest is unconditionally guaranteed by, any agency or instrumentality of the United States of America (other than the Federal Home Loan Mortgage Corporation) or direct obligations of the World Bank, which obligations are rated in the Highest Rating Category.

(c) Obligations, in each case rated in the Highest Rating Category, of (i) any state or territory of the United States of America, (ii) any agency, instrumentality, authority or political subdivision of a state or territory or (iii) any public benefit or municipal corporation the principal of and interest on which are guaranteed by such state or political subdivision.

(d) Any written repurchase agreement entered into with a Qualified Financial Institution whose unsecured short-term obligations are rated in the Highest Rating Category.

(e) Commercial paper rated in the Highest Rating Category.

(f) Interest-bearing negotiable certificates of deposit, interest-bearing time deposits, interest-bearing savings accounts and bankers' acceptances, issued by a Qualified Financial Institution if either (A) the Qualified Financial Institution's unsecured short-term obligations are rated in the Highest Rating Category or (B) such deposits, accounts or acceptances are fully insured by the Federal Deposit Insurance Corporation.

(g) an agreement held by the Trustee for the investment of moneys at a guaranteed rate with (i) the Credit Provider or (ii) a Qualified Financial Institution whose unsecured long-term obligations, obligations for which a current insurer financial enhancement rating is available or obligations for which an insurer financial strength rating is available are rated in the Highest Rating Category, or whose obligations are unconditionally guaranteed or insured by a Qualified Financial Institution whose unsecured long-term obligations, obligations for which a current insurer financial enhancement rating is available or obligations for which an insurer financial strength rating is available are rated in the Highest Rating Category; *provided, however*, that:

(1) the agreement is an unconditional and general obligation of the provider, and if applicable the guarantee or insurance is an unconditional and general obligation of the guarantor or insurer of the agreement, and ranks *pari passu* with all other unsecured, unsubordinated obligations of the provider, and if applicable, the guarantor or insurer of the agreement;

(2) the Trustee receives an Opinion of Counsel, which may be subject to customary qualifications, that such agreement is legal, valid, binding and enforceable upon the provider in accordance with its terms and, if applicable, an Opinion of Counsel that any guaranty or insurance policy provided by a guarantor or insurer is legal, valid, binding and enforceable upon the guarantor or insurer in accordance with its terms;

(3) the agreement provides that the invested funds will be available for withdrawal without penalty or premium, at any time that (A) the Trustee is required to pay moneys from any Fund established under this Indenture to which the agreement is applicable, or (B) subject to paragraph (4), any Rating Agency lowers, suspends or withdraws the rating on the Bonds on account of the rating of the Qualified Financial Institution providing, guaranteeing or insuring, as applicable, the agreement;

(4) the agreement provides that if during its term the rating of the Qualified Financial Institution providing, guaranteeing or insuring, as applicable, the agreement, is withdrawn, suspended by any Rating Agency or falls below the Highest Rating Category, the Provider must:

(A) within five days of such withdrawal, suspension or downgrade, the provider must notify the Trustee, the Borrower and the Credit Facility Provider; and

(B) within 15 days of such withdrawal, suspension or downgrade and at the option of the Provider, either (i) collateralize the agreement (if the agreement is not already collateralized) with Permitted Investments described in paragraph (a) or (b) by depositing collateral with the Trustee or a third party custodian, such collateralization to be effected in a manner and in an amount reasonably satisfactory to the Credit Provider and which is sufficient to maintain the then current rating of the Bonds, or, if the agreement, is already collateralized, increase the collateral with Permitted Investments described in paragraph (a) or (b) by depositing collateral with the Trustee or a third party custodian, in an amount reasonably satisfactory to the Credit Provider and which is sufficient to maintain the then current rating of the Bonds, or (ii) transfer the agreement, guarantee or insurance, as applicable, to a replacement provider, guarantor or insurer, as applicable, then meeting the requirements of a Qualified Financial Institution and whose unsecured long term obligations or claims paying ability are then rated in the Highest Rating Category.

(5) the agreement also provides that if during its term the rating of the Qualified Financial Institution providing, guaranteeing or insuring, as applicable, the agreement, is withdrawn, suspended by any Rating Agency or falls below the Highest Rating Category, and the Provider does not satisfy the requirements of paragraph (4) above within the required period of time, then the Trustee may or the Credit Provider may direct the Trustee to notify the provider that it intends to withdraw the entire balance of the agreement then on deposit, together with all of the accrued and unpaid earnings thereon. The provider will, if the requirements of paragraph (4) above have not been timely satisfied, repay the principal of and accrued but unpaid interest on the investment, with no penalty or premium unless required by law, to the Trustee within two (2) Business Days of receipt of such notice from the Trustee. Upon any such withdrawal the agreement shall terminate.

(h) Subject to the ratings requirements set forth in this definition, shares in any money market mutual fund (including those of the Trustee or any of its affiliates) registered under the Investment Company Act of 1940, as amended, that have been rated AAAM-G or AAAM by S&P or Aaa by Moody's so long as the portfolio of such money market mutual fund is limited to Government Obligations and agreements to repurchase Government Obligations. If approved in writing by the Credit Provider, a money market mutual fund portfolio may also contain obligations and agreements to repurchase obligations described in paragraphs (b) or (c). If the Bonds are rated by a Rating Agency, the money market mutual fund must be rated AAAM-G or AAAM by S&P, if S&P is a Rating Agency, or Aaa by Moody's, if Moody's is a Rating Agency. If at any time the Bonds are not rated (and, consequently, there is no Rating Agency), then the money market mutual fund must be rated AAAM-G or AAAM by S&P or Aaa by Moody's. If at any time (i) the Bonds are not rated, (ii) both S&P and Moody's rate a money market mutual fund and (iii) one of those ratings is below the level required by this paragraph, then such money market mutual fund will, nevertheless, be deemed to be rated in the Highest Rating Category if the lower rating is no more than one rating category below the highest rating category of that rating agency.

(i) Any other investment authorized by the laws of the State, if such investment is approved in writing by the Credit Provider.

Permitted Investments shall not include any of the following:

(1) Except for any investment described in the next sentence, any investment with a final maturity or any agreement with a term greater than one year from the date of the investment. This exception (1) shall not apply to any obligation that provides for the optional or mandatory tender, at par, by the holder of such obligation at least once within one year of the date of purchase, Government Obligations irrevocably deposited with the Trustee for payment of Bonds pursuant to Section 5.2, and Permitted Investments listed in paragraphs (g) and (i)).

(2) Except for any obligation described in paragraph (a) or (b), any obligation with a purchase price greater or less than the par value of such obligation.

(3) Any asset-backed security, including mortgage-backed securities, real estate mortgage investment conduits, collateralized mortgage obligations, credit card receivable asset-backed securities and auto loan asset-backed securities.

(4) Any interest-only or principal-only stripped security.

(5) Any obligation bearing interest at an inverse floating rate.

(6) Any investment which may be prepaid or called at a price less than its purchase price prior to stated maturity.

(7) Any investment the interest rate on which is variable and is established other than by reference to a single index plus a fixed spread, if any, and which interest rate moves proportionately with that index.

(8) Any investment described in paragraph (d) or (g) with, or guaranteed or insured by, a Qualified Financial Institution described in clause (iv) of the definition of Qualified Financial Institution if such institution does not agree to submit to jurisdiction, venue and service of process in the United States of America in the agreement relating to the investment.

(9) Any investment to which S&P has added an “r” or “t” highlighter.

*“Permitted Transfer”* means, in all cases subject to the provisions of the Regulatory Agreement, (i) a transfer by devise or descent or by operation of law upon the death of a direct or indirect owner in the Borrower, so long as such transfer does not result in a change of management or control of the affected entity, (ii) the transfer of a direct or indirect ownership interest in the Managing Member for estate planning purposes, so long as such transfer does not result in a change of management or control of the Managing Member, (iii) a transfer of membership interests in the Borrower to the Investor Member, (iv) a transfer of the membership interests of the Investor Member in the Borrower to an Affiliate of such Investor Member, (v) a transfer of direct or indirect ownership interests in the Investor Member so long as the direct ownership interests in the Investor

Member are owned or controlled by an Affiliate of the Investor Member, (vi) (A) a transfer of any direct or indirect ownership interests in the Investor Member after the contributions by the Investor Member of all installments of capital contributions required to be made by the applicable Investor Member pursuant to the terms and conditions of the Operating Agreement and (B) a transfer of the membership interests of the Investor Member in the Borrower after the contributions by the Investor Member of all installments of capital contributions required to be made by the applicable Investor Member pursuant to the terms and conditions of the Operating Agreement, (vii) the removal and replacement of the Managing Member or the Class B Special Member of the Borrower pursuant to the Operating Agreement, (viii) after the payment in full of all capital contributions under the Operating Agreement, any other transfer, assignment, pledge, hypothecation or conveyance of ownership interests in, or change in the members of, the Borrower (and the owners of such members) not described above, in accordance with the terms of the Operating Agreement or (ix) such governmental, public utility and private easements, covenants, conditions and restrictions which are customary and reasonably necessary for the use and operations of the Project Facilities which have been reasonably approved in writing by the Controlling Person.

*“Person”* means any individual, for-profit or not-for-profit corporation, partnership, joint venture, association, limited liability company, limited liability partnership, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

*“Placement Agent”* means NewPoint Real Estate Capital Securities LLC, a Delaware limited liability company, and its successors and assigns.

*“Plans and Specifications”* means, with respect to the Project Facilities, the plans and specifications for the construction of Improvements prepared by the Architect and provided to the Purchaser and approved by the Controlling Person, as the same may be amended, modified or supplemented as permitted under the Loan Agreement through Change Orders or otherwise.

*“Pre-Conversion Loan Equalization Payment”* means a prepayment of the Loan by the Borrower as a condition to Conversion in order to reduce the Outstanding principal amount of the Bonds to the Permanent Loan Amount.

*“Principal Payment Date”* means (i) each Maturity Date of the Bonds, (ii) each sinking fund redemption date set forth on the Amortization Schedule and (iii) any other date on which the Bonds are redeemed pursuant to the terms hereof.

*“Project Certificate”* means the Project Certificate dated the Issue Date, executed by the Borrower in connection with the Bonds.

*“Project Costs”* means the costs, fees, and expenses associated with the acquisition (including the acquisition of a fee simple interest), construction, and equipping of the Project Facilities for use as affordable rental housing including but not limited to the cost of materials, appliances, equipment, and other items of tangible personal property, the fees and expenses of architects, contractors, engineers, attorneys, accountants, developers, surveyors, payment of capitalized interest, payment of certain costs and expenses incidental to the issuance of the Bonds and payment of any other costs shown on the Development Budget.

*“Project”* means an approximately 232-unit multifamily residential rental housing project to be located at 4150 Royal Pine Drive, Colorado Springs, Colorado 80920, and subordinate and related facilities thereto, to be known as Royal Pine Apartments, the acquisition, construction and equipping of which are being financed by the proceeds of the Bonds, including the site thereof.

*“Project Fund”* means the fund of that name created pursuant to Section 4.1(a) hereof.

*“Proposed Budget”* shall have the meaning given to such term in Section 6.24 of the Loan Agreement.

*“Punchlist Items”* means any items necessary at the time of the issuance of a temporary use and occupancy permit to complete fully the construction of the Project Facilities in accordance with the Plans and Specifications for the Project Facilities or required for the issuance of a final certificate of occupancy or its equivalent.

*“Purchaser”* means NewPoint Impact Fund I LP, a Delaware limited partnership, and its successors and assigns.

*“Qualified Financial Institution”* means any of: (i) bank or trust company organized under the laws of any state of the United States of America, (ii) national banking association, (iii) savings bank, a savings and loan association, or an insurance company or association chartered or organized under the laws of any state of the United States of America, (iv) federal branch or agency pursuant to the International Banking Act of 1978 or any successor provisions of law or a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, (v) government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, (vi) securities dealer approved in writing by the Credit Provider the liquidation of which is subject to the Securities Investors Protection Corporation or other similar corporation and (vii) any other entity which is acceptable to the Credit Provider. With respect to an entity which provides an agreement held by the Trustee for the investment of moneys at a guaranteed rate as set out in paragraph (g) of the definition of the term “Permitted Investments” or an entity which guarantees or insures, as applicable, the agreement, a “Qualified Financial Institution” may also be a corporation or limited liability company organized under the laws of any state of the United States of America.

*“Qualified Project Costs”* means the actual costs incurred to design, acquire, construct equip, furnish, install and otherwise develop the Project Facilities which (i) are or were incurred after [\_\_\_\_\_, 20\_\_], (ii) are (A) chargeable to the Project Facilities’ capital account or would be so chargeable either with a proper election by the Borrower or but for a proper election by the Borrower to deduct such costs, within the meaning of Treasury Regulation Section 1.103-8(a)(1), and if charged or chargeable to the Project Facilities’ capital account are or would have been deducted only through an allowance for depreciation or (B) made for the acquisition of land, to the extent allowed in Section 147(c) of the Code, and (iii) are made exclusively with respect to a “qualified residential rental project” within the meaning of Section 142(d) of the Code.

*“Rate Adjustment Date”* means [RATE ADJUSTMENT DATE], which date may be extended for a period of up to six (6) months upon the request of Borrower, subject to the approval

of Controlling Person and the receipt of a Favorable Opinion of Bond Counsel; provided that in no event shall the Rate Adjustment Date be extended beyond the Conversion Date.

*“Rebate Amount”* shall have the meaning given to such term in Section 6.10(c) of the Loan Agreement.

*“Rebate Analyst”* shall have the meaning given to such term in Section 6.10(c) of the Loan Agreement and shall be reasonably acceptable to the Controlling Person.

*“Rebate Analyst Fee”* means the fee payable by the Borrower annually in advance to the Rebate Analyst on each January 1 in the amount of \$[\_\_\_\_], commencing, on [January 1, 2026], so long as the Bonds are Outstanding.

*“Rebate Fund”* means the fund of that name created pursuant to Section 4.1(a) hereof.

*“Rebate Report”* shall have the meaning given to such term in Section 6.10(c) of the Loan Agreement.

*“Record Date”* means with respect to each Interest Payment Date, the Trustee’s close of business on the Business Day before such Interest Payment Date occurs.

*“Redemption Fund”* means the account of that name created pursuant to Section 4.1(a) hereof.

*“Register”* means the register of the record Owners of Bonds maintained by the Trustee.

*“Regulatory Agreement”* means that certain Tax Regulatory Agreement, dated as of [\_\_\_\_], 2025, between the Issuer and the Borrower, as the same may be amended, modified or supplemented from time to time.

*“Regulatory Agreement Default”* shall have the meaning given to such term in Section 7.09(b) of the Loan Agreement.

*“Reimbursement Agreement”* means the Reimbursement Agreement, dated as of the first day of the month of the month that the Conversion Date occurs, by the Credit Provider and the Borrower, as amended, supplemented or restated from time to time, or any agreement entered into in substitution therefor.

*“Related Person”* with reference to any Substantial User, means a “related person” within the meaning of Section 147(a)(2) of the Code.

*“Rents”* shall have the meaning assigned to such term in the Security Instrument.

*“Repayments”* means all payments of principal and interest on the Loan required to be paid by the Borrower to the Trustee, as the assignee of the Issuer pursuant to the Loan Agreement.

*“Required Equity Funds”* means all installments of equity contributions to be made to the Borrower by the Investor Member through Conversion and funding of the Operating Reserve Fund, subject to and in accordance with the terms of the Operating Agreement.

*“Requisition”* means a requisition in the form attached to the Loan Agreement as Exhibit B, together with all invoices, bills of sale, schedules, applications for payment, certifications and other submissions required for the disbursement of the proceeds of the Bonds and other funds held in the accounts of the Project Fund, as approved by the Controlling Person, pursuant to the terms hereof.

*“Replacement Credit Facility”* has the meaning given that term in Section 8.6(a).

*“Reserved Rights”* means those certain rights of the Issuer under the Loan Agreement to indemnification and to payment or reimbursement of fees, costs and expenses of the Issuer (including, without limitation, the Issuer Fees and Expenses), its right to receive notices 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 specifically enforce the Borrower’s covenant to comply with applicable federal tax law and State law (including the Act and the Supplemental Act and the rules and regulations of the Issuer, if any), and its right to give or withhold consent to amendments, changes, modifications and alterations to the Loan Agreement relating to the Reserved Rights.

*“Retainage”* means a holdback of five percent (5%) of the hard costs of construction of the Improvements performed by the Contractor under the Construction Contract until the Project has achieved 50% completion, as determined by Servicer, and thereafter five percent (5%) of the hard costs of construction of the Improvements performed by the Contractor under the Construction Contract.

*“Sale”* means the direct or indirect sale, agreement to sell, assignment, transfer, conveyance, hypothecation, lien, Security Instrument, grant of a security interest in or a deed to secure debt or deed of trust with respect to, encumbrance, lease, sublease or other disposition of the Project Facilities, or any part thereof or interest therein whether voluntary, involuntary, by operation of law or otherwise, other than (i) the leasing of individual residential units to tenants, (ii) the extension, amendment, renewal or replacement of commercial leases currently in effect, and (iii) the grant of easements for utilities and similar purposes in the ordinary course provided, such easements do not impair the use of the Project Facilities or diminish the value of the Project Facilities. “Sale” shall also include the direct or indirect sale, transfer, assignment, pledge, hypothecation or conveyance of legal or beneficial ownership of (a) equity ownership interests in the Borrower, (b) a controlling interest in the aggregate, at any time or times, of the equity ownership interests in the Managing Member, or (c) the substitution of a new Managing Member or Class B Special Member in the Borrower without the Controlling Person’s written consent, which it may withhold in its sole discretion; *provided, however*, that “Sale” shall not include a Permitted Transfer.

*“S&P”* means S&P Global Ratings, a division of S&P Global, Inc., a corporation organized and existing under the laws of the State of New York, and its successors and, if such company shall be dissolved or liquidated or shall no longer perform the functions of a securities

rating agency, “S&P” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Controlling Person, by notice to the Borrower, the Issuer and the Trustee.

“*Securities Act*” means the United States Securities Act of 1933, as amended, and the rules, regulations and published interpretations of the Securities and Exchange Commission promulgated thereunder from time to time.

“*Securities Depository*” means The Depository Trust Company and any substitute for or successor to such securities depository that shall maintain a Book-Entry System with respect to the Bonds.

“*Securities Depository Nominee*” means the Securities Depository or the nominee of such Securities Depository in whose name there shall be registered on the Register the Bonds to be delivered to such Securities Depository during the continuation with such Securities Depository of participation in its Book-Entry System.

“*Security*” means the Trust Estate and the Credit Facility.

“*Security Interest*” or “*Security Interests*” means the security interests created herein and shall have the meanings set forth in the UCC.

“*Security Instrument*” means, prior to the Conversion Date, the Multifamily Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated as of the date hereof, made by the Borrower to the Trustee, covering the Project Facilities, as further assigned to the Trustee and Fannie Mae, as their interests appear and as amended and restated as of the Conversion Date pursuant to the Amended and Restated Deed of Trust, Assignment, Security Agreement and Fixture Filing, dated as of the Conversion Date, together with all riders and exhibits, securing the Note and the obligations of the Borrower to the Bondholder under the Bond Documents, executed by the Borrower with respect to the Project Facilities, as it may be amended, supplemented or restated from time to time, or any Security Instrument executed in substitution therefor, as such substitute Security Instrument may be amended, supplemented or restated from time to time.

“Series 2025A-1 Bonds” shall have the meaning given to such term in the recitals to this Indenture.

“Series 2025A-2 Bonds” shall have the meaning given to such term in the recitals to this Indenture.

“Series 2025A-T Bonds” shall have the meaning given to such term in the recitals to this Indenture.

“Series of Bonds” means, as applicable, the Series 2025A-1 Bonds, the Series 2025A-2 Bonds or the Series 2025A-T Bonds.

“*Servicer*” means NewPoint Real Estate Capital LLC, a Michigan limited liability company, or such other multifamily mortgage loan servicer designated from time to time by the Credit Provider.

*“State”* means the State of Colorado.

*“Subordinate Debt”* means (i) the “Approved Subordinate Financing” as defined in the Fannie Mae Commitment, (ii) unsecured deferred developer fee obligations not to exceed the amount permitted by Controlling Person and (iii) unsecured, subordinate member loans to the Borrower permitted or required under the terms of the Operating Agreement.

*“Subordinate Debt Documents”* shall mean, individually and collectively, all instruments, agreements and other documents evidencing or securing the Subordinate Debt.

*“Substantial User”* means, with respect to any “facilities” (as the term “facilities” is used in Section 147(a) of the Code), a “substantial user” of such “facilities” within the meaning of Section 147(a) of the Code.

*“Supplemental Act”* means the Supplemental Public Securities Act, constituting Part 2, Article 57, Title 11, Colorado Revised Statutes, as amended.

*“Surplus Bond Proceeds”* means all moneys and any unliquidated investments remaining in the Bond Proceeds Account or the Bond Proceeds Capitalized Interest Subaccount of the Project Fund upon Final Completion and after payment in full of the Project Costs (except for proceeds of the Bonds being retained to pay for Project Costs not then due and payable for which the Trustee shall have retained amounts pursuant to the Loan Agreement).

*“Surplus Fund”* means the fund of that name created pursuant to Section 4.1(a) hereof.

*“Tax and Insurance Escrow Fund”* means the fund of that name created pursuant to Section 4.1(a) hereof.

*“Tax Certificate”* means the Federal Tax Exemption Certificate, dated the Issue Date, executed and delivered by the Issuer and the Borrower and relating to certain federal income tax matters with respect to the Tax-Exempt Bonds as, the same may be amended, modified or supplemented from time to time.

*“Taxable Bonds”* means the Series 2025A-T Bonds.

*“Tax-Exempt Bonds”* means the Series 2025A-1 Bonds and the Series 2025A-2 Bonds.

*“Termination Date”* has the meaning given to that term in the Fannie Mae Commitment.

*“Third Party Costs”* means the Issuance Fee and the ongoing fees of the Issuer, the Trustee, the Dissemination Agent, the Rebate Analyst, or any other third party in connection with the Bonds, including without limitation, the Issuer Fees and Expenses, the Trustee Fees, the Dissemination Agent Fee and the Rebate Analyst Fee.

*“Title Company”* means the title insurance company insuring the lien of the Security Instrument on the Issue Date together with any successor title company approved by the Controlling Person.

*“Title Policy”* means the mortgagee’s title insurance policy relating to the Project Facilities issued by the Title Company to the Trustee, effective on the date of recording of the Security Instrument, as the same may be subsequently down-dated or endorsed from time to time, with the approval of the Controlling Person.

*“Trust Estate”* means the property, interests, rights, money, securities and other amounts pledged and assigned pursuant to this Indenture and the property, rights, money, securities and other amounts, as more particularly described in the Granting Clauses to this Indenture, pledged and assigned by the Issuer to the Trustee (for the benefit of the Bondholder), and, following the Conversion Date, to the Credit Provider pursuant to the Credit Provider Assignment.

*“Trust Indenture Act”* means the Trust Indenture Act of 1939, as amended.

*“Trustee”* shall have the meaning given to such term in the first paragraph of this Indenture, in its capacity as such, until a successor trustee shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “Trustee” shall mean or include each Person who is then a Trustee hereunder.

*“Trustee Fees”* means [the fees and expenses payable by the Borrower which are charged or incurred by the Trustee in the fulfillment of its obligations hereunder, including (i) an acceptance/setup fee of \$3,500.00, which shall be paid on the Issue Date; (ii) an annual fee of (3 Series) \$9,000.00 or (2 Series) \$7,000.00 or (1 Series) \$5,000.00, to be paid in advance on the Issue Date and on each anniversary thereof; and (iii) from time to time all reasonable expenses, charges, counsel fees and other disbursements, including those of its attorneys, agents, and employees, incurred in and about the performance of their powers and duties under this Indenture].

*“UCC”* means the Uniform Commercial Code of the State as now in effect or hereafter amended.

*“Underwritten Permanent Loan Amount”* means \$[\_\_\_\_\_].

*“Work”* means the items of construction of the Improvements required to be performed under the Plans and Specifications for the Improvements.

*“Wrongful Dishonor”* means an uncured failure by the Credit Provider to make a Credit Facility Advance to the Trustee upon proper presentation of documents which conform to the terms and conditions of the Credit Facility.

*Section 1.2 Rules of Construction.* Unless the context clearly indicates to the contrary, the following rules shall apply to the construction of this Indenture:

(a) All terms defined in the Loan Agreement and not defined herein shall have the meanings given to such terms in the Loan Agreement.

(b) The singular form of any word includes the plural, and vice versa, unless the context otherwise requires. The use of a pronoun of any gender includes correlative words of the other genders.

(c) The table of contents, captions, and headings herein are for convenience of reference only and shall not constitute a part of this Indenture nor shall they affect its meaning, construction or effect.

(d) All references to “Articles,” “Sections” and other subdivisions are to the corresponding Articles, Sections or other subdivisions of this Indenture; and the words “in this Indenture,” “of this Indenture,” “under this Indenture” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision.

(e) Any captions, headings or titles of the several Articles, Sections and other subdivisions, and the table of contents are solely for convenience of reference and do not limit or otherwise affect the meaning, construction or effect of this Indenture or describe the scope or intent of any provision.

(f) All accounting terms not otherwise defined have the meanings assigned to them in accordance with applicable generally accepted accounting principles as in effect from time to time.

(g) Every “request,” “order,” “demand,” “application,” “appointment,” “notice,” “statement,” “certificate,” “consent,” “direction” or similar action under this Indenture by any party must be in writing and signed by a duly authorized representative of such party with a duly authorized signature.

(h) All references in this Indenture to “counsel fees,” “attorneys fees” or the like mean and include fees and disbursements allocable to in-house or outside counsel, whether or not suit is instituted, and including fees and disbursements preparatory to and during trial and appeal and in any bankruptcy or arbitration proceedings.

(i) Whenever the word “includes” or “including” is used, such word means “includes or including by way of example and not limitation.”

## **ARTICLE II.**

### **SOURCE OF PAYMENTS, GENERAL TERMS AND PROVISIONS OF THE BONDS**

*Section 2.1 Ratably Secured.* Prior to the Conversion Date, all Bonds issued hereunder and from and after the Conversion Date, all Bonds issued hereunder and enhanced by a Credit Facility, are and are to be, to the extent provided in this Indenture, equally and ratably secured by this Indenture without preference, priority or distinction on account of the actual time or times of the authentication, delivery or maturity of the Bonds so that subject as aforesaid, all Bonds at any time Outstanding shall have the same right, lien and preference under and by virtue of this Indenture and shall all be equally and ratably secured hereby with like effect as if they had all been executed, authenticated and delivered simultaneously on the date hereof, whether the same, or any of them, shall actually be disposed of at such date, or whether they, or any of them, shall be disposed of at some future date.

*Section 2.2 Limited Obligations.* THE BONDS ARE SPECIAL, LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM, AND SECURED ONLY BY,

THE TRUST ESTATE (BUT NOT FUNDS RESULTING FROM THE EXERCISE OF THE RESERVED RIGHTS), AND WHICH SHALL BE USED FOR NO OTHER PURPOSE EXCEPT AS EXPRESSLY AUTHORIZED IN THIS INDENTURE. THE BONDS SHALL NOT BE A DEBT OR INDEBTEDNESS OF THE ISSUER, ANY PUBLIC AGENCY, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, AND NEITHER THE ISSUER, ANY PUBLIC AGENCY, THE STATE, NOR ANY POLITICAL SUBDIVISION THEREOF SHALL BE LIABLE FOR PAYMENT OF THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WITH RESPECT THERETO, NOR IN ANY EVENT SHALL THE BONDS BE PAYABLE OUT OF ANY FUNDS, ASSETS OR PROPERTIES OTHER THAN THOSE OF THE ISSUER PLEDGED UNDER THIS INDENTURE (BUT NOT FUNDS RESULTING FROM THE EXERCISE OF THE RESERVED RIGHTS). THE BONDS SHALL NOT CONSTITUTE AN INDEBTEDNESS OR A MULTIPLE FISCAL-YEAR FINANCIAL OBLIGATION WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION, AND NONE OF THE BONDS OR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS WITH RESPECT TO THE BONDS OR HEREUNDER, SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF OR A PLEDGE OF THE FAITH AND CREDIT OF OR A LOAN OF THE CREDIT OF OR A MORAL OBLIGATION OF ANY OF THE ISSUER, ANY PUBLIC AGENCY, THE STATE, NOR ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER.

None of the Issuer or any director, member, officer, agent, employee or attorney of the Issuer, including any person executing the Indenture or the Bonds, is liable personally on the Bonds; subject to any personal liability or accountability by reason of the execution and delivery of the Bonds or for any reason relating to the issuance of the Bonds; or liable for any other costs, expenses, losses, damages, claims or actions of any conceivable kind on any conceivable theory. The Issuer shall not be directly, indirectly, contingently, or morally obligated to pay the principal of, premium, if any, or interest on the Bonds, except from the Trust Estate (excluding the Reserved Rights), and the Issuer shall not be required to advance any moneys derived from the proceeds of taxes collected by the Issuer, the State or by any political subdivision thereof or from any source of income of any of the foregoing other than the Trust Estate, whether for the payment of the principal of or interest on the Bonds or for any other purpose of this Indenture.

No recourse shall be had for the payment of the principal of, premium, if any, or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement in this Indenture contained, against, the Issuer, any past, present or future member of its governing body, its officers, attorneys, accountants, financial advisors, agents or staff or the officers, attorneys, accountants, financial advisors, agents or staff of any successor public entity, as such, either directly or through the Issuer or any successor public entity, under any rule of law or penalty or otherwise, and all such liability of the Issuer, any member of its governing body and its officers, attorneys, accountants, financial advisors, agents and staff is hereby, and by the acceptance of the Bonds, expressly waived and released as a condition of, and in consideration for, the execution of this Indenture and the issuance of any of the Bonds.

It is recognized that notwithstanding any other provision of this Indenture, neither the Borrower, the Trustee nor any Bondholder shall look to the Issuer for damages suffered by the

Borrower, the Trustee or such Bondholder as a result of the failure of the Issuer to perform any covenant, undertaking or obligation under this Indenture, the Loan Agreement, the Bonds or any of the other documents referred to herein, or as a result of the incorrectness of any representation made by the Issuer in any of such documents, nor for any other reason. Although this Indenture recognizes that such documents shall not give rise to any pecuniary liability of the Issuer, nothing contained in this Indenture shall be construed to preclude in any way any action or proceeding (other than that element of any action or proceeding involving a claim for monetary damages against the Issuer) in any court or before any governmental body, agency or instrumentality or otherwise against the Issuer or any of its officers or employees to enforce the provisions of any of such documents which the Issuer is obligated to perform and the performance of which the Issuer has not assigned to the Trustee or any other person; provided, however, that as a condition precedent to the Issuer proceeding pursuant to this Section 2.2, the Issuer shall have received satisfactory indemnification.

No agreements or provisions contained in this Indenture nor any agreement, covenant or undertaking by the Issuer contained in any document executed by the Issuer in connection with the Project, or the issuance, sale and delivery of the Bonds shall give rise to any pecuniary liability of the Issuer or a charge against the general credit of the Issuer, or shall obligate the Issuer financially in any way except as may be payable from the Trust Estate (excluding the Reserved Rights). No failure of the Issuer to comply with any term, condition, covenant or agreement herein or in any document executed by the Issuer in connection with the issuance and sale of the Bonds shall subject the Issuer to liability for any claim for damages, costs or other financial or pecuniary charge except to the extent that the same can be paid or recovered from the Trust Estate (excluding the Reserved Rights). Nothing herein shall preclude a proper party in interest from seeking and obtaining, to the extent permitted by law, specific performance against the Issuer for any failure to comply with any term, condition, covenant or agreement herein, provided that no costs, expenses or other monetary relief shall be recoverable from the Issuer except as may be payable from the Trust Estate (excluding the Reserved Rights). No provision, covenant or agreement, any obligations imposed upon the Issuer, or the breach thereof, shall constitute an indebtedness or multiple fiscal-year obligation of the Issuer within the meaning of any State constitutional or statutory limitation or shall constitute or give rise to a charge against its general credit.

*Section 2.3 Payment of Bonds and Performance of Covenants.* The Trustee shall pay, on behalf of the Issuer and in accordance with the Loan Agreement, but only out of the Security, the principal of, premium, if any, and interest on the Bonds at the place, on the dates and in the manner provided in the Bonds. The Issuer shall promptly perform and observe (to the extent within its power and control) all covenants, undertakings and obligations set forth herein, in the Bonds or in the other Bond Documents to which the Issuer is a party on its part to be performed or observed. The Issuer shall fully cooperate with the Trustee in the enforcement by the Trustee of any such rights granted to the Issuer under the Loan Agreement and the other Bond Documents to which the Issuer is a party.

*Section 2.4 Execution; Limited Obligation.* The Bonds shall be executed in the name of the Issuer by the manual or facsimile signature of an Authorized Officer and its corporate seal (or a facsimile thereof) shall be impressed, imprinted, engraved or otherwise reproduced thereon and attested by the manual or facsimile signature of the City Clerk or other Authorized Officer, other than the officer executing the Bonds. In case any officer whose manual, electronic or facsimile

signature shall appear on the Bonds shall cease to be such officer before the delivery of such Bonds, such manual, electronic or facsimile signatures shall nevertheless be valid and sufficient for all purposes. Anything in this Indenture to the contrary notwithstanding, it is expressly understood by the parties to this Indenture that (a) the Issuer and the Trustee may rely exclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Issuer by the Trustee, the Borrower or any Holder as to the existence of any fact or state of affairs, (b) the Issuer shall not be under any obligation under this Indenture to perform any record keeping or to provide any legal services, it being understood that such services shall be performed or caused to be performed by the Trustee or by the Holders, and (c) none of the provisions of this Indenture shall require the Issuer or the Trustee to expend or risk its own funds or otherwise to incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers under this Indenture, unless it shall first have been adequately indemnified to its satisfaction against any costs, expenses and liability which it may incur as a result of taking such action.

*Section 2.5 Certificate of Authentication.* No Bonds shall be secured hereby or entitled to the benefit hereof or shall be or become valid or obligatory for any purpose unless there shall be endorsed thereon a certificate of authentication, substantially in the form as set forth in the form of Bond referred to in Sections 2.6 and 3.1 hereof, executed by an authorized representative of the Trustee and such certificate on any Bond issued by the Issuer shall be conclusive evidence and the only competent evidence that it has been duly authenticated and delivered hereunder.

*Section 2.6 Form of Bonds.* (a) The Bonds, the Trustee's certificate of authentication and the form of assignment shall be in substantially the form set forth as *Exhibit A-1*, *Exhibit A-2* and *Exhibit A-3* attached hereto, with such appropriate variations, omissions, substitutions and insertions as are permitted or required hereby or are required by law and may have such letters, numbers or other marks of identification and such legends and endorsements placed thereon as may be required to comply with any applicable laws or rules or regulations, or as may, consistent herewith, be determined by the officer of the Issuer executing such Bonds, as evidenced by such officer's execution of the Bonds.

(b) Bonds shall be in either typewritten or printed form, as the Borrower shall direct, on behalf of the Issuer, with approval of the Trustee. Any expenses, including but not limited to expenses of printing, incurred in connection with the preparation of the Bonds shall be paid by the Borrower.

*Section 2.7 Delivery of Bonds.* (a) Upon the execution and delivery hereof, the Issuer shall execute the Bonds and register the same with the Trustee who shall authenticate the Bonds and deliver them through the Securities Depository in the manner described in Section 2.11(a) hereof.

(b) Prior to the delivery by the Trustee of the Bonds, there shall be filed with the Trustee:

(i) A certified copy of the Ordinance authorizing the execution and delivery on behalf of the Issuer of the Bonds and the Bond Documents to which it is a party and related matters;

(ii) The Bonds, registered and authenticated by the Trustee;

- (iii) Copies of executed counterparts of each of the documents specifically listed in the definition of Bond Documents (and with respect to the Note, the original endorsed without recourse by the Issuer to the Trustee);
  - (iv) Copies of any Financing Statements required to be filed to perfect the security interests in the Security or under Section 3.02 of the Loan Agreement, which requirement will be deemed met upon delivery of the opinions listed in Section 2.7(b)(vii) and (viii);
  - (v) A copy of completed IRS Form 8038 to be filed by or on behalf of the Issuer pursuant to Section 149(e) of the Code;
  - (vi) A copy of an executed counterpart of the Tax Certificate;
  - (vii) An Opinion of Bond Counsel or Counsel to the Issuer to the effect that this Indenture, the Loan Agreement and the Bond Placement Agreement have been duly authorized, executed and delivered by the Issuer and are legal, valid and binding agreements of the Issuer, subject to customary qualifications and limitations;
  - (viii) An approving Opinion of Bond Counsel that the Bonds have been duly authorized and validly issued, that this Indenture creates a valid lien on the Security, that interest on the Tax-Exempt Bonds will be excludable from gross income of the Holders thereof for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals, that the Bonds are not required to be registered under the Securities Act, and that this Indenture need not be qualified under the Trust Indenture Act;
  - (ix) An opinion of Counsel for the Borrower to the effect that the Continuing Disclosure Agreement and the documents specifically listed in the definition of Bond Documents to which it is a party have been duly authorized, executed and delivered by the Borrower and are legal, valid and binding agreements of the Borrower;
  - (x) A pro forma title insurance policy reasonably acceptable to the Purchaser, which requirement shall be deemed met upon delivery of such policy to the Trustee;
  - (xi) Reliance letters for, or address of the opinions to, the Controlling Person and the Purchaser with respect to each of the opinions filed with the Trustee;
  - (xii) The Investor Letter from the Purchaser; and
  - (xiii) Such other documents as may be required by the Issuer, the Trustee, Bond Counsel, the Controlling Person or the Purchaser, which requirement shall be deemed met upon delivery of the opinions listed in Section 2.7(b)(vii) and (viii).
- (c) Upon receipt of the foregoing, the Trustee shall authenticate and deliver the Bonds as provided in the written instructions of the Issuer to the Trustee.

The satisfaction of the requirements of this Section 2.7 shall be conclusively evidenced by the payment of the purchase price of the Bonds by the Purchaser, the delivery of the Opinion of Bond Counsel referred in item (viii) above, and the delivery of the Bonds by the Issuer.

*Section 2.8 Mutilated, Lost, Stolen or Destroyed Bonds.* If any Bond is mutilated, lost, stolen or destroyed, the Issuer may execute and the Trustee may authenticate and deliver a new Bond of the same series, maturity, interest rate, principal amount and tenor in lieu of and in substitution for the Bond mutilated, lost, stolen or destroyed; *provided*, that there shall be first furnished to the Trustee evidence satisfactory to it and the Issuer of the ownership of such Bond and of such loss, theft or destruction (or, in the case of a mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee), together with indemnity satisfactory to the Trustee and the Issuer and compliance with such other reasonable regulations as the Issuer and the Trustee may prescribe. If any such Bond shall have matured or a redemption date pertaining thereto shall have passed, instead of issuing a new Bond the Issuer may pay the same without surrender thereof. The Issuer and the Trustee may charge the Holder of such Bond with their reasonable fees and expenses in connection with this Section.

*Section 2.9 Exchangeability and Transfer of Bonds; Persons Treated as Owners.* (a) The Register and all other records relating to the registration of the Bonds and the registration of transfer of the Bonds as provided herein shall be kept by the Trustee.

(b) Unless the Fannie Mae Transfer Release Conditions have been satisfied, or as otherwise agreed to by the Credit Provider, the transfer of any Bonds that are credit enhanced may only be transferred with the consent of the Credit Provider. Subject to the preceding sentence, any Holder of a Bond, in person or by his/her duly authorized attorney, may transfer title to his/her Bond on the Register upon surrender thereof at the designated corporate trust office of the Trustee, by providing the Trustee with a written instrument of transfer (in substantially the form of assignment attached to the Bond) executed by the Holder or such Holder's attorney, duly authorized in writing, and thereupon, the Issuer shall (to the extent within its power and control, and at the sole expense of the Borrower) execute and the Trustee shall authenticate and deliver in the name of the transferee or transferees a new Bond or Bonds of the same series, aggregate principal amount and tenor as the Bond surrendered (or for which transfer of registration has been effected) and of any Authorized Denomination or Authorized Denominations.

(c) Bonds may be exchanged upon surrender thereof at the designated corporate trust office of the Trustee with a written instrument of transfer satisfactory to the Trustee executed by the Holder or such Holder's attorney duly authorized in writing, for an equal aggregate principal amount of Bonds of the same series and tenor as the Bonds being exchanged and of any Authorized Denomination or Authorized Denominations. The Issuer shall (to the extent within its power and control, and at the sole expense of the Borrower) execute, and the Trustee shall authenticate and deliver, Bonds that the Holder making the exchange is entitled to receive, bearing numbers not contemporaneously then outstanding.

(d) Such registrations of transfer or exchanges of Bonds shall be without charge to the Holders of such Bonds, but any taxes or other governmental charges required to be paid with respect to the same shall be paid by the Holder of the Bond requesting such registration of transfer or exchange as a condition precedent to the exercise of such privilege. Any service charge made

by the Trustee for any such registration of transfer or exchange and all reasonable expenses of the Issuer shall be paid by the Borrower.

(e) 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 either principal or interest shall be made only to or upon the order of the registered owner thereof or his/her duly authorized attorney, but such registration may be changed as hereinabove provided. 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 so paid.

(f) All Bonds issued upon any registration of transfer or exchange of Bonds shall be legal, valid and binding limited obligations of the Issuer, evidencing the same debt, and entitled to the same security and benefits under this Indenture, as the Bonds surrendered upon such registration of transfer or exchange.

(g) Notwithstanding the foregoing, for so long as the Bonds are held under the Book-Entry System, transfers of beneficial ownership will be effected pursuant to rules and procedures established by the Securities Depository, as more fully described in Section 2.11 hereof.

(h) Notwithstanding the foregoing, the Trustee shall not have any obligations whatsoever to determine whether any transfer is being made in accordance with state or federal securities laws.

*Section 2.10 Non-presentment of Bonds.* In the event any Bond shall not be presented for payment when the principal thereof becomes due, either at maturity or at the date fixed for redemption thereof or otherwise, if funds sufficient to pay the principal of and interest on such Bond shall have been made available to the Trustee for the benefit of the Holder or Holders thereof, and, to the extent amounts are owed to the Credit Provider as set forth in a written statement of the Credit Provider addressed to the Trustee, will be paid to the Credit Provider, all liability of the Issuer and the Borrower to the owner thereof for the payment of such Bond or portion thereof as the case may be, shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of the Trustee, subject to any applicable escheat laws, to hold such fund or funds uninvested in the Bond Fund, without liability to the Holder of such Bond for interest thereon, for the benefit of the Holder of such Bond, who shall thereafter be restricted exclusively to such fund or funds, for any claim of whatever nature on his/her part on, or with respect to, said Bond, or portion thereof.

*Section 2.11 Book-Entry System.* (a) On the date of issuance and delivery of the Bonds, the Bonds shall be placed in the Book-Entry System. During any period that the Book-Entry System is in effect one Bond of each series in the aggregate principal amount of the Bonds of such series and registered in the name of the Securities Depository Nominee will be issued and deposited with the Securities Depository and held in its custody. The Book-Entry System will be maintained by the Securities Depository and the DTC Participants and Indirect Participants and will evidence beneficial ownership of the Bonds in Authorized Denominations, with registration of transfers of ownership effected on the records of the Securities Depository, the DTC Participants and the Indirect Participants pursuant to rules and procedures established by the Securities Depository, the DTC Participants and the Indirect Participants. The principal of and interest on

each Bond shall be payable to the Securities Depository Nominee or any other person appearing on the Register as the registered Holder of such Bond or his/her registered assigns or legal representatives at the designated corporate trust office of the Trustee. So long as the Book-Entry System is in effect, the Securities Depository will be recognized as the Holder of the Bonds for all purposes except as otherwise provided herein. Transfer of principal and interest payments or notices to DTC Participants and Indirect Participants will be the responsibility of the Securities Depository, and transfer of principal and interest payments or notices to Beneficial Owners will be the responsibility of the DTC Participants and the Indirect Participants. No other party will be responsible or liable for such transfers of payments or notices or for maintaining, supervising or reviewing such records maintained by the Securities Depository, the DTC Participants or the Indirect Participants. While the Securities Depository Nominee or the Securities Depository, as the case may be, is the registered owner of the Bonds, notwithstanding any other provisions set forth herein, payments of principal of and interest on the Bonds shall be made to the Securities Depository Nominee or the Securities Depository, as the case may be, by wire transfer in immediately available funds to the account of said Holder as may be specified in the Register maintained by the Trustee or by such other method of payment as the Trustee may determine to be necessary or advisable with the concurrence of the Securities Depository.

(b) If (i) the Securities Depository determines not to continue to administer a Book-Entry System for the Bonds, or (ii) the Borrower, on behalf of the Issuer, with the consent of the Controlling Person, elects to remove the Securities Depository, then the Borrower, on behalf of the Issuer, with the consent of the Controlling Person, may appoint a new Securities Depository.

(c) If (i) the Securities Depository determines not to continue to administer a Book-Entry System for the Bonds or has been removed and the Borrower fails to appoint a new Securities Depository, (ii) the Controlling Person or the Borrower, with the consent of the Controlling Person, determines that continuation of a Book-Entry System of evidence and transfer of ownership of the Bonds would adversely affect the interests of the Beneficial Owners, or (iii) 100% of the Bondholders so elect, the Book-Entry System will be discontinued, in which case the Trustee will deliver replacement Bonds in the form of fully registered certificates in Authorized Denominations in exchange for the Outstanding Bonds as required by the Trustee and the Beneficial Owners.

*Section 2.12 Authority; No Litigation.* The Issuer represents that (i) it is duly authorized under the laws of the State, including the Act and the Supplemental Act, to issue the Bonds, and to execute, deliver and perform the terms of the Loan Agreement and this Indenture; (ii) all action on its part for the issuance of the Bonds and execution and delivery of the Bond Documents to which it is a party has been duly taken; (iii) the Bonds, upon issuance and authentication, and the Bond Documents to which it is a party upon delivery, assuming that they are the respective legal, valid, binding and enforceable obligations of the other parties thereto, shall be valid and enforceable obligations of the Issuer in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights generally and general equitable principles; (iv) it has not heretofore conveyed, assigned, pledged, granted a security interest in or otherwise disposed of the Security; (v) without making any independent investigation, it has no knowledge of any right of set-off, defense or counterclaim to payment or performance of the terms or conditions of the Loan Agreement; and (vi) the execution, delivery and performance of the Bond Documents to which it is a party and issuance of the Bonds are not in contravention of law or any agreement, instrument, indenture or other

undertaking to which it is a party or by which it is bound and no other approval, consent or notice from any governmental agency is required on the part of the Issuer.

The Issuer represents to its knowledge that there is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court, public board or body pending, or, to the knowledge of the Issuer, threatened in writing against or affecting the Issuer wherein an unfavorable decision, ruling or finding would adversely affect (i) the transactions contemplated by, or the validity or enforceability of, the Bonds, this Indenture or the other Bond Documents to which the Issuer is a party, or (ii) the excludability from gross income of interest on the Bonds.

*Section 2.13 Supplemental Public Securities Act Provisions.* Section 11-57-204 of the Supplemental Act provides that a public entity, including the Issuer, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act to the Bonds. Pursuant to the Ordinance, the Issuer has elected to apply all of the provisions of the Supplemental Act.

*Section 2.14 Further Assurances.* The Issuer covenants (to the extent within its power and control) that it will, to the extent within its power and control and without expense to the Issuer, cooperate to the extent necessary with the Borrower and the Trustee in their defenses of the Security against the claims and demands of all Persons and, upon payment or provision for payment of the fees and expenses to be incurred by the Issuer in connection therewith, 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 the Trustee may reasonably require for the better pledging of the Security. Except for any amendment, modification, supplement, waiver or consent related to the Reserved Rights, the Issuer shall not cause or permit to exist any amendment, modification, supplement, waiver or consent to which it is a party with respect to the Loan Agreement without the prior written consent of the Trustee, which consent shall be governed by Article VIII hereof.

*Section 2.15 No Other Encumbrances; No Dissolution.* The Issuer covenants (to the extent within its power and control) that, (i) except as otherwise provided herein and in the Loan Agreement, it will not sell, convey, mortgage, encumber or otherwise dispose of any portion of the Security, and (ii) to the fullest extent permitted by applicable law, for so long as the Bonds are Outstanding, it will not dissolve, terminate or permit itself to be dissolved or terminated without a successor to its obligations hereunder and under the Bonds having assumed its obligations hereunder and under the Bonds.

*Section 2.16 No Personal Liability; Limited Liability of Issuer.* No obligation, covenant, condition or agreement contained herein or in the Bonds shall be deemed to be an obligation, covenant, condition or agreement of any past, present or future officer, member, director, trustee, fiscal agent, counsel, financial advisor, attorney, official, employee or agent of the Issuer in their individual capacity, and no recourse shall be had for the payment of the principal of, or premium, if any, or interest on, and any sum that may be due and unpaid by the Issuer on the Bonds or for any claim based thereon or upon any obligation, covenant, provision, condition or agreement contained in this Indenture or in the Bonds against any past, present or future officer, member, director, trustee, fiscal agent, counsel, financial advisor, attorney, official, employee or agent of the Issuer, or any counsel attorney, financial advisor, member, director, trustee, officer, official, employee or agent of any successor to the Issuer, as such, either directly or through the Issuer or

any successor to the Issuer, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officer, member, director, trustee, attorney, financial advisor, fiscal agent, counsel, official, employee or agent as such is hereby expressly waived and released as a condition of and in consideration for the execution of this Indenture and the delivery of the Bonds. Neither the officers, members, directors, financial advisors, attorneys, trustees, fiscal agents, counsel, officials, employees or agents of the Issuer nor any person executing the Bonds or this Indenture shall be liable personally on the Bonds or under this Indenture or be subject to any personal liability or accountability by reason of the issuance of the Bonds or the execution of this Indenture.

All obligations of the Issuer hereunder and under the other Bond Documents are special, limited obligations payable solely from funds made available to the Issuer under the Loan Agreement or the other Bond Documents, and no recourse shall be had to the Issuer or to any officer, member, director, trustee, fiscal agent, counsel, financial advisor, attorney, official, employee or agent (other than the Borrower) in satisfaction of any amounts due or liabilities incurred pursuant to the Issuer's issuance of the Bonds and related actions, inactions or transactions, except from such funds.

*Section 2.17 Restrictions on Initial Ownership and Subsequent Transfer.* Each Beneficial Owner of the Bonds shall be one of the following (each, an "Approved Buyer"): (i) a "Qualified Institutional Buyer" (as defined in Rule 144A under the Securities Act of 1933, as amended); (ii) an institutional "accredited investor" (as defined in Rule 501(a)(1), (2), (3), and (7) of Regulation D under the Securities Act of 1933, as amended) or (iii) a special purpose entity, trust or custodial arrangement in which all of the beneficial ownership interests would be owned by one or more Approved Buyers or where secondary market credit enhancement is provided for such beneficial ownership interests resulting in a rating thereof of at least "A" or better, *provided* that, in any case, the Approved Buyer has provided an executed Investor Letter, with such modifications as may be approved by the Issuer. Thereafter, neither the Bonds nor any beneficial ownership interest in the Bonds may be transferred by the Bondholder or Beneficial Owner thereof except (A) in Authorized Denominations and (B) unless the Fannie Mae Transfer Release Conditions have been satisfied, to any person that is an Approved Buyer that has been approved in writing by the Credit Provider.

### **ARTICLE III. INTEREST RATE, PAYMENT AND REDEMPTION OF BONDS**

*Section 3.1 Authorized Amount of Bonds.* No Bonds may be issued under the provisions of this Indenture except in accordance with this Article. The total maximum aggregate principal amount of Bonds that may be issued and Outstanding hereunder is expressly limited to \$[\_\_\_\_\_], consisting of the Series 2025A-1 Bonds not exceeding the principal amount of \$[\_\_\_\_\_], the Series 2025A-2 Bonds not exceeding the principal amount of \$[\_\_\_\_\_], and the Series 2025A-T Bonds not exceeding the principal amount of \$[\_\_\_\_\_]. The forms of the Bonds attached as *Exhibit A-1*, *Exhibit A-2* and *Exhibit A-3*, respectively, to this Indenture shall be the form of Bonds referred to herein. The Bonds shall be issued as draw-down bonds in accordance with Section 3.2(e) below.

*Section 3.2 Issuance of Bonds.* (a) The Bonds shall bear interest on the amount Outstanding from the Issue Date until paid or exchanged, as applicable, at the applicable rate set forth in Section 3.3 hereof computed on the basis set forth in the form of the Bonds, and the Bonds shall mature, unless sooner paid, on the applicable Maturity Date, on which date all unpaid principal of and interest on such Bonds shall be due and payable.

(b) The Bonds shall be issued as fully registered bonds without coupons in Authorized Denominations only. The Series 2025A-1 Bonds shall be numbered from RA1-1 upwards, bearing numbers not then contemporaneously outstanding (in order of issuance) according to the records of the Trustee. The Series 2025A-2 Bonds shall be numbered from RA2-1 upwards, bearing numbers not then contemporaneously outstanding (in order of issuance) according to the records of the Trustee. The Series 2025A-T Bonds shall be numbered from RAT-1 upwards, bearing numbers not then contemporaneously outstanding (in order of issuance) according to the records of the Trustee.

(c) The Bonds shall be dated the Issue Date and initially issued as provided herein and in the written instructions from the Issuer. Interest on the Bonds shall be computed from the most recent Interest Payment Date to which interest has been paid or duly provided for or if no interest has been paid or provided for, from the Issue Date. Each Bond shall mature on the respective Maturity Date, on which all unpaid principal of and interest on such Bond shall be due and payable.

(d) The principal of and the interest on the Bonds shall be payable in lawful currency of the United States. The principal of the Bonds shall be payable at the designated corporate trust office of the Trustee upon presentation and surrender of the Bonds. Payments of interest on the Bonds will be mailed to the persons in whose names the Bonds are registered on the Register at the close of business on the Record Date next preceding each Interest Payment Date; *provided* that, any Holder of a Bond or Bonds in an aggregate principal amount of not less than \$1,000,000 may, by prior written instructions filed with the Trustee (which instructions shall remain in effect until revoked by subsequent written instructions), instruct that interest payments be made by wire transfer to an account in the continental United States or other means acceptable to the Trustee. Notwithstanding the foregoing, if the Bonds are maintained in a Book-Entry System as provided in Section 2.11, interest thereon shall be delivered or transmitted to the registered owner on the Interest Payment Date by wire transfer in immediately available funds or by any other manner required by the Securities Depository.

(e) The Bonds are issued as draw-down bonds with a minimum amount of \$50,000 of the Tax-Exempt Bonds to be funded at closing. The Purchaser shall fund the purchase price of the Bonds from time to time in accordance with the Bond Placement Agreement, directly to the Trustee to provide funds for deposit in the Bond Proceeds Account or the Bond Proceeds Subaccount of the Capitalized Interest Account of the Project Fund upon the satisfaction of the conditions to such Advance set forth in the Loan Agreement. The Trustee shall record amounts funded in such manner in the Bond recordkeeping system maintained by the Trustee. Upon deposit by the Purchaser of each installment of the purchase price of the Bonds, the aggregate amount of Bonds purchased shall be deemed Outstanding and shall begin to accrue interest. Notwithstanding anything herein to the contrary, the aggregate purchase price of the respective series of Bonds funded by the Purchaser may not exceed the authorized amount set forth in Section 3.1 and no additional amounts

may be funded after the last day of the third calendar year following the Issue Date, unless there is delivered a Favorable Opinion of Bond Counsel.

*Section 3.3 Interest Rate on Bonds.* Each Series of the Bonds shall bear interest on the amount Outstanding at the applicable Bond Interest Rate from the Issue Date to the date of payment in full of such Bonds, calculated in the manner set forth in the form of the Bonds. Interest accrued on the Bonds shall be paid in arrears on each Interest Payment Date and, as to Bonds then maturing or being redeemed, on the Maturity Date and any date of redemption prior to the Maturity Date; *provided, however*, prior to Conversion, in the event that principal of or interest payable on the Bonds is not paid when due, there shall be payable on the amount not timely paid, interest at the Default Rate.

*Section 3.4 Redemption of Bonds.*

(a) *Optional Redemption of Bonds.* (i) If necessary, the Borrower shall make a Pre-Conversion Loan Equalization Payment in an amount sufficient to redeem the Bonds, in part, so that the remaining Outstanding Bonds equal the Permanent Phase Loan Amount. The Bond redemption will be at a redemption price equal to 100% of the principal amount of the Bonds to be redeemed, plus interest accrued thereon to, but not including, the redemption date. Any such Pre-Conversion Loan Equalization Payment will be applied toward such Bond redemption, first to redeem Outstanding Series 2025A-T Bonds, then to redeem Outstanding Series 2025A-2 Bonds and lastly to redeem Outstanding Series 2025A-1 Bonds.

(ii) Following the Conversion Date, the Bonds shall be subject to redemption from the proceeds of an optional prepayment of the Loan by the Borrower in whole or in part (subject to the restrictions set forth in the Reimbursement Agreement and the Loan Agreement), on any Interest Payment Date following the First Optional Redemption Date a redemption price equal to the 100% of the principal amount of the Bonds, plus accrued interest thereon to, but not including the redemption date and the payment of a prepayment premium as set forth in the Reimbursement Agreement.

(b) *Mandatory Redemption of Bonds.* (i) The Bonds are subject to mandatory redemption in Authorized Denominations from, and to the extent of, amounts on deposit in the Surplus Fund (subject to Section 4.4 hereof) on the first Interest Payment Date for which notice of redemption can be given in accordance with this Indenture, following the deposit of Surplus Bond Proceeds in the Surplus Fund at a redemption price equal to 100% of the principal amount of the Bonds to be redeemed plus interest accrued thereon to, but not including, the redemption date.

(ii) The Bonds are subject to mandatory redemption in whole or in part on the first Interest Payment Date for which notice of redemption can be given in accordance with this Indenture after and to the extent that Insurance Proceeds or a Condemnation Award in connection with the Project Facilities are deposited in the Project Fund and are not to be used to repair or restore the Project Facilities at a redemption price equal to 100% of the principal amount of the Bonds to be redeemed plus interest accrued thereon to, but not including, the redemption date.

(iii) [Reserved].

(iv) Prior to the Conversion Date, the Bonds are subject to extraordinary mandatory redemption in whole or in part at the direction of the Controlling Person to the Trustee and the Borrower, at a redemption price equal to 100% of the principal amount of the Bonds to be redeemed plus interest accrued thereon to, but not including, the redemption date, on the first Interest Payment Date for which notice of redemption can be given in accordance with this Indenture following receipt by the Trustee of the direction of the Controlling Person, within one hundred eighty (180) days of the occurrence of any of the following events:

(A) the Project Facilities shall have been damaged or destroyed to such an extent that in the judgment of the Controlling Person (1) it cannot reasonably be restored within a period of twelve (12) months to the condition thereof immediately preceding such damage or destruction, (2) the Borrower is thereby prevented from carrying on its normal operations at the Project Facilities for a period of eighteen (18) consecutive months, or (3) it would not be economically feasible for the Borrower to replace, repair, rebuild or restore the same;

(B) title in and to, or the temporary use of, all or substantially all of the Project Facilities shall have been taken under the exercise of the power of eminent domain by any Governmental Authority or any Person acting under Governmental Authority (including such a taking as, in the judgment of the Controlling Person, results in the Borrower being prevented thereby from carrying on its normal operations at the Project Facilities for a period of three (3) consecutive months);

(C) as a result of any changes in the Constitution of the State, or the Constitution of the United States of America or by legislative or administrative action (whether state or federal) or by final decree, judgment, decision or order of any court or administrative body (whether state or federal), any material provision of the Loan Agreement or the Bond Documents, in the judgment of the Controlling Person shall have become void or unenforceable or impossible of performance in accordance with the intent and purpose of the parties as expressed therein;

(D) unreasonable burdens or excessive liabilities shall have been imposed on the Borrower with respect to the operations of the Project Facilities, including, without limitation federal, state or other ad valorem, property, income or other taxes not being imposed on the date of this Indenture that, in the judgment of the Controlling Person, render the continued operation of the Project Facilities uneconomical;

(E) legal curtailment of the Borrower's use and occupancy of all or substantially all of the Project Facilities for any reason other than that set forth in (ii) above, which curtailment shall, in the judgment of the Controlling Person, prevent the Borrower from

carrying on its normal operations at the Project Facilities for a period of three (3) consecutive months; or

(F) the delivery by the Controlling Party of a notice of redemption pursuant to Section 6.3 of this Indenture.

(v) The Bonds are subject to mandatory redemption prior to Conversion in whole at a redemption price equal to 100% of the principal amount of the Tax-Exempt Bonds to be redeemed plus interest accrued thereon to, but not including, the redemption date, on the first Interest Payment Date for which notice of redemption can be given in accordance with this Indenture within forty-five (45) days after the occurrence of a Determination of Taxability; *provided, however*, if mandatory redemption on account of a Determination of Taxability of less than all the Tax-Exempt Bonds would result, in the opinion of Bond Counsel, in the interest on the Tax-Exempt Bonds Outstanding following such mandatory redemption being excludable from the gross income of the Holders of such Tax-Exempt Bonds Outstanding, then the Tax-Exempt Bonds are subject to mandatory redemption upon the occurrence of a Determination of Taxability in the amount specified in such opinion, *provided* that such redemption must be in an Authorized Denomination.

(vi) On the Conversion Date, the Bonds are subject to mandatory redemption without redemption premium in an amount sufficient to reduce the aggregate principal amount of Outstanding Bonds to an amount not in excess of the Permanent Loan Amount.

(vii) Following the Conversion Date, the Series 2025A-1 Bonds and the Series 2025A-2 Bonds are subject to mandatory redemption in part on the first day of each calendar month from and after the Amortization Commencement Date as set forth in the Amortization Schedule in the amount set forth opposite such date in the Amortization Schedule; *provided* that in the event of a partial redemption of the Series 2025A-1 Bonds or the Series 2025A-2 Bonds other than pursuant to this Section 3.4(b)(vii) or in the event that, as of the Conversion Date, the Permanent Loan Amount is other than the Underwritten Permanent Loan Amount, the Amortization Schedule (as it may have been previously adjusted in accordance with this Section 3.4(b)(vii)) shall be adjusted to provide for approximately equal monthly payments of principal and interest from and after the Amortization Commencement Date at the respective interest rate then in effect for the Series 2025A-1 Bonds and the Series 2025A-2 Bonds (taking into account minimum denominations of the Bonds) on the Series 2025A-2 Bonds, as applicable, remaining Outstanding after taking into account such partial redemption; the Servicer shall provide the Trustee with a new schedule reflecting such adjustment. The revised Amortization Schedule will be attached as Schedule 1 to the applicable Series 2025A-1 Bonds or Series 2025A-2 Bonds on the Conversion Date. The delivery of the revised Amortization Schedule shall be subject to the receipt by the Issuer on or prior to the Conversion Date of an Opinion of Bond Counsel (at the sole expense of the Borrower) to the effect that the payment of the mandatory scheduled redemptions as set forth in the Amortization Schedule will not, in and of itself, cause interest on the Tax-Exempt Bonds to be included in gross income for purposes of federal income taxation (together with a reliance letter thereon addressed to the Trustee and the Controlling Person).

(viii) Following the Conversion Date, the Bonds shall be redeemed in whole or in part in an amount specified by and at the direction of the Credit Provider requiring that the Bonds be

redeemed pursuant to this subsection during any Event of Default under the Reimbursement Agreement. The Redemption Date shall be the earliest practicable date, but in no event shall such redemption occur later than two Business Days prior to the date, if any, that the Credit Facility terminates on account of the Credit Provider's giving of direction to the Trustee pursuant to this subsection to redeem all of the Bonds.

(ix) [Reserved].

(c) *Partial Redemption of Bonds.* In case part, but not all, of a Bond shall be selected for redemption, upon presentation and surrender at the operations office of the Trustee of such Bond by the Holder thereof or its attorney duly authorized in writing (with due endorsement for transfer or accompanied by written instrument of transfer in form satisfactory to the Trustee), the Issuer shall execute and the Trustee shall authenticate and deliver to or upon the order of such Holder, without charge therefore, for the unredeemed portion of the principal amount of the Bond so surrendered, a Bond or Bonds, at the option of such Holder, of any Authorized Denomination of like series and tenor, or if less than the minimum Authorized Denomination, an amount necessary to equal the unredeemed portion of the principal amount of the Bond.

(d) *Selection of Bonds to be Redeemed.* If less than all the Outstanding Bonds of a given series shall be called for redemption, the Trustee or, if the Bonds are held in the Book-Entry System, the Securities Depository shall select or arrange for the selection of Bonds to be redeemed by lot or otherwise in accordance with the procedures of the Securities Depository pursuant to its rules and procedures, in Authorized Denominations, *provided* that any Bond or portion thereof remaining Outstanding shall be in an Authorized Denomination. If the Bonds are held in the Book-Entry System, the Securities Depository shall, acting pursuant to its rules and procedures, reflect in said system the partial redemption and the Trustee shall (i) either exchange the Bond or Bonds held by the Securities Depository for a new Bond or Bonds in the appropriate principal amount, if such Bond is presented to the Trustee by the Securities Depository, or (ii) obtain from the Securities Depository a written confirmation of the reduction in the principal amount of the Bonds held by such Securities Depository. Notwithstanding the foregoing, in all events, that Series 2025A-T Bonds shall be redeemed in full prior to the redemption of any Series 2025A-1 or Series 2024B Bonds, and further provided that Series 2025A-2 Bonds shall be redeemed in full prior to the redemption of any Series 2025A-1 Bonds.

(e) [Reserved].

(f) *Redemption Price.* Other than as described in Sections 3.4 and 6.8 hereof, any redemption of Bonds shall be at a redemption price equal to 100% of the principal amount of Bonds to be redeemed plus interest accrued thereon to, but not including, the redemption date, without premium, penalty or charge.

(g) *Right of Borrower to Purchase Bonds.* Subject to delivery of a Favorable Opinion of Bond Counsel (at the sole expense of the Borrower), *provided* that if the Tax-Exempt Bonds are held by a Substantial User or Related Person to a Substantial User, the Borrower shall have the option, by written notice to the Trustee and the Controlling Person given not less than five (5) Business Days in advance of such redemption date, to cause purchase of the Tax-Exempt Bonds in lieu of redemption on the redemption date. The purchase price of the Tax-Exempt Bonds

so purchased in lieu of redemption shall be equal to the redemption price thereof and shall be payable on the redemption date. Tax-Exempt Bonds so purchased in lieu of redemption shall be registered to or upon the direction of the Borrower; *provided* that any assignee of the Borrower shall be an Approved Buyer which executes and delivers an Investor Letter as required under this Indenture.

(h) *[Reserved]*.

*Section 3.5 Notice of Redemption.* Notice of redemption shall be mailed by the Trustee by first-class mail, postage prepaid, at least thirty (30) days before the redemption date to each Holder of the Bonds to be redeemed in whole or in part at his/her last address appearing on the Register, with a copy to the Controlling Person, but no defect in or failure to give such notice of redemption to any person shall affect the validity of the redemption as to any other person; provided, however, no notice of redemption shall be required for mandatory sinking fund redemptions pursuant to Section 3.4(b)(vii) hereof. All Bonds properly called for redemption and for which monies for payment of the redemption price are held by the Trustee will cease to bear interest on the date fixed for redemption, and, thereafter, the Holders of such Bonds called for redemption shall have no rights in respect thereof except to receive payment of the redemption price from the Trustee and a new Bond for any portion not redeemed. Notwithstanding the foregoing, with respect to any Bonds held under the Book-Entry System, notices of redemption shall be provided in accordance with the rules and procedures established by the Securities Depository, as more fully described in Section 2.11 hereof. From and after the Conversion Date, the Trustee shall provide copies of all notices given under this Section and of all revocations of notices to the Credit Provider and the Servicer at the same time it gives notices to any Holders.

*Section 3.6 Payments Due on Non-Business Days.* In any case where the date of maturity of, interest on or premium, if any, or principal of the Bonds or the date fixed for redemption of any Bonds shall not be a Business Day, then payment of such interest, premium or principal need not be made on such date but shall be made on the next succeeding Business Day, with the same force and effect as if made on the date of maturity or the date fixed for redemption, and, in the case of such payment, no interest shall accrue for the period from and after such date.

## **ARTICLE IV. FUNDS**

*Section 4.1 Establishment of Funds and Accounts; Applications of Proceeds of the Bonds and Other Amounts.* (a) The following funds and accounts are hereby created and established as special trust funds with the Trustee:

(i) the Project Fund, consisting of the following accounts:

(A) the Bond Proceeds Account (containing a Tax-Exempt Bonds Subaccount and a Taxable Bonds Subaccount);

(B) the Costs of Issuance Account;

(C) the Equity Account;

(D) the Capitalized Interest Account (containing a Tax-Exempt Bond Proceeds Subaccount, a Taxable Bond Proceeds Subaccount and an Equity Subaccount);

(E) the Insurance and Condemnation Proceeds Account;

(ii) the Tax and Insurance Escrow Fund;

(iii) the Rebate Fund;

(iv) the Bond Fund;

(v) the Surplus Fund;

(vi) the Redemption Fund;

(vii) the Credit Facility Fund; and

(viii) the Expense Fund.

(b) All the Accounts created by subsection (a) of this Section shall be held by the Trustee in trust for application only in accordance with the provisions of this Indenture. The Trustee shall not be required to open any of the foregoing funds or Accounts until a deposit of funds is made to such fund or Account pursuant to the terms hereof.

(c) The initial proceeds of the sale of the Bonds on the Issue Date in the amount of \$[\_\_\_\_\_], and the initial installment of Required Equity Funds in the amount of \$[\_\_\_\_\_] shall be deposited as follows:

(i) \$[\_\_\_\_\_], representing a portion of the proceeds of the sale of the Tax-Exempt Bonds, shall be deposited in the Tax-Exempt Bonds Subaccount of the Project Fund;

(ii) \$[\_\_\_\_\_], representing a portion of the proceeds of the sale of the Taxable Bonds, shall be deposited in the Taxable Bonds Subaccount of the Project Fund;

(iii) \$[\_\_\_\_\_], representing a portion of the proceeds of the sale of the Tax-Exempt Bonds, and shall be deposited in the Tax-Exempt Bond Proceeds Capitalized Interest Subaccount of the Project Fund;

(iv) \$[\_\_\_\_\_], representing a portion of the proceeds of the sale of the Taxable Bonds, and shall be deposited in the Taxable Bond Proceeds Capitalized Interest Subaccount of the Project Fund; [and]

(v) \$[\_\_\_\_\_], representing a portion of the initial installment of Required Equity Funds, shall be deposited in the Equity Account of the Project Fund[; and][.]

[(vi) \$[\_\_\_\_\_], representing a portion of the proceeds of the sale of the [Tax-Exempt Bonds and the Taxable Bonds], shall be deposited in the Costs of Issuance Account of the Project Fund.]

(d) *[Reserved]*.

*Section 4.2 Bond Fund.* (a) There is hereby separately created and established with the Trustee the Bond Fund. There shall be deposited in the Bond Fund (i) all Repayments specified in the Loan Agreement to be deposited in the Bond Fund, including all proceeds resulting from the enforcement of the Security or its realization as collateral, and (ii) all other moneys received by the Trustee under the Loan Agreement for deposit by it in the Bond Fund.

(b) Moneys in the Bond Fund shall be held in trust for the Holders and, except as otherwise expressly provided herein, shall be used solely for the payment of the interest on the Bonds, for the payment of principal of the Bonds upon maturity, whether stated or accelerated, or upon mandatory or optional redemption prior to the Maturity Date, and for the payment of the acceleration premium set forth in Section 2.03(c) of the Loan Agreement.

(c) After payment in full of the Bonds, or provision for the payment of the Bonds having been made pursuant to Section 5.2 hereof, and upon payment of any amounts payable to the United States pursuant to any rebate requirement and any other amounts owing hereunder and under the Loan Agreement, any amounts remaining in the Bond Fund shall be paid (i) first, to the Credit Provider any unpaid amounts certified by the Credit Provider to be due and owing to the Credit Provider, (ii) second to the person or persons entitled to be paid, all other unpaid amounts required to be paid under this Indenture or the Loan Agreement, and (iii) third, to the Borrower.

*Section 4.3 Project Fund.* (a) The Trustee shall deposit all amounts specified in Section 4.1 hereof into the specified accounts and subaccounts of the Project Fund. The Trustee will receive and deposit installments of the purchase price of the Bonds into Bond Proceeds Account, Bond Proceeds Subaccount of the Capitalized Interest Account and Costs of Issuance Account of the Project Fund, as applicable. The Trustee will receive and deposit into the Equity Account and Equity Subaccount of the Capitalized Interest Account of the Project Fund amounts received as future installments of the Required Equity Funds from the Investor Member in accordance with the provisions of the Operating Agreement. The Trustee shall deposit any other amounts received, to the extent not otherwise directed herein, in such Accounts as directed by Controlling Person.

(b) The Trustee is hereby authorized and directed to use moneys in the accounts and subaccounts of the Project Fund for payment or reimbursement to the Borrower upon the receipt of a fully executed Requisition approved by or on behalf of the Controlling Person in accordance with the provisions of the Loan Agreement or a closing memorandum or settlement statement signed by the Borrower and approved by the Controlling Person identifying the amount to be paid and the payee, upon which the Trustee may conclusively rely. Moneys in the Project Fund shall be applied for payment or reimbursement of Project Costs and at least 95% of moneys on deposit in the Tax-Exempt Bonds Subaccount of the Project Fund shall be applied to Qualified Project Costs. The amounts on deposit in the Bond Proceeds Account of the Project Fund shall not be applied to the payment of costs of issuance of the Bonds. After Final Completion of the Project

Facilities, but in no event later than the Conversion Date, all Surplus Bond Proceeds remaining in the Bond Proceeds Account of the Project Fund shall be transferred to the Surplus Fund. All remaining amounts in the Equity Account, if any, following the required redemption on the Conversion Date shall be paid to the Borrower.

(c) The Trustee shall and is hereby authorized to transfer funds from the Capitalized Interest Account to the Bond Fund to pay interest on the Bonds without submission of any Requisition, accruing up to and including achievement of Final Completion without submission of any Requisition. With respect to any such transfer, the Trustee shall first transfer amounts from the Bond Proceeds Subaccount of the Capitalized Interest Account of the Project Fund. The Trustee shall transfer any Surplus Bond Proceeds remaining in the Capitalized Interest Account after Final Completion of the Project Facilities and payment of all Project Costs, but in no event later than the Conversion Date, to the Surplus Fund, and the Capitalized Interest Account shall be closed. For the avoidance of doubt, upon the receipt of a fully executed Requisition approved by or on behalf of the Controlling Person in accordance with the provisions of the Loan Agreement or a closing memorandum or settlement statement signed by the Borrower and approved by the Controlling Person identifying the amount to be paid and the payee, the Trustee shall and is hereby authorized to transfer funds from the Tax-Exempt Bond Proceeds Capitalized Interest Subaccount of the Project Fund to pay interest on the Tax-Exempt Bonds accruing up to and including achievement of Final Completion.

(d) Amounts in the Costs of Issuance Account shall be disbursed by the Trustee on the Issue Date and thereafter only to pay costs of issuance pursuant to a closing memorandum, upon which the Trustee may conclusively rely, signed by the Borrower and approved by the Controlling Person, identifying the amount to be paid and the payee. Amounts remaining in the Costs of Issuance Account (including investment proceeds) after the payment of all costs of issuance, and in any event not later than thirty (30) days following the Issue Date, shall be transferred to the Bond Proceeds Account or Equity Account of the Project Fund, as applicable, as directed by the Borrower, and the Trustee shall close the Costs of Issuance Account.

(e) Moneys representing a Condemnation Award or Insurance Proceeds shall be deposited into the Insurance and Condemnation Proceeds Account of the Project Fund and notice of such deposit thereof shall be given by the Trustee to the Controlling Person and the Majority Owner. To the extent there has been a determination pursuant to the Bond Documents to restore the Project Facilities, such Condemnation Award or Insurance Proceeds shall be expended for such purposes in accordance with written direction of the Controlling Person and the provisions of the Bond Documents. In the event there is a determination pursuant to the Bond Documents not to restore the Project Facilities, such Condemnation Award or Insurance Proceeds shall be either (i) transferred to the Bond Fund and applied to the redemption of Bonds in accordance with Section 3.4(b) hereof, or (ii) released to the Borrower if the Borrower obtains a Favorable Opinion of Bond Counsel (at the sole expense of the Borrower), all in accordance with direction of the Controlling Person to the Trustee and subject to the provisions of the Bond Documents.

(f) The Trustee shall transfer moneys between Accounts as directed in writing by the Controlling Person and consented to by the Borrower, *provided* that no consent shall be required following the occurrence and during the continuance of a Default or Event of Default hereunder. Upon the occurrence and continuation of an Event of Default hereunder, all money and

investments in the Project Fund may be disbursed at the direction of the Controlling Person to pay any costs and expenses of the Project Facilities, to pay costs of enforcement of the Bond Documents and to pay any and all amounts owed by the Borrower under the Bond Documents, in whatever amounts and whatever order the Controlling Person may determine.

*Section 4.4 Surplus Fund.* The Surplus Fund shall receive all Surplus Bond Proceeds transferred thereto in accordance with the provisions of this Indenture. Surplus Bond Proceeds from the Bonds shall be deposited into the Surplus Fund. The deposit of Surplus Bond Proceeds in the Surplus Fund shall be, and shall be deemed to be, a joint direction by the Borrower and the Controlling Person to the Trustee to redeem the greatest principal amount of the applicable Bonds possible to be redeemed in Authorized Denominations from such deposit pursuant to Section 3.4(b)(i) hereof on the earliest redemption date on which the Bonds may be redeemed, and on such redemption date an amount equal to the principal amount of Bonds to be redeemed plus interest accrued thereon to the redemption date shall be transferred from the Surplus Fund to the Bond Fund and used for such redemption. After such transfer, if and to the extent that there are moneys remaining in the Surplus Fund, such moneys in the Surplus Fund shall be transferred to the Bond Fund and shall be used for payment of interest on or principal of Bonds.

*Section 4.5 Credit Facility Fund.* (a) The Trustee shall deposit into the Credit Facility Fund all Credit Facility Advances, except for Credit Facility Advances on account of Issuer Fees and Expenses. That portion of any Credit Facility Advance on account of Issuer Fees and Expenses shall be deposited into the Expense Fund. No other moneys will be deposited into the Credit Facility Fund and the Credit Facility Fund shall be maintained as a segregated account and moneys therein shall not be co-mingled with any other moneys held under this Indenture. The Credit Facility Fund shall be closed at such time as directed by the Credit Provider when it has no continuing liability under the Credit Facility.

(b) The Trustee shall cause amounts deposited into the Credit Facility Fund to be applied on the date payment is due to the payments for which the Credit Facility Advance was made pursuant to the Credit Facility. In no event shall amounts in the Credit Facility Fund be applied to the payment of principal of and interest and redemption premium, if any, on any Bonds known by the Trustee to be held by the Borrower or any Affiliate of the Borrower. Any amounts remaining in the Credit Facility Fund after making the payment for which the Credit Facility Advance was made pursuant to the Credit Facility shall be promptly refunded to the Credit Provider.

*Section 4.6 Use of Certain Additional Funds and Accounts.*

(a) *Redemption Fund.* (i) There shall be deposited in the Redemption Fund (a) all payments specified in Sections 2.03(d) and 8.04 of the Loan Agreement to be deposited in the Redemption Fund, and (b) all other moneys received by the Trustee under the Loan Agreement or this Indenture for deposit by it in the Redemption Fund. Moneys in the Redemption Fund shall be held in trust for the Holders and, except as otherwise expressly provided herein, shall be used solely for the redemption of Bonds pursuant to Section 3.4 hereof. On each Principal Payment Date or redemption date and as otherwise required hereunder or at the written direction of the Controlling Person, the Trustee shall transfer such amounts from the Redemption Fund to the Bond Fund and call and redeem Bonds as provided in Section 3.4 hereof. After payment in full of the Bonds, or provision for the payment of the Bonds having been made pursuant to Section 5.2 hereof,

and the payment of any amounts owing to the United States pursuant to any rebate requirement and any other amounts owing hereunder and under the Loan Agreement, any amounts remaining in the Redemption Fund shall be paid to the Borrower.

(ii) Upon the occurrence and continuation of an Event of Default hereunder, all money and investments in the Redemption Fund may be disbursed at the direction of the Controlling Person to pay any costs and expenses of the Project Facilities, to pay costs of enforcement of the Bond Documents and to pay any and all amounts owed by the Borrower under any of the Bond Documents, in whatever amounts and in whatever order the Controlling Person may determine.

(b) *Tax and Insurance Escrow Fund.* Prior to Conversion, there shall be deposited in the Tax and Insurance Escrow Fund all moneys received for such purpose by the Trustee from the Borrower pursuant to Section 8.02 of the Loan Agreement. Such moneys in the Tax and Insurance Escrow Fund shall be applied to payment of Impositions and insurance premiums at the direction of the Controlling Person or, in the absence of direction from the Controlling Person, thirty (30) days following a written request of the Controlling Person, at the direction of the Borrower; *provided, however*, that upon the occurrence and continuation of an Event of Default hereunder, all money and investments held in the Tax and Insurance Escrow Fund may be disbursed at the direction of the Controlling Person to pay costs and expenses of the Project Facilities, to pay costs of enforcement of the Bond Documents and to pay any and all amounts owed by the Borrower under any of the Bond Documents, in whatever amounts and in whatever order the Controlling Person may determine. Upon the payment in full of the Bonds, the Issuer Fees and Expenses and the fees and expenses of the Trustee and the Dissemination Agent, or provision for the payment of the Bonds having been made pursuant to Section 5.2 hereof, and upon payment of amounts payable to the United States pursuant to any rebate requirement and any other amounts owing hereunder and under the Loan Agreement, any amounts remaining in the Tax and Insurance Escrow Fund shall be paid to the Borrower.

(c) *Rebate Fund.* The Issuer recognizes that investment of the Tax-Exempt Bond proceeds will be at the written direction of the Borrower but agrees that it will commit no act, or omit any action, that would cause the Tax-Exempt Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code and the applicable regulations thereunder. There is hereby established with the Trustee a Rebate Fund. Any provisions in this Indenture to the contrary notwithstanding, amounts credited to the Rebate Fund shall be free and clear of any lien hereunder. The Issuer and the Trustee will observe the covenants contained in the Tax Certificate as if fully set forth herein.

(d) *[Reserved]*.

(e) *Expense Fund.* On the Issue Date, there shall be deposited \$[\_\_\_\_\_] in the Expense Fund. Amounts on deposit in the Expense Fund shall be used to pay the Third Party Costs as and when the same become due as directed by the Borrower. To the extent moneys in the Expense Fund are not sufficient to pay the Third Party Costs, such deficiency shall be paid by the Borrower immediately upon written demand. In the Loan Agreement, the Borrower has agreed to pay directly to the Issuer or the Trustee any extraordinary fees and expenses of the Issuer or the Trustee, as the case may be, that are not included within any fees paid or schedule to be paid to the Issuer or the Trustee and not otherwise paid from the Surplus Fund.

*Section 4.7 Records.* (a) The Trustee shall cause to be kept and maintained records pertaining to all funds and Accounts maintained by the Trustee hereunder and all disbursements therefrom and shall deliver to the Borrower, with a copy to Controlling Person, monthly statements of activity and statements indicating the investments made with moneys in all such funds during the applicable period. Upon written request, the Trustee shall provide the Borrower and the Controlling Person, within a reasonable period of time, with a report stating the principal amount of Bonds Outstanding and a list of the registered owners of the Bonds as of the date specified by the Borrower or the Controlling Person in its request. Any notices, reports or other information delivered by the Trustee to the Servicer with respect to any Fund or Account also will be delivered, upon request, to the Credit Provider.

(b) The Trustee shall provide the Borrower and the Controlling Person with a written statement, on a monthly basis, through the calendar month in which the last obligation of the Bonds is retired, identifying the Permitted Investments in which the moneys held as part of the Accounts were invested during the preceding period and the dates of such investments, together with such other information as the Trustee ordinarily provides to Persons such as the Borrower and the Controlling Person in its regular monthly account statements.

(c) All records and files pertaining to the Trust Estate will be open at all reasonable times during regular business hours of the Trustee to the inspection and audit of the Issuer, the Servicer, the Borrower and the Credit Provider and their agents and representatives upon reasonable prior notice.

*Section 4.8 Investment of Funds.* Subject to the provisions of Section 4.8 hereof, moneys held as part of all Accounts hereunder shall be invested and reinvested in Permitted Investments as instructed by the Borrower with the prior written consent of the Controlling Person; *provided, however,* that any moneys held by the Trustee in the Credit Facility Fund or otherwise to pay the principal of or interest that has become payable with respect to the Bonds shall not be invested. The Trustee may conclusively rely on written instructions received from the Borrower, including written instructions received by electronic means. All Permitted Investments shall be held by or under the control of the Trustee and shall be deemed at all times to be a part of the fund and account which was used to purchase the same. The Trustee may act as principal or agent in the making or disposing of any investment and may utilize its investment department or that of its affiliate and charge its standard investment handling fees. The Trustee is not providing investment supervision, recommendations or advice. All interest accruing thereon and any profit realized from Permitted Investments shall be credited to the respective fund or account and any loss resulting from Permitted Investments shall be similarly charged. The Trustee is authorized to cause to be sold and reduced to cash a sufficient amount of Permitted Investments whenever the cash balance in any fund or account hereunder is or will be insufficient to make a requested or required disbursement. The Trustee shall not be responsible for any depreciation in the value of any Permitted Investment or for any loss resulting from such sale, so long as the Trustee performs its obligations hereunder in accordance with the terms of this Indenture. The Trustee is not obligated to verify whether an investment is a legal investment under the applicable laws of the State or a Permitted Investment hereunder. Absent specific written instructions from the Borrower approved by the Controlling Person to invest cash balances in Permitted Investments hereunder, all funds shall be held uninvested. The Trustee may conclusively rely upon the written investment instructions of the Borrower with the prior written consent of the Controlling Person as to both the suitability and

legality of the directed investments and such written direction shall be deemed to be a certification to the Trustee that such directed investments constitute Permitted Investments and satisfy the requirements under the Bond Documents.

The Issuer acknowledges that regulations of the Comptroller of the Currency grant the Borrower the right to receive brokerage confirmations of the security transactions as they occur. The Borrower has specifically waived such notification to the extent permitted by law and will receive periodic cash transaction statements via the Trustee's online portfolio system that will detail all investment transactions.

*Section 4.9 Yield Restriction.* Funds held under this Indenture and allocable to the Bonds will not be invested at an overall yield in excess of the yield on the Bonds, unless the Borrower, the Trustee and the Controlling Person receive an Opinion of Bond Counsel (at the expense of the Borrower) that the investment of such funds at an overall yield in excess of such amount does not adversely affect the excludability of interest on the Bonds by the Holders thereof for federal income tax purposes.

*Section 4.10 Guaranties.* Any amounts realized by the Trustee under the Guaranty of Completion, the Guaranty of Debt Service and Conversion, the Guaranty of Recourse Obligations or the Environmental Indemnity shall be used or applied or invested by the Trustee for the satisfaction of the guaranteed obligations as directed in writing by the Controlling Person.

## **ARTICLE V. DISCHARGE OF LIEN**

*Section 5.1 Discharge of Lien and Security Interest.* Upon payment in full of all of the Bonds and all other amounts payable under the Loan Agreement and other Bond Documents, these presents and the Security Interests shall cease, determine and be discharged, and thereupon the Trustee shall, upon receipt by the Trustee of a no adverse effect opinion of Counsel and an opinion of Counsel stating that all conditions precedent to the satisfaction and discharge of this Indenture have been complied with, (a) cancel and discharge this Indenture and the Security Interests; (b) execute and deliver to the Issuer, the Credit Provider and the Borrower, at the Borrower's expense, such instruments in writing as shall be required to cancel and discharge this Indenture and the Security Interests and reconvey to the Issuer and the Borrower the Security, and assign and deliver to the Issuer and the Borrower so much of the Security as may be in its possession or subject to its control, except for moneys and Government Obligations held in the Bond Fund for the purpose of paying Bonds; (c) mark as cancelled the Note and satisfy the Security Instrument; and (d) return the Credit Facility to the Credit Provider; *provided, however*, that the cancellation and discharge of this Indenture pursuant to this Section or Section 5.3 hereof shall not terminate the powers and rights granted to the Trustee, with respect to the payment, registration of transfer and exchange of the Bonds; *provided, further*, that the rights of the Issuer and the Trustee to indemnity, non-liability and payment of all the Issuer Fees and Expenses and reasonable fees and expenses of the Trustee, including attorneys' fees and expenses, shall survive the cancellation and discharge of this Indenture pursuant to this Section or Section 5.3 hereof and, in the case of the Trustee, the resignation or removal of the Trustee.

*Section 5.2 Provision for Payment of Bonds.* Bonds shall be deemed to have been paid within the meaning of Section 5.1 hereof if, upon receipt by the Trustee of a Favorable Opinion of Bond Counsel (at the sole expense of the Borrower) and an opinion of Counsel stating that all conditions precedent to the satisfaction and discharge of this Indenture have been complied with:

(a) there shall have been irrevocably deposited in the Bond Fund sufficient money or Government Obligations of such maturities and interest payment dates and bearing such interest as will, in the opinion of a firm of certified public accountants, without further investment or reinvestment of either the principal amount thereof or the interest earnings thereon (said earnings also to be held in trust), be sufficient for the payment at their respective maturities or redemption dates prior to maturity of the principal of the Bonds not later than the earliest redemption date possible under Section 3.4 (and any earlier partial redemption date required herein) and interest to accrue thereon, and redemption premium, if any, through such maturity or redemption dates, as the case may be;

(b) the Trustee shall have received a written statement from the Credit Provider stating that all obligations owed to the Credit Provider under the Credit Facility Documents have been fully paid, and shall have returned the principal portion of the Credit Facility to the Credit Provider (and if the Trustee receives a written statement from the Credit Provider stating that moneys are owed to the Credit Provider under the Credit Facility Documents or the Bond Documents, the Trustee shall pay to the Credit Provider so much of the remaining Trust Estate as will fully pay all amounts due and owing to the Credit Provider, as determined by the Credit Provider);

(c) there shall have been paid or provision duly made for the payment of all the Issuer Fees and Expenses and the fees and expenses of the Trustee, including attorneys' fees and expenses, due or to become due;

(d) if any Bonds are to be redeemed on any date prior to their maturity, the Trustee shall have received in form satisfactory to it irrevocable written instructions from the Borrower to redeem such Bonds on such date and either evidence satisfactory to the Trustee that all redemption notices required by this Indenture have been given or irrevocable power authorizing the Trustee to give such redemption notices has been granted to the Trustee; and

(e) limitations set forth elsewhere herein regarding the investment of moneys held by the Trustee in the Bond Fund shall not be construed to prevent the depositing and holding in the Bond Fund of the Government Obligations described in this Section 5.2 for the purpose of defeasing the lien of this Indenture as to Bonds which have not yet become due and payable. Notwithstanding any other provision of this Indenture to the contrary (but subject to Section 5.2(a) hereof), all funds deposited with the Trustee as provided in this Section may be invested and reinvested, at the written direction of the Borrower, in Government Obligations (or in a money market fund that invests solely in Government Obligations and is rated no lower than the second highest category by one of Fitch, Moody's or S&P and, if more than one of such rating agencies then rates such money market fund, is rated no less than the second highest rating category by each of such rating agencies then rating such money market fund) maturing in the amounts and times as

hereinbefore set forth, and all income from all Government Obligations (or money market fund) in the hands of the Trustee pursuant to this Section which is not required for the payment of the Bonds and interest and redemption premium, if any, thereon with respect to which such moneys shall have been so deposited shall be deposited in the Bond Fund as and when realized and collected for use and application as are other moneys deposited in the Bond Fund.

*Section 5.3 Discharge of this Indenture.* Notwithstanding the fact that the lien of this Indenture upon the Security may have been discharged and cancelled in accordance with Section 5.1 hereof, this Indenture and the rights granted and duties imposed hereby, to the extent not inconsistent with the fact that the lien upon the Security may have been discharged and cancelled, shall nevertheless continue and subsist after payment in full of the Bonds or the deemed payment in full of the Bonds in accordance with Section 5.2 hereof until the Trustee shall have returned to the Borrower all funds held by the Trustee which the Borrower is entitled to receive pursuant to this Indenture after all Bonds have been paid at maturity or redeemed on the date set for redemption. Upon payment in full or defeasance of the Bonds, payment of amounts payable to the United States pursuant to any rebate requirement and payment of all other amounts owing hereunder and under the Loan Agreement, all remaining amounts held by the Trustee shall be paid to the Borrower.

The rights of the Issuer and the Trustee to indemnity, non-liability and payments of all Issuer Fees and Expenses, and Trustee Fees, respectively, shall survive the cancellation and termination of this Indenture pursuant to this Section.

## **ARTICLE VI. DEFAULT PROVISIONS AND REMEDIES**

*Section 6.1 Events of Default.* Any one of the following shall constitute an Event of Default hereunder:

- (a) Failure to pay interest on any Bond when and as the same shall have become due;
- (b) Failure to pay the principal of or any premium on any Bond when and as the same shall become due, whether at the stated maturity or redemption date thereof or by acceleration;
- (c) Failure to observe or perform any other of the covenants, agreements or conditions on the part of the Issuer included in this Indenture or in the Bonds and the continuance thereof for a period of thirty (30) days after written notice to the Issuer and the Borrower has been given by the Trustee or by the Controlling Person (with a copy to the Trustee);
- (d) The delivery by the Credit Provider to the Trustee of written notice of an Event of Default under the Reimbursement Agreement;
- (e) The delivery by the Credit Provider to the Trustee of written notice of an Act of Bankruptcy; or

(f) The occurrence of a Wrongful Dishonor.

(g) Prior to the Conversion Date, the delivery by the Controlling Party to the Trustee of written notice of an Event of Default under the Loan Agreement.

Anything herein to the contrary notwithstanding, the Investor Member shall have the right, but not the obligation, to cure any default hereunder on the same terms provided to the Borrower.

The foregoing provisions of this Section 6.1 or any other provision of this Indenture or any Bond Document notwithstanding, any Event of Default under this Section 6.1 above (each a “Borrower Related Default”, and excluding Subsection (c) only to the limited extent that any such failure relates to a covenant, agreement or condition within the exclusive control of the Issuer and Subsection 6.1(e)) shall not be deemed an Event of Default of the Issuer, and the Issuer shall not be considered to be in default of any of its obligations hereunder with respect thereto under any circumstances, as the Issuer is merely acting in a conduit capacity hereunder and the Bonds are secured by and payable solely from amounts received from the Borrower or the Project and the Trust Estate hereunder and is not a debt or indebtedness of the Issuer. Any remedial action hereunder with respect to a Borrower Related Default is therefore limited to action against the Trust Estate.

*Section 6.2 Acceleration.* (a) The Trustee shall immediately notify the Issuer, the Servicer, the Borrower, the Investor Member and the Credit Provider after the Trustee obtains actual knowledge of an Event of Default under Section 6.1(a) or (b) or receives written notice of the occurrence of an Event of Default under this Indenture or an event which would become such an Event of Default with the passage of time, the giving of notice or both, identifying the paragraph in Section 6.1 under which the Event of Default has occurred or may occur. Upon the direction of the Controlling Person, subject to the Act and Section 6.2(b), the Trustee immediately shall, by notice in writing sent to the Issuer, the Borrower, the Investor Member, the Majority Owner and the Controlling Person, declare the principal of all Bonds then Outstanding (if not then due and payable) and the interest accrued thereon to be due and payable immediately, and, upon said declaration, such principal and interest shall become and be immediately due and payable after thirty (30) days’ notice to the Issuer. Upon any declaration of acceleration hereunder, subject to the Act and Section 6.2(b), the Trustee shall promptly exercise such rights as it may have under the Loan Agreement and the Note to declare all Repayments to be immediately due and payable. In such event, there shall be due and payable on the Bonds an amount equal to the total principal amount of all such Bonds, plus all interest accrued thereon (including Default Interest, if any) and which will accrue thereon to the date of payment and all unpaid interest on the Bonds on the date of payment, and the acceleration premium described in Section 6.8 hereof (if applicable), subject to the Act.

(b) Following Conversion, upon and during the occurrence of a Wrongful Dishonor, prior to Conversion, upon the occurrence and continuance of an Event of Default pursuant to Section 6.1(a) or (b) in accordance with the Act, the Trustee, upon the written request of the Majority Owner shall, by written notice to the Issuer, the Borrower, the Investor Member, the Controlling Person and the Majority Owner, having first given thirty (30) days’ notice in writing delivered to the Issuer, may declare the Bonds to be immediately due and payable, whereupon such Bonds shall, without further action, become and be immediately due and payable, anything

in this Indenture or in the Bonds to the contrary notwithstanding, and the Trustee shall give notice thereof to the Issuer, the Borrower, the Investor Member the Controlling Person, the Majority Owner and to Owners the Bonds. Upon the occurrence and continuance of any Event of Default, then and in every such case the Trustee in its discretion may, and upon the written direction of the Owners of not less than 25% in aggregate principal amount of the Bonds Outstanding shall, in its own name and as the Trustee of an express trust, perform any or all of the following:

- (i) by action or proceeding at law or in equity, enforce all rights of the Owners under this Indenture or the Bonds, including without limitation the right to require the Issuer to collect fees and charges and interest and amortization payments on mortgage loans made by it adequate to carry out any agreement as to, or pledge of, such fees and charges and interest and amortization payments on such mortgages, and other properties and to require the Issuer to carry out any other agreements with the Owners of such of Bonds and to perform its duties under the Act;

- (ii) bring suit upon the Bonds;

- (iii) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of the Bonds;

- (iv) by action or suit in equity require the Issuer or to account as if it were the trustee of an express trust for the Owners of the Bonds; or declare all the Bonds due and payable, and if all defaults shall be made good, then, with the consent of the Owners of 25% of the principal amount of the Bonds then outstanding, to annul such declaration and its consequences.

Before declaring the principal of Bonds due and payable, the Trustee shall first provide the Issuer with thirty (30) days' notice.

- (c) Immediately following any such declaration of acceleration, the Trustee shall cause to be mailed notice of such declaration by first-class mail, postage prepaid (or, in the case of Bonds administered in the Book-Entry System, cause to be sent pursuant to the applicable procedure of the Securities Depository), to each Holder of a Bond at his/her last address appearing on the Register. Any defect in or failure to give such notice of such declaration shall not affect the validity of such declaration.

*Section 6.3 Redemption.* Upon the occurrence of an Event of Default under Section 6.1(d) or (e) of this Indenture if the Credit Provider so directs the Bonds shall be redeemed in whole or in part in the amount specified by and at the direction of the Credit Provider.

Notwithstanding anything to the contrary in this Indenture, if the Credit Provider directs that the Bonds be redeemed in part, the Credit Provider may further direct on one or more other occasions under this subsection that the Bonds be redeemed in whole or in part.

*Section 6.4 Draw on Credit Facility.* Promptly upon acceleration and mandatory redemption, the Trustee shall request a Credit Facility Advance under the Credit Facility in accordance with its terms.

*Section 6.5 Other Remedies; Rights of Holders.* (a) Upon the happening and continuance of an Event of Default hereunder, the Trustee may, with the prior written consent of the Controlling Person, and shall, subject to its right to be indemnified to its satisfaction, upon the direction of the Controlling Person, with or without taking action under Section 6.2 hereof, subject to the Act, the Supplemental Act and the Charter, pursue any available remedy to enforce the performance of or compliance with any Bond Documents.

(b) No remedy by the terms of this Indenture conferred upon or reserved to the Trustee, the Controlling Person, the Majority Owner or the Holders 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 Majority Owner, the Controlling Person or to the Holders hereunder or now or hereafter existing.

(c) No delay or omission to exercise any right or power accruing upon any Default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Default or 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, subject to the Act, the Supplemental Act and the Charter.

(d) No waiver of any Default or Event of Default hereunder, whether by the Trustee or by the Holders, shall extend to or shall affect any subsequent Default or Event of Default or shall impair any rights or remedies consequent thereon.

(e) The Trustee, as the assignee of substantially all right, title and interest of the Issuer in and to the Loan Agreement and the Note, shall be empowered to enforce each and every right granted to the Issuer under the Loan Agreement and the Note other than Reserved Rights, subject to the Act, the Supplemental Act and the Charter.

The Issuer may pursue all available remedies at law or in equity with respect to the Reserved Rights, so long as the Issuer does not take action to declare the outstanding balance of the Bonds or the outstanding balance owed under the Bond Documents to be due on account thereof.

*Section 6.6 Right of Controlling Person to Direct Proceedings.* (a) Anything in this Indenture to the contrary notwithstanding, but subject to the Trustee's right to be indemnified to its satisfaction, the Controlling Person shall have the right at any time, and, with respect to the Credit Provider, *provided* that no Wrongful Dishonor shall have occurred and be continuing, and subject to the provisions of the Act, the Supplemental Act and the Charter, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or any other proceedings hereunder or the exercise of any other trust or power of the Trustee; *provided* that such direction shall not be otherwise than in accordance with the provisions of law, including the Act, the Supplemental Act and the Charter, and of this Indenture.

(b) Subject to the provisions of the Act, the Supplemental Act and the Charter, no Holder shall have the right to institute any proceeding for the enforcement of this Indenture unless such

Holder has given the Trustee and the Borrower written notice of an Event of Default, and, *provided* that no Wrongful Dishonor shall have occurred and be continuing, the Controlling Person shall have requested the Trustee in writing to institute such proceeding, the Trustee shall have been afforded a reasonable opportunity to exercise its powers or to institute such proceeding, there shall have been offered to the Trustee indemnity satisfactory to it against the cost, expense and liability to be incurred in connection with such request and the Trustee shall have thereafter failed or refused to exercise such powers or to institute such proceeding within sixty (60) days after receipt of notice with no inconsistent direction given during such sixty (60) days by the Holders of a majority in aggregate principal amount of the Bonds then Outstanding. Nothing in this Indenture shall affect or impair any right of enforcement conferred on any Holder by the Act, the Supplemental Act, the Charter or otherwise to enforce (i) the payment of the principal of, acceleration premium, if any, and interest on Bonds at and after the maturity thereof, or (ii) the obligation of the Issuer to pay exclusively from the Trust Estate the principal of, acceleration premium, if any, and interest on Bonds to such Holder at the time, place, from the sources and in the manner as provided in this Indenture.

*Section 6.7 Discontinuance of Default Proceedings.* In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver 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 and the Credit Provider shall be restored to their former positions and rights hereunder and all rights, remedies and powers of the Issuer, the Trustee and the Credit Provider, shall continue as if no such proceedings had been taken subject to the limits of any adverse determination.

*Section 6.8 Waiver.* The Trustee, with the consent of the Controlling Person may, and shall upon the written direction of the Controlling Person, waive any Default or Event of Default hereunder and its consequences and rescind any declaration of acceleration of maturity of principal; *provided, however*, that there shall be no such waiver or rescission unless (a) all principal of, acceleration premium, if any, and interest on the Bonds in arrears, together with interest thereon (to the extent permitted by law) at the applicable rate of interest borne by the Bonds and all fees and expenses of the Trustee, the Issuer and the Credit Provider, including attorneys' fees and expenses, shall have been paid or provided for and (b) after the waiver, the principal portion of the Credit Facility remains in effect in an amount equal to the aggregate principal amount of the Bonds Outstanding, *provided, however*, that such waiver will be permitted without the Credit Facility's remaining in effect if (i) the Issuer consents to the waiver, (ii) one hundred percent (100%) of the Bondholders consent to the waiver.

*Section 6.9 Application of Moneys.* Amounts derived from payments under the Credit Facility (other than amounts derived from a Credit Facility Advance to pay any Issuer Fees and Expenses) shall be deposited into the Credit Facility Fund and applied solely to pay the principal of and interest on the Bonds. All other moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall be deposited in the Bond Fund and, after payment to the Expense Fund (out of moneys derived from a source other than moneys held for the redemption of Bonds) of (i) the cost and expenses of the Trustee and the Issuer (if any) in connection with the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Trustee, including reasonable attorneys' fees and expenses, and all other outstanding fees, expenses, and indemnities of the Trustee, (ii) any sums

due to the Issuer under the Loan Agreement (other than Repayments and including, without limitation, any and all Issuer Fees and Expenses), and (iii) any sums due to the Trustee, including the Trustees Fees, the Dissemination Agent and the Rebate Analyst, such moneys shall be applied in the order set forth below:

(a) Unless the principal of all Bonds shall have become or been declared due and payable, all such moneys shall be applied:

*First:* To the payment of all installments of interest then due on the Bonds in order of priority first to installments past due for the greatest period and, if the amount available shall not be sufficient to pay in full any particular installment, then to the ratable payment of the amounts due on such installment;

*Second:* To the payment of the unpaid principal of and acceleration premium, if any, of the Bonds which shall have become due (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), with interest on such Bonds from the respective dates upon which they became due (at the rate borne by the Bonds, to the extent permitted by law) and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such acceleration premium, then to the ratable payment of the amounts due on such date;

*Third:* To the payment of amounts owed to the Credit Provider under the Credit Facility Documents and the Bond Documents, and then to the payment of the amounts required to reimburse the Owners of the Bonds for any legal or other out-of-pocket costs incurred by them in connection with exercising their remedies hereunder; and

*Fourth:* The balance shall be paid to the Borrower (subject to any required deposits to the Rebate Fund).

(b) If the principal of all the Bonds shall have become or been declared due and payable, all such moneys shall be applied to the payment of the principal, acceleration premium, if any, and interest then due and unpaid upon the Bonds, without preference or priority as between principal, premium, interest, installments of interest or Bonds, ratably according to the amounts due respectively for principal, premium and interest to the persons entitled thereto and thereafter to pay the Credit Provider amounts owed to it under the Credit Facility Documents and the Bond Documents.

(c) If the principal on all Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded under this Article then, subject to subsection (b) of this Section in the event that the principal of all the Bonds shall again become or be declared due and payable, the moneys shall be applied in accordance with subsection (a) of this Section.

(d) Notwithstanding anything contained herein to the contrary, the Controlling Person may, by written notice to the Trustee direct the application of funds other than in

the manner set forth in Section 6.7(a) above, including, without limitation, the application of funds between the principal or acceleration premium of or interest on the Bonds.

(e) Whenever moneys are to be applied pursuant to this Section, the Trustee shall fix the date which shall be not more than seven (7) calendar days after such acceleration upon which such application is to be made and upon such date interest on the principal amount of Bonds to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date.

*Section 6.10 Default Interest and Acceleration Premium.* (a) In the event that prior to Conversion, principal or interest payable on the Bonds is not paid when due, there shall be payable on the amount not timely paid, interest at the Default Rate, to the extent permitted by law. This interest shall accrue at the Default Rate until the unpaid amount, together with interest thereon, shall have been paid in full.

(b) In the event there shall have occurred an acceleration of the Bonds or the Borrower's obligations under the Loan Agreement following an Event of Default on or before the First Optional Redemption Date, any tender of payment of any amount necessary to pay the Bonds in full shall include the acceleration premium set forth in Section 2.03(c) of the Loan Agreement, to the extent permitted by law.

## **ARTICLE VII. THE TRUSTEE**

*Section 7.1 Appointment of Trustee.* The Trustee is hereby appointed and does hereby agree to act in such capacity, and to perform the duties of the Trustee under this Indenture, which duties shall be deemed ministerial in nature, but only upon and subject to the following express terms and conditions (and no implied covenants or other obligations shall be read into this Indenture against the Trustee):

(a) The Trustee may execute any of its trusts or powers hereunder and perform any of its duties by or through attorneys, agents, receivers or employees and shall not be responsible for the acts or omissions of any such attorney, agent, receiver or employee appointed with due care. The Trustee shall be entitled to advice of Counsel concerning all matters hereunder and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees. The Trustee may act upon the opinion or advice of Counsel (who may be counsel for the Issuer or the Borrower), accountants, engineers or surveyors selected by it in the exercise of reasonable care or, if the same are selected by the Issuer or the Borrower, approved by the Trustee in the exercise of reasonable care. The Trustee shall not be responsible for any loss or damage resulting from any action or non-action in good faith in reliance upon such opinion or advice.

(b) Except as provided in Section 7.8 hereof, the Trustee shall not be responsible for any recital herein or in the Bonds, or for the recording, re-recording, filing or re-filing of this Indenture, of any Financing Statements or continuation statements, or for insuring the Security or the Project Facilities or collecting any insurance moneys, or for

the validity of this Indenture or of any supplements hereto or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby, or for the value of or title to the Project Facilities or otherwise as to the maintenance of the Security. The Trustee shall not be liable to the Borrower, any Holder, any Beneficial Owner or any other Person for any loss suffered in connection with any investment of funds made by it in accordance with Section 4.7 hereof as instructed by the Borrower in accordance with the provisions of this Indenture, and with the prior written consent of the Controlling Person, as applicable. The Trustee shall have no duty or responsibility to examine or review and shall have no liability for the contents of any documents submitted to or delivered to any Holder in the nature of a preliminary or final placement memorandum, official statement, offering circular or similar disclosure document.

(c) The Trustee shall not be accountable for the use of any Bonds authenticated or delivered hereunder after such Bonds shall have been delivered in accordance with instructions of the Issuer or for the use by the Borrower of the proceeds of the Bonds disbursed to the Borrower as provided in the Loan Agreement. The Trustee may become the owner of Bonds secured hereby with the same rights as any other Holder.

(d) The Trustee shall be entitled to, at the expense of the Borrower, request, receive, and conclusively rely as to the truth of the statements and the correctness of the opinions expressed therein and shall be fully protected in acting or refraining from acting upon opinions of Counsel (who may be counsel for the Issuer or the Borrower) and upon any notice, request, requisition, consent, certificate, order or decree of a court of competent jurisdiction, judgement, affidavit, letter, telegram or other paper or document believed to be genuine and correct and to have been signed or sent by the proper person or persons, not only as to due execution, validity and effectiveness, but also as to the truth and accuracy of any information contained therein. Any notices, requisitions, directions, consents, approvals or requests provided to the Trustee pursuant to the terms of this Indenture or any of the Bond Documents shall not be effective until provided in writing. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any Person who at the time of making such request or giving such authority or consent is the Holder of any Bond shall be conclusive and binding upon all future Holders of the same Bond and upon Bonds issued in exchange therefor or in place thereof.

(e) The permissive right of the Trustee to do things enumerated in this Indenture, the Loan Agreement or other Bond Document to which it is a party shall not be construed as duties. The Trustee shall only be responsible for the performance of the duties expressly set forth herein and shall not be answerable for other than its gross negligence, fraud or willful misconduct in the performance of those express duties. No implied covenants shall be read into this Indenture, the Loan Agreement or the other Bond Documents to which the Trustee is a party against the Trustee.

(f) The Trustee shall not be personally liable for any debts contracted or for damages to persons or to personal property injured or damaged, or for salaries or non-fulfillment of contracts, relating to the Project Facilities.

(g) The Trustee shall not be required to give any bond or surety in respect of the execution of said trust and powers or otherwise in respect of this Indenture.

(h) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of the Holders unless the Holders shall have offered to the Trustee security and indemnity satisfactory to it against any loss, liability or expense. Before taking any action requested hereunder by the Holders which may require it to expend its own funds, or which, in the reasonable opinion of the Trustee, may expose it to potential loss, damage, claims or liability, the Trustee may require satisfactory security or indemnification for the reimbursement of all expenses, including attorney's fees and expenses, to which it may be put and to protect it against all loss, damage, claims or liability arising by reason of any action so taken. The Trustee shall not be entitled to indemnification as a precondition to giving notices of default or taking other actions at the written direction of the Majority Owner or the Majority Owner Representative which do not require the Trustee to expend its own funds or for which funds have been advanced by the Majority Owner or the Majority Owner Representative to the Trustee in advance of its taking such action or which, in the opinion of the Trustee, do not expose the Trustee to potential loss, damage, claims or liabilities. The Trustee shall not be liable with respect to any action taken or omitted to be taken hereunder or under any other Bond Document by it in good faith in accordance with the written direction of the Holders or the Majority Owner Representative, relating to the time, method and place of any proceeding for any remedy available to the Trustee, or for exercising any trust or power conferred upon the Trustee, under this Indenture or other Bond Documents.

(i) All moneys received by the Trustee, until used or applied or invested as herein provided, shall be held as special trust funds for the purposes specified in this Indenture and for the benefit and security of the Holders of the Bonds as herein provided. Such moneys need not be segregated from other funds except to the extent required by law or herein provided, and the Trustee shall not otherwise be under any liability for interest on any moneys received hereunder except such as may be agreed upon.

(j) The Trustee shall not be bound to ascertain or inquire as to the terms and conditions of any other agreement or the performance of the obligations of any agreement, including of the Borrower or the Issuer under the Loan Agreement, this Indenture or any other Bond Document, and shall not be deemed to have, or be required to take, notice of default under this Indenture (other than under Section 6.1(a) or (b), or Section 6.1(c) hereof if written notice thereof has been received by the Trustee) or prior to Conversion, the occurrence of a Determination of Taxability, except (i) in the event the Borrower fails to pay any Repayment when due, (ii) in the event of an insufficient amount in the Bond Fund (or any account therein) to make a principal or interest payment on the Bonds, (iii) in the event of written notification to the Trustee of a Determination of Taxability by the Holder of any Bonds prior to Conversion, (iv) in the event of written notification to the Trustee of such Default by the Controlling Person, or at any time that the Credit Facility is not in effect, the Majority Owner or two or more Holders with combined holdings of not less than twenty-five percent (25%) of the principal amount of Outstanding Bonds, or (v) in the event of receipt by the Trustee of an Opinion of Bond Counsel (at the sole expense of the Borrower) prior to Conversion concluding that a Determination of Taxability has occurred,

and in the absence of such notice the Trustee may conclusively presume there is no Determination of Taxability and no default except as aforesaid. The Trustee may nevertheless require the Borrower to furnish information regarding performance of their obligations under the Loan Agreement and this Indenture, but is not obligated to do so. The Trustee may assume performance by all such persons of their respective obligations and shall have no enforcement or notification obligations relating to breaches of representations or warranties of any other person.

(k) The Trustee shall, prior to any Event of Default and after the curing of all Events of Default which may have occurred, perform such duties and only such duties of the Trustee as are specifically set forth in this Indenture. The Trustee shall, during the existence of any Event of Default which has not been cured, exercise such of the 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 the circumstances in the conduct of his/her own affairs.

(l) In addition to the Trustee's other duties hereunder, the Trustee shall authenticate and cancel Bonds as provided herein, keep such books and records relating to such duties as shall be consistent with prudent industry practice and make such books and records available for inspection by the Issuer and the Borrower at all reasonable times with reasonable notice. All Bonds shall be made available for authentication, exchange and registration of transfer at the designated corporate trust office of the Trustee.

(m) The Trustee shall have no duty to inspect or oversee the construction or completion of the Improvements or to verify the truthfulness or accuracy of the certifications made by the Borrower in any Requisition. The Trustee shall have no duty or obligation to review or verify any information provided by the Borrower in any Requisition, and the Trustee shall not have to determine whether or not the information provided to it is complete. Trustee shall not have to determine whether or not the information provided to it is complete. The written approval of such Requisitions by the Controlling Person shall be conclusive evidence to the Trustee that all conditions precedent hereunder or under the Loan Agreement to such disbursement from the Project Fund have been satisfied. The Trustee shall not be responsible for determining whether the funds on hand in the Project Fund are sufficient to complete the Project. The Trustee shall not be responsible to collect lien waivers.

(n) Without limiting the duties of the Trustee expressly set forth herein, the Trustee shall have no obligation or responsibility whatsoever in connection with (i) any federal or state tax-exempt status of the Tax-Exempt Bonds or the interest thereon; (ii) the consequences of the investment or non-investment of any funds or accounts relating to the Bonds under Section 148 of the Code, or (iii) the calculation of any amount required to be rebated to the United States under Section 148 of the Code.

(o) No provision of this Indenture, the Loan Agreement or the Bonds shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers. The Trustee is authorized and directed to enter into the Bond Documents to which

the Trustee is a party and in entering into and acting pursuant to such Bond Documents, the Trustee shall be entitled to the protections, indemnities and limitations from liability afforded to the Trustee under this Indenture and the Loan Agreement.

(p) Whenever in the administration of this Indenture the Trustee deems it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee may, in the absence of bad faith on its part and except as otherwise expressly set forth herein, request and rely upon a written certificate of the Controlling Person.

(q) In the absence of a direction from the Controlling Person, if the Trustee receives inconsistent or conflicting requests and indemnity from two or more groups of Holders of the Bonds, each representing less than a majority in aggregate principal amount of the Bonds Outstanding, pursuant to the provisions of this Indenture, the directions given by the group of Holders which holds the largest percentage of the principal amount of the Bonds shall be controlling and the Trustee shall follow such directions.

(r) The Trustee's immunities and protections from liability and its rights to indemnification in connection with the performance of its duties under this Indenture shall likewise extend to the Trustee's officers, directors, agents, attorneys and employees. Such immunities and protections and rights to indemnification, together with the Trustee's rights to compensation, shall survive the Trustee's resignation or removal, the discharge of this Indenture and the final payment of the Bonds.

(s) The Trustee, in its commercial banking or in any other capacity, may in good faith buy, sell, own, hold or deal in any of the Bonds and may join in any action that any Holder may be entitled to take with like effect as if it were not the Trustee. The Trustee, in its commercial banking or in any other capacity, may also engage in or be interested in any financial or other transaction with the Borrower and may act as depository, trustee or agent for any committee of Holders secured hereby or other obligations of the Borrower, as freely as if it were not the Trustee hereunder. The provisions of this paragraph shall extend to the affiliates of the Trustee.

(t) The Trustee shall have no responsibility or obligation to DTC Participants, to Indirect Participants, or to the Persons for whom they act as nominees with respect to the Bonds, or to any Beneficial Owner of Bonds in respect of the accuracy of any records maintained by the Securities Depository, the Securities Depository Nominee or any DTC Participant or Indirect Participant, the payment by the Securities Depository, the Securities Depository Nominee or any DTC Participant or Indirect Participant of any amount in respect of the principal of or interest on the Bonds, any notice which is permitted or required to be given under this Indenture, the selection by the Securities Depository, the Securities Depository Nominee or any DTC Participant or Indirect Participant of any Person to receive payment in the event of a partial redemption of the Bonds, or any consent given or other action taken by the Securities Depository or the Securities Depository Nominee as Holder.

(u) In the event that any assets shall be attached, garnished or levied upon by any court order, or the delivery thereof shall be stayed or enjoined by an order of a court, or any order, judgment or decree shall be made or entered by any court order affecting such assets, the Trustee is hereby expressly authorized, in its sole discretion, to respond as it deems appropriate or to comply with all writs, orders or decrees so entered or issued, or which it is advised by legal counsel of its own choosing is binding upon it, whether with or without jurisdiction. In the event that the Trustee obeys or complies with any such writ, order or decree it shall not be liable to any of the parties or to any other person, firm or corporation, should, by reason of such compliance notwithstanding, such writ, order or decree be subsequently reversed, modified, annulled, set aside or vacated

(v) Whether or not expressly so provided, each and every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee is subject to the provisions of this Section.

(i) the Trustee shall not be liable for any action taken or error of judgment made in good faith by it or any of its officers, employees or agents unless it is proved that the Trustee was grossly negligent in ascertaining the pertinent facts; and

(ii) the Trustee shall not be liable with respect to any action it takes or omits to take in accordance with a direction from the Controlling Person, or the Holders as provided herein.

(w) In no event shall the Trustee be liable to any person for special, punitive, indirect, consequential or incidental loss or damage of any kind whatsoever (including but not limited to lost profits), irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(x) The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising out of or caused, directly or indirectly, by a Force Majeure event.

(y) In executing or otherwise acting under any Bond Document, the Trustee shall enjoy all the rights, protections, benefits, immunities and indemnities granted to it hereunder and under the Bond Documents.

(z) The Trustee shall not be responsible or liable for the environmental condition or any contamination of any property secured by the Security Instrument or for any diminution in value of any such property as a result of any contamination of the property by any Hazardous Substance. The Trustee shall not be liable for any claims by or on behalf of the Holders or any other person or entity arising from contamination of the property by any Hazardous Substance and shall have no duty or obligation to assess the environmental condition of any such property or with respect to compliance of any such property under state or federal laws pertaining to the transport, storage, treatment or disposal of Hazardous Substance or regulations, permits or licenses issued under such laws.

(aa) The Trustee shall not be obligated to acquire possession of or take any action with respect to any property secured by the Security Instrument, if as a result of such action, the Trustee would be considered to hold title to, to be a “mortgagee in possession of,” or to be an “owner” or “operator” of such property within the meaning of the Comprehensive Environmental Responsibility Cleanup and Liability Act of 1980 (“*CERCLA*”), as amended from time to time, or any equivalent designation in any analogous state or local laws or regulations promulgated pursuant to said laws, unless such action is reasonably necessary to preserve the Collateral or protect the security interest in the Collateral and the Trustee is (i) reasonably likely to be able to avail itself of a defense to liability under CERCLA or analogous state or local laws, and has had reasonable opportunity to conduct “all appropriate inquiry” as defined in 40 C.F.R. Part 312 and/or (ii) receives satisfactory security or indemnity for any losses, claims, damages and liabilities relating to such action pursuant to the terms herein. Notwithstanding the foregoing, if at any time, the Trustee is required to take any action to preserve the Collateral or protect the security interest in the Collateral, prior to doing so, the Trustee may require that a satisfactory indemnity bond or “Premises Pollution Liability Insurance” be furnished to it for the payment or reimbursement of all expenses to which it may be put and to protect it against all liability resulting from any claims, judgments, damages, losses, fees, penalties or expenses which may result from such action.

(bb) The Trustee shall be under no obligation to effect or maintain insurance or to renew any policies of insurance or to inquire as to the sufficiency of any policies of insurance carried by the Borrower or any Guarantor, or to report, or make or file claims or proof of loss for, any loss or damage insured against or that may occur, or to keep itself informed or advised as to the payment of any taxes or assessments, or to require any such payment to be made.

(cc) The Trustee is hereby authorized and directed to execute and deliver each of the Bond Documents to which it is intended to be a party.

(dd) The Trustee shall be under no responsibility to approve, evaluate or determine the independence of any expert, consultant, architect, accountant, manager, engineer or other skilled person selected by the Issuer, the Borrower or the Controlling Person for any of the purposes expressed in this Indenture or any other Bond Document. The Trustee shall have the right to accept and act upon instructions or directions, including funds transfer instructions, pursuant to this Indenture or any other Bond Document sent by Electronic Means (defined herein); provided, however, that the Borrower, the Issuer and the Controlling Person shall provide to the Trustee an incumbency certificate listing designated persons authorized to provide such instructions (“Authorized Officers”), which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. As used in this paragraph, “Electronic Means” means a portable document format (“pdf”) or other replicating image attached to an unsecured email, secure electronic transmission (containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee), or another method or system specified by the Trustee as available for use in connection with its services hereunder. If a party elects to give the Trustee instructions by Electronic Means and the Trustee in its discretion elects to act upon such instructions, the Trustee’s understanding of such instructions shall be deemed

controlling. Each party sending instructions or directions to the Trustee by Electronic Means agrees that the Trustee cannot determine the identity of the actual sender of such instructions and that the Trustee shall conclusively presume that instructions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The party sending such instructions or directions by Electronic Means shall be responsible for ensuring that only Authorized Officers transmit such instructions to the Trustee, and such party and their Authorized Officers are responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and authentication keys provided by the Trustee, if any. 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 delivered by other means. The party sending instructions and directions to the Trustee by Electronic Means agrees: (i) to assume all risks arising out of the use of such Electronic Means to submit instructions and direction 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; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting instructions to the Trustee and that there may be more secure methods of transmitting instructions than the use of Electronic Means; (iii) that the security procedures (if any) to be followed in connection with its transmission of instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) that it will notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures

*Section 7.2 Compensation and Indemnification of Trustee; Trustee's Prior Claim.*

(a) The Loan Agreement provides that the Borrower will pay the reasonable fees and expenses of the Trustee under this Indenture, including attorneys' fees and expenses, and all other amounts which may be payable to the Trustee under this Section, such fees and expenses to be paid when due and payable by the Borrower directly to the Trustee for its own account. Except as set forth in Section 6.7, the Trustee shall not have a lien on the Security for the payment of its fees or expenses and shall not be entitled to pay its fees and expenses from amounts held in the funds and accounts hereunder.

(b) The Borrower shall (i) pay the Trustee from time to time, and the Trustee shall be entitled to, reasonable compensation (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust), (ii) pay or reimburse the Trustee upon request for all reasonable expenses, disbursements and advances incurred or made, in accordance with any of the provisions of this Indenture and the Loan Agreement (including the reasonable compensation and the reasonable expenses and disbursements of its Counsel and of all agents and other persons not regularly in its employ), except to the extent that any such expense, disbursement or advance is found by a court of competent jurisdiction to be the result of its own gross negligence, willful misconduct or fraud, and (iii) indemnify the Trustee for, and hold it harmless against, any loss, liability or expense (including the reasonable compensation and the reasonable expenses and disbursements of its Counsel) incurred by it and whether arising from a claim by or against the Borrower or any other Person, arising out of or in connection with the acceptance or administration of this Indenture or the trusts hereunder or the performance of its duties hereunder or under the

Loan Agreement, including the reasonable costs and expenses of defending itself against or investigating any claim of liability in the premises or to enforce this Section, except to the extent that any such loss, liability or expense is found by a court of competent jurisdiction to be the result of its own gross negligence, willful misconduct or fraud. "Trustee," for purposes of this Section shall include any predecessor Trustee, but the gross negligence, willful misconduct or fraud of any Trustee shall not affect the indemnification of any other Person. The obligations of the Borrower under this Section shall survive the termination of this Indenture and the resignation or removal of the Trustee.

*Section 7.3 Intervention in Litigation.* In any judicial proceedings to which the Issuer is a party (excluding proceedings in connection with the Reserved Rights), the Trustee may intervene on behalf of Holders, and, subject to Section 7.1(h) hereof, shall intervene if requested in writing by the Controlling Person.

*Section 7.4 Resignation; Successor Trustees.* (a) The Trustee and any successor Trustee may resign upon giving thirty (30) days' prior written notice to the Issuer, the Borrower, the Controlling Person and each Holder of Bonds then Outstanding as shown on the Register. Such resignation shall take effect only upon the appointment of a successor Trustee by the Issuer with the consent of the Controlling Person and the acceptance of such appointment by the successor Trustee. Notwithstanding the foregoing sentence, such resignation shall take effect upon the appointment of a successor Trustee by the Borrower with the consent of the Controlling Person and the Issuer, provided no Event of Default exists with respect to the Borrower under the Loan Agreement. If no successor is appointed within thirty (30) days after the notice of resignation, the Controlling Person may appoint a Trustee or the resigning Trustee may appoint a successor or petition any court of competent jurisdiction to appoint a successor at the Borrower's expense. Upon appointment of a successor Trustee, the resigning Trustee shall assign all of its right, title and interest in this Indenture and the Security to the successor Trustee. The successor Trustee shall be a bank or trust company with trust powers organized under the laws of the United States of America or any state of the United States, or the District of Columbia, having a combined capital stock, surplus and undivided profits aggregating at least \$50,000,000. Any successor Trustee shall accept in writing its duties and responsibilities hereunder and such writing shall be filed with the Issuer, the Controlling Person and the Borrower.

(b) Any corporation or association into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, reorganization or consolidation to which the Trustee shall be a party, or any corporation or association succeeding to all or substantially all of the corporate trust business of the Trustee that includes this Indenture, shall be the successor of the Trustee hereunder without the execution or filing of any paper of any further act on the part of any Person, anything herein to the contrary notwithstanding, provided that such successor Trustee shall be eligible to serve as Trustee under the provisions of this Indenture. If the Trustee is not the successor corporation or association in any such merger or consolidation, the Trustee shall give notice of such event to the Borrower and shall take such action as may be required to effect a transfer of the trust included in this Indenture to such successor corporation or association.

*Section 7.5 Removal of Trustee.* The Trustee may be removed at any time, by an instrument or concurrent instruments in writing delivered to the Trustee, the Issuer, the Controlling

Person and the Borrower and signed by the Controlling Person. During such time that no Event of Default has occurred and is continuing under this Indenture, the Trustee may also be removed by an instrument or concurrent instruments in writing delivered to the Trustee and the Issuer and signed by the Controlling Person, with notice to the Borrower. Such removal shall take effect only upon the appointment of a successor Trustee by the Issuer with the consent of the Controlling Person and the acceptance of such appointment by the successor Trustee. Notwithstanding the foregoing sentence, such removal shall take effect upon the appointment of a successor Trustee by the Borrower with the consent of the Controlling Person and the Issuer, provided no event of default exists with respect to the Borrower under the Bond Documents. Upon such removal, the Trustee shall assign to the successor Trustee all of its right, title and interest in this Indenture and the Security in the same manner as provided in Section 7.4 hereof. If no successor is appointed within sixty (60) days after the notice of removal, the Controlling Person may appoint a trustee or the resigning Trustee may appoint a successor or petition any court of competent jurisdiction to appoint a successor, at the Borrower's expense.

*Section 7.6 Instruments of Holders.* (a) Any instrument required by this Indenture to be executed by Holders may be in any number of writings of similar tenor and may be executed by Holders in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds given in any of the following forms shall be sufficient for any of the purposes of this Indenture:

(i) A certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such writing acknowledged before him/her the execution thereof; and

(ii) A certificate executed by any trust company or bank stating that at the date thereof the party named therein did exhibit to an officer of such trust company or bank, as the property of such party, the Bonds therein mentioned.

(b) The Trustee may rely on such an instrument of Holders unless and until the Trustee receives notice in the form specified in clauses (a) (i) or (ii) above that the original such instrument is no longer reliable.

*Section 7.7 Power to Appoint Co-Trustees.* (a) At any time or times, for the purpose of meeting any legal requirements of any jurisdiction in which any part of the Project Facilities may at the time be located, the Issuer and the Trustee shall have power to appoint and, upon the request of the Trustee or of the Holders of a majority of the aggregate principal amount of the Bonds then Outstanding, the Issuer shall for such purpose join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to appoint one or more persons approved by the Trustee and the Borrower either to act as co-trustee or co-trustees, jointly with the Trustee of all or any part of the Project Facilities, or to act as separate trustee or separate co-trustees of all or any part of the Project Facilities, and to vest in such person or persons, in such capacity, such title to the Project Facilities or any part thereof, and such rights, powers, duties, trusts or obligations as the Issuer and the Trustee may consider necessary or desirable, subject to the remaining provisions of this Section.

(b) Any co-trustee or separate trustee shall be a bank or trust company with trust powers organized under the laws of the United States of America or any state of the United States or the District of Columbia, having a combined capital stock, surplus and undivided profits aggregating at least \$50,000,000.

(c) The Trustee and co-trustee, if any, may by written instrument between them designate and assign either the Trustee or the co-trustee or both of them to perform all or any part of the responsibilities and duties of the Trustee under this Indenture.

(d) If the Issuer shall not have joined in such appointment within thirty (30) days after the receipt by it of a written request to do so, or in case an Event of Default shall have occurred and be continuing, the Trustee and the Borrower shall have the power to make such appointment.

(e) The Issuer shall (to the extent within its power and control, and at the sole expense of the Borrower) execute, acknowledge and deliver all such instruments as may be required by any such co-trustee or separate trustee for more fully confirming such title, rights, powers, trusts, duties and obligations to such co-trustee or separate trustee.

(f) Every co-trustee or separate trustee appointed pursuant to this Section 7.7, to the extent permitted by law or any applicable contract, shall be subject to the following terms, namely:

(i) This Indenture shall become effective at the time the Bonds shall be authenticated and delivered, and thereupon such co-trustee or separate trustee shall have all rights, powers, trusts, duties and obligations by this Indenture conferred upon the Trustee in respect of the custody, control or management of moneys, papers, securities and other personal property.

(ii) All rights, powers, trusts, duties and obligations conferred or imposed upon the trustees shall be conferred or imposed upon and exercised or performed by the Trustee, or by the Trustee and such co-trustee or co-trustees, or separate trustee or separate trustees, as shall be provided in the instrument appointing such co-trustee or co-trustees or separate trustee or separate trustees, 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 co-trustees or separate trustee or separate trustees.

(iii) 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.

(iv) Any co-trustee or separate trustee, to the extent permitted by law, may delegate to the Trustee the exercise of any right, power, trust, duty or obligation, discretionary or otherwise.

(v) The Trustee at any time, by an instrument in writing, with the concurrence of the Issuer, may accept the resignation of 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. 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.

(vi) No co-trustee or separate trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder.

(vii) Any moneys, 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.

(g) Upon the acceptance in writing of such appointment by any such co-trustee or separate trustee, it or he shall be vested with the Security Interest in the Security and with such rights, powers, duties, trusts or obligations, as shall be specified in the instrument of appointment jointly with the Trustee (except insofar as applicable law makes it necessary for any such co-trustee or separate trustee to act alone) subject to all the terms of this Indenture. Every such acceptance shall be filed with the Trustee.

(h) In case any co-trustee or separate trustee shall die, become incapable of acting, resign or be removed, the security interest in the Security and all rights, powers, trusts, duties and obligations of said co-trustee or separate trustee shall, so far as permitted by law, vest in and be exercised by the Trustee unless and until a successor co-trustee or separate trustee shall be appointed in the same manner as provided for with respect to the appointment of a successor Trustee pursuant to Section 7.4 hereof.

*Section 7.8 Filing of Financing Statements.* The Trustee shall file or record or cause to be filed or recorded all continuation statements for the purpose of continuing without lapse the effectiveness of (i) those Financing Statements naming Trustee as secured party which shall have been filed at or prior to the issuance of the Bonds and provided to the Trustee in connection with the Security pursuant to the authority of the UCC, (ii) any previously filed continuation statements for Financing Statements naming Trustee as secured party that shall have been filed as required herein, and (iii) on or after the Conversion Date, as directed in writing by the Credit Provider or the Servicer for Financing Statements naming the Trustee as the secured party. The Borrower will pay all costs of filing the Financing Statements and all financing and continuation statements required hereunder and under Section 3.02 of the Loan Agreement. *The Issuer shall have no responsibility for the filing, perfection or continuation of any security interest created hereunder or under the Loan Agreement.*

## **ARTICLE VIII.**

### **AMENDMENTS, SUPPLEMENTAL INDENTURES**

*Section 8.1 Supplemental Indentures.* (a) The Issuer and the Trustee, with the prior written consent of the Controlling Person, but without the consent of or notice to any Holders, may enter into an indenture or indentures supplemental to this Indenture that do not materially adversely affect the interest of the Holders for one or more of the following purposes:

(i) to grant to or confer upon the Trustee for the benefit of the Holders, any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Holders or the Trustee;

(ii) to grant or pledge to the Trustee for the benefit of Holders, any additional security other than that granted or pledged under this Indenture;

(iii) to modify, amend or supplement this Indenture or any indenture supplemental hereto in such manner as to permit the qualification thereof under the Trust Indenture Act or any similar federal statute then in effect or to permit the qualification of the Bonds for sale under the securities laws of any of the states of the United States;

(iv) to appoint a successor Trustee or co-trustees in the manner provided in Article VII hereof;

(v) to modify, amend or supplement this Indenture to permit a transfer of Bonds from one Securities Depository to another or the discontinuance of the Book-Entry System and issuance of replacement Bonds to the Beneficial Owners;

(vi) to cure any ambiguity or to correct or supplement any provision contained herein or in any supplemental indenture that may be defective or inconsistent with any provision contained herein or in any supplemental indenture, or to make such other provisions in regard to matters or questions arising under this Indenture which shall not materially adversely affect the interest of the Holders;

(vii) to make any change herein necessary, in the opinion of Bond Counsel, to maintain the excludability of the interest on any Outstanding Bonds from gross income of the Holders thereof for federal income tax purposes; or

(viii) to make any change requested by the Credit Provider which is not materially adverse to the interests of the Bondholders.

(b) When requested by the Issuer, and if all conditions precedent under this Indenture have been met, and there shall have been delivered to the Trustee an opinion of Bond Counsel (at the sole expense of the Borrower) to the effect that any supplemental indenture entered into pursuant to Article 8 is authorized or permitted by this Indenture and complies with its terms, that all conditions precedent thereto have been met and will not adversely affect the excludability of interest on the Bonds from the gross income of the Holders thereof for federal income tax purposes, the Trustee will join the Issuer in the execution of such supplemental indenture, but shall not be required to join the Issuer in the execution of any such supplemental indenture unless it is reasonably compensated for additional obligations on the Trustee not initially contemplated and the Trustee is not otherwise adversely affected. Any additional compensation or the expansion of any indemnity obligation shall be the sole responsibility of the Borrower.

(c) The Trustee shall send copies of all such supplemental indentures to the Borrower. The Trustee shall upon written request cause notice of any supplemental indenture described above to be given by first-class mail, postage prepaid (or, in the case of Bonds administered in the Book-

Entry System, cause to be sent pursuant to the applicable procedure of the Securities Depository), to the Holders of the Outstanding Bonds then shown on the Register.

*Section 8.2 Amendments to Indenture; Consent of Controlling Person, Holders, and Borrower.* (a) Exclusive of supplemental indentures covered by Section 8.1 hereof and subject to the terms and provisions contained in this Section 8.2 and not otherwise, anything contained in this Indenture to the contrary notwithstanding, no indenture or indentures supplemental hereto for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any supplemental indenture shall be effective without delivery of a Favorable Opinion of Bond Counsel (at the sole expense of the Borrower), the written consent of the Controlling Person and execution and delivery by the Trustee (acting upon the direction of the Controlling Person) and the Issuer; *provided, however*, that nothing contained in this Section shall permit, or be construed as permitting, without the prior written consent of the Holders of all Outstanding Bonds, (i) an extension of the maturity of the principal of, or the optional, extraordinary or mandatory redemption date of, or interest on, any Bond, (ii) a reduction in the principal amount of or the rate of interest on, any Bond, (iii) a preference or priority of any Bond or Bonds over any other Bond or Bonds, (iv) the creation of a lien on the Security prior to the lien of this Indenture, (v) a reduction in the aggregate principal amount of the Bonds required for any consent to any supplemental indenture, (vi) a transfer, assignment or release of the Credit Facility (or modification of the provisions of this Indenture governing such transfer, assignment or release), other than as permitted by this Indenture or the Credit Facility, without the consent of the owners of all of the Bonds then Outstanding, or (vii) any change to the Credit Facility which prejudices in any material respect the interests of the Bondholders; *provided, further, however*, that without the prior written consent of the Trustee, the Trustee shall not be required to join the Issuer in the execution of any supplemental indenture or other document described under this Article unless it is reasonably compensated for additional obligations on the Trustee not initially contemplated and the Trustee is not otherwise adversely affected. Any additional compensation or the expansion of any indemnity obligation shall be the sole responsibility of the Borrower. The giving of notice to and consent of the Holders to any such proposed supplemental indenture shall be obtained pursuant to Section 8.5 hereof.

(b) Anything herein to the contrary notwithstanding, a supplemental indenture, amendment or other document described under this Article that affects any rights or obligations of the Borrower shall not become effective unless and until the Borrower shall have consented to the execution of such supplemental indenture, amendment or other document.

(c) The Trustee shall promptly furnish a copy of any such supplemental indenture to the Credit Provider, the Servicer and the Borrower. Notice of any amendment pursuant to this Section shall be given to the Bondholders promptly following the execution thereof.

(d) Each such additional contract or indenture under this Section 8.2 shall be at the sole cost and expense of the Borrower (including attorneys' fees and expenses) and no such additional contract or indenture shall extend the obligations of the Issuer (or impair the benefits to or rights of the Issuer) under any provision of the Bond Documents or any related agreement.

*Section 8.3 Assigned Document Amendments.* (a) The Assigned Documents may only be amended in accordance with the Credit Provider Assignment.

(b) The Borrower shall file copies of any such amendments to the Loan Agreement or the Note with the Trustee and the Controlling Person.

(c) In providing its consent to any amendment, modification, supplement, waiver or consent with respect to the Loan Agreement or the Note under this Section 8.3 or Section 8.4, the Trustee shall receive an opinion of Bond Counsel (at the sole expense of the Borrower) that such amendment, modification, supplement, waiver or consent is authorized or permitted by this Indenture and complies with its terms, and that all conditions precedent thereto have been met.

(d) Each such additional contract or indenture under this Section 8.3 shall be at the sole cost and expense of the Borrower (including attorneys' fees and expenses) and no such additional contract or indenture shall extend the obligations of the Issuer (or impair the benefits to or rights of the Issuer) under any provision of the Financing Documents or any related agreement.

*Section 8.4 [Reserved].*

*Section 8.5 Notice to and Consent of Holders.* If consent of the Majority Owner or any other Holder is required under the terms of this Indenture for the amendment of this Indenture, the Trustee, upon written direction, shall cause notice of the proposed execution of the amendment or supplemental indenture to be given by first-class mail, postage prepaid, to the Controlling Person, the Majority Owner or any other applicable Holder then shown on the Register. Such notice shall briefly set forth the nature of the proposed amendment, supplemental indenture or other action and shall state that copies of any such amendment, supplemental indenture or other document are on file at the designated corporate trust office of the Trustee for inspection by all Holders. If, within forty five (45) days or such longer period as shall be prescribed by the Trustee following the mailing of such notice, the Majority Owner or the Holders of all, as the case may be, of the principal amount of the Bonds Outstanding by instruments filed with the Trustee shall have consented to the amendment, supplemental indenture or other proposed action, then the Trustee may execute such amendment, supplemental indenture or other document or take such proposed action and the consent of the Holders shall thereby be conclusively presumed.

*Section 8.6 Amendments to the Credit Facility.* The Credit Facility may only be amended, supplemented or otherwise changed in accordance with the following:

(a) *Replacement Credit Facility.* At the request of the Credit Provider, and, (i) without Bondholder consent if the new Credit Facility does not prejudice in a material respect the interest of the Bondholders; and (ii) with the consent of Bondholders owning not less than fifty-one percent (51%) in aggregate principal amount of Bonds then Outstanding if the new Credit Facility prejudices in a material respect the interest of the Bondholders, the Trustee shall exchange the Credit Facility with the Credit Provider for a new Credit Facility issued by the Credit Provider, *provided* that there is delivered to the Trustee a written opinion of Bond Counsel (at the sole expense of the Borrower) to the effect that such exchange will not adversely affect the excludability of interest on the Bonds from gross income for federal income tax purposes. No such exchange shall constitute or require a modification or supplement to this Indenture.

(b) *Amendment of the Credit Facility.* The Trustee may consent, without the consent of the Bondholders, to any amendment of the Credit Facility which does not prejudice in any material respect the interests of the Bondholders. The Trustee may consent, with the consent of the Majority Owner, to any amendment of the Credit Facility which prejudices in any material respect the interests of the Bondholders. No amendment may be made to the Credit Facility which would reduce the amounts required to be paid under the Credit Facility or change the time for payment of such amounts without the consent of all of the Bondholders; *provided, however*, that any such amounts may be reduced without such consent solely to the extent that such reduction represents a reduction in any fees payable from such amounts. The Trustee may consent, without the consent of the Bondholders, to any amendment of the Credit Facility that increases the interest rate coverage of the Credit Facility to the Taxable Rate, if the Credit Provider agrees to such increase.

## **ARTICLE IX.**

### **CONTROLLING PERSON; SERVICING**

*Section 9.1 Majority Owner to Appoint Controlling Person.* Prior to the Conversion Date, the Majority Owner may engage a Person, collaterally assign some or all of its rights hereunder to a Person, or otherwise provide for a Person, at the Majority Owner's sole cost and expense, to act on behalf of the Majority Owner under the Bond Documents as the "Controlling Person." Prior to the Conversion Date, the Majority Owner may at any time and from time to time terminate or remove and replace any such Controlling Person. The Majority Owner shall give written notice to the Trustee, the Issuer and the Borrower of its appointment, termination, removal or replacement of any Controlling Person, and the parties may rely on any such notice until any subsequent notice is given. Subject to any written agreement between the Controlling Person and Trustee, the Controlling Person may resign at any time by written notice to the Bondholders, the Issuer, the Trustee and the Borrower. Initially, the Majority Owner has engaged NewPoint Real Estate Investment Management LLC, a Delaware limited liability company, to act as the "Controlling Person" hereunder, and NewPoint Real Estate Investment Management LLC has accepted such engagement. The Majority Owner is under no obligation to appoint a Controlling Person; if at any time a Controlling Person has not been designated by the Majority Owner, all references to the "Controlling Person" herein and in the other Bond Documents shall refer to the Majority Owner. Any opinion or certificate provided for herein, in the Loan Agreement or in any other Bond Document that is directed to the Controlling Person shall also be directed to, and may be relied upon by, the Majority Owner. The Majority Owner will have no liability to the Issuer, the Borrower, the Trustee or any other Person for any act or omission of the Controlling Person unless the Controlling Person is the Majority Owner or such act or omission was expressly approved by the Majority Owner in each particular case. From and after the Conversion Date, the Credit Provider shall be the Controlling Person.

The Issuer and the Trustee shall not be responsible for monitoring the performance of the Controlling Person or for any acts or omissions of such Controlling Person.

*Section 9.2 Servicing.* The Controlling Person has appointed the Servicer to service the Loan for all or a portion of the term of the Loan. The Servicer shall service the Loan as required by the Controlling Person.

## **ARTICLE X. MISCELLANEOUS**

*Section 10.1 Right of Trustee to Pay Taxes and Other Charges.* If any tax, assessment or governmental or other charge upon any part of the Project Facilities is not paid as required, the Trustee may (but shall not be obligated to), subject to any indemnity required pursuant to Section 7.1(h) hereof, pay such tax, assessment or governmental or other charge, without prejudice, however, to any rights of the Trustee hereunder arising in consequence of such failure; and any amount at any time so paid under this Section, with interest thereon from the date of payment until paid at the greater of the rate of interest borne by the Bonds or the per annum rate of interest announced from time to time by the bank serving as Trustee (or its affiliate) as its “prime rate” shall become so much additional indebtedness secured by this Indenture, shall be given a preference in payment over the Bonds, and shall be paid out of the Security.

*Section 10.2 Limitation of Rights.* With the exception of rights herein expressly conferred, nothing expressed or mentioned in 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 Holders, the Controlling Person and the Borrower, any legal or equitable right, remedy or claim under or in respect to this Indenture or any covenants, conditions and provisions herein contained; this Indenture and all of the covenants, conditions and provisions herein being intended to be and being for the sole and exclusive benefit of the parties hereto, the Holders, the Controlling Person and the Borrower as herein provided.

*Section 10.3 Severability.* If any provision of this Indenture is held to be in conflict with any applicable statute or rule of law or is otherwise held to be unenforceable for any reason whatsoever, such circumstances shall not have the effect of rendering the other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatsoever. The invalidity of any one or more phrases, sentences, clauses or sections of this Indenture, shall not affect the remaining portions of this Indenture or any part thereof.

*Section 10.4 Notices.* Except as otherwise provided herein, all notices, approvals, consents, requests, directions, instructions, requisitions and other communications hereunder shall be in writing and shall be deemed to have been given when the writing is delivered if given or delivered by hand, overnight delivery service or electronic mail (with confirmed receipt) to the address or email address set forth below and shall be deemed to have been given on the date deposited in the mail, if mailed, by first-class, registered or certified mail, postage prepaid, addressed as set forth below; provided, however, that any notice to the Trustee shall not be deemed to be given until received by an officer of the Trustee. Where required herein, notice shall be given by telephone, and promptly confirmed in writing, and shall be deemed given when given by telephone to the telephone numbers set forth below. The Issuer, the Borrower, the Trustee, the Majority Owner, the Controlling Person and the Investor Member may, by written notice given hereunder, designate any different addresses, phone numbers and email address to which subsequent notices, certificates, approvals, consents, requests or other communications shall be sent. If any party is required under the terms of the Bond Documents to send a notice to the Borrower, such party shall concurrently send a copy of such notice to the Investor Member.

To the Issuer: City of Colorado Springs, Colorado  
30 South Nevada Avenue, Suite 202  
Colorado Springs, Colorado 80903  
Attention: Chief Financial Officer

With copies to: City Attorney  
30 South Nevada Avenue, Suite 501  
Colorado Springs, Colorado 80903

Community Development  
30 South Nevada Avenue, Suite 701  
Colorado Springs, Colorado 80903  
Attention: Katie Sunderlin, Housing Solutions Manager  
Telephone: (719) 385-5345  
Email: Katie.Sunderlin@coloradosprings.gov

Kutak Rock LLP  
2001 16th Street, Suite 1800  
Denver, Colorado 80202  
Attention: John H.T. Bales, Esq.  
Email: John.Bales@kutakrock.com

To the Borrower: Royal Pine Apartments LLC  
c/o DBG Properties LLC  
2164 SW Park Place  
Portland, Oregon 97205  
Attention: Eric Grodahl  
Email: egrodahl@dbgpropertiesllc.com  
Telephone: 503-860-3298

With copies to: Holland & Hart LLP  
555 17th Street, Suite 3200  
Denver, Colorado 80202  
Attention: J. William Callison  
Email: wcallison@hollandhart.com

And Housing Authority of the City of Colorado Springs,  
Colorado  
P.O. Box 1575/MC 2490  
831 So. Nevada Avenue, Floor 2  
Colorado Springs, Colorado 80901-1575  
Attention: Executive Director

And Bryan, Cave, Leighton, Paisner LLP  
One Boulder Plaza

1801 13th Street, Suite 300  
Boulder, Colorado 80302-5386  
Attention: Paul E. Smith  
Email: paul.smith@bclplaw.com  
Telephone: 303-417-8508

To the Investor Member: AHP Housing Fund 399, LLC  
1314 Douglas Street, Suite 1400  
Omaha, NE 68102-1944  
Attention: Legal Notices  
Email: notices@berkahp.com

With a copy to: Kutak Rock LLP  
2001 16th Street, Suite 1800  
Denver, Colorado 80202  
Attention: Ellen O'Brien, Esq.  
Email: ellen.obrien@kutakrock.com

To the Trustee: Zions Bancorporation, National Association  
7390 N Academy Boulevard  
Colorado Springs, CO 80920  
Phone: (719) 594-7458  
Attention: Vladimir Muñoz  
Email: vladimir.munoz@zionsbank.com;  
denvercorporatetrust@zionsbancorp.com

To the Majority Owner: At the address set forth on the Register maintained by the  
Trustee

To the initial  
Controlling Person: NewPoint Real Estate Investment Management LLC  
1 Battery Park Place, Suite 600  
New York, NY 10004  
Attention: Robert Wrzosek – NewPoint REIM  
Email: rob.wrzosek@newpoint.com

To the Credit Provider: Fannie Mae  
3900 Wisconsin Avenue, NW  
Drawer AM  
Washington, DC 20016-2899  
Attention: Vice President, Multifamily Operations  
Telephone: (301) 204-8422  
Facsimile: (202) 752-8369  
Re: Royal Pine Apartments

With a copy to: Fannie Mae  
1100 15th Street, NW  
Washington, D.C. 20005  
Attention: Director, Multifamily Asset Management  
Telephone: (301) 204-8008  
Facsimile: (301) 280-2065  
Re: Royal Pine Apartments

*Section 10.5 Binding Effect.* This instrument shall inure to the benefit of and shall be binding upon the Issuer and the Trustee and their respective successors and assigns, subject, however, to the limitations contained in this Indenture.

*Section 10.6 Captions.* The captions or headings in this Indenture are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Indenture.

*Section 10.7 Governing Law.* This Indenture shall be governed by and interpreted in accordance with the laws of the State, without regard to conflict of laws principles. The parties hereby (i) irrevocably submit to the exclusive jurisdiction of any federal or state court sitting in the State, (ii) waive any objection to laying of venue in any such action or proceeding in such courts, and (iii) waive any objection that such courts are an inconvenient forum or do not have jurisdiction over any party.

*Section 10.8 [Reserved].*

*Section 10.9 Execution in Counterparts; Electronic Signatures.* 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. To the fullest extent permitted by applicable law and except for the certificate of authentication on the Bonds (which must be manually signed by an authorized representative of the Trustee) and instruments of transfer of the Bonds, facsimile or electronically transmitted signatures shall constitute original signatures for all purposes under this Indenture.

*Section 10.10 Waiver of Right to Trial by Jury.* Each of the parties hereto hereby waives the right to trial by jury with respect to any litigation directly or indirectly arising out of, under or in connection with this Indenture.

*Section 10.11 Patriot Act Notice.* The Trustee hereby notifies the Issuer that to help the government fight the funding of terrorism and money laundering activities pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies the Issuer, which information includes the name and address of the Issuer and other information that will allow the Trustee to identify the Issuer in accordance with the Patriot Act. The Issuer hereby agrees that it shall promptly provide such information upon request by the Trustee.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Issuer has caused this Indenture to be executed in its name and on its behalf by its authorized official and the Trustee has caused this Indenture to be executed, in its name by its duly authorized representative, all as of the day and year first above written.

[SEAL]

CITY OF COLORADO SPRINGS, COLORADO

By: \_\_\_\_\_  
Blessing Mobolade, Mayor

Attest:

By \_\_\_\_\_  
Sarah B. Johnson  
City Clerk

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

[Signature Page to Indenture of Trust]

ZIONS BANCORPORATION, NATIONAL  
ASSOCIATION, as Trustee

By: \_\_\_\_\_  
Name: Vladimir Muñoz  
Title: Vice President, Zions Bank Division

**EXHIBIT A**

**FORM OF SERIES 2025A-1 BONDS**

THIS SERIES 2025A-1 BOND HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED.

THIS SERIES 2025A-1 BOND IS SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE. NEITHER THIS SERIES 2025A-1 BOND NOR ANY BENEFICIAL OWNERSHIP INTEREST HEREIN MAY BE TRANSFERRED BY THE REGISTERED OWNER HEREOF EXCEPT (I) IN AUTHORIZED DENOMINATIONS AND (II) TO ANY PERSON THAT IS EITHER (A) A “QUALIFIED INSTITUTIONAL BUYER” (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT OF 1933, AS AMENDED); (B) AN INSTITUTIONAL “ACCREDITED INVESTOR” (AS DEFINED IN RULE 501(a)(1), (2), (3), AND (7) OF REGULATION D UNDER THE SECURITIES ACT OF 1933, AS AMENDED) OR (C) A SPECIAL PURPOSE ENTITY, TRUST OR CUSTODIAL ARRANGEMENT IN WHICH ALL OF THE BENEFICIAL OWNERSHIP INTERESTS WOULD BE OWNED BY ONE OR MORE APPROVED BUYERS OR WHERE SECONDARY MARKET CREDIT ENHANCEMENT IS PROVIDED FOR SUCH BENEFICIAL OWNERSHIP INTERESTS RESULTING IN A RATING THEREOF OF AT LEAST “A” OR BETTER.

**CITY OF COLORADO SPRINGS, COLORADO  
MULTIFAMILY HOUSING REVENUE BONDS  
(ROYAL PINE APARTMENTS PROJECT), SERIES 2025A-1**

No. R-[ ]

<u>DATED DATE</u>	<u>MATURITY DATE</u>	<u>INTEREST RATE</u>	<u>CUSIP</u>
[ ], 2025	[ ], 20__	Bond Interest Rate, as applicable	[ ]

REGISTERED OWNER: CEDE & Co.

PRINCIPAL AMOUNT: [AMOUNT IN WORDS] DOLLARS (\$[ ])

The City of Colorado Springs, Colorado (the “*Issuer*”), a municipal corporation duly organized and existing as a home-rule city under Article XX of the Constitution of the State of Colorado (“*State*”) and the home rule charter of the City of Colorado Springs, Colorado, for value received, hereby promises to pay (but only out of the revenues and other assets pledged under the Indenture (hereinafter defined)) to the Registered Owner specified above or registered assigns (subject to any right of prior redemption), (A) on each Principal Payment Date and the Maturity Date specified above, the applicable portion of the Principal Amount specified above, and (B) interest thereon, at the applicable Bond Interest Rate (as defined in the Indenture), payable until the Conversion Date, on the first day of each month, commencing [ ] 1, 2025 and, following the Conversion Date, on each [September 1] and [March 1], commencing on [September 1, 2025] (or if such day is not a Business Day, the immediately succeeding day that is a Business Day), to the person whose name appears on the registration books on the day before such day

(whether or not a Business Day) (a “*Record Date*”) and to pay any other amounts as specified in the Indenture (hereinafter defined). Principal of, and premium, if any, on this Series 2025A-1 Bond are payable in such coin or currency of the United States as at time of payment is legal tender for payment of private and public debts, at the designated payment office of Zions Bancorporation, National Association, as trustee (the “*Trustee*”), or its successor.

THIS SERIES 2025A-1 BOND IS A SPECIAL, LIMITED OBLIGATION OF THE ISSUER PAYABLE SOLELY FROM, AND SECURED ONLY BY, THE TRUST ESTATE (BUT NOT FUNDS RESULTING FROM THE EXERCISE OF THE RESERVED RIGHTS), AND WHICH SHALL BE USED FOR NO OTHER PURPOSE EXCEPT AS EXPRESSLY AUTHORIZED IN THE INDENTURE. THIS SERIES 2025A-1 BOND SHALL NOT BE A DEBT OR INDEBTEDNESS OF THE ISSUER, ANY PUBLIC AGENCY, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, AND NEITHER THE ISSUER, ANY PUBLIC AGENCY, THE STATE, NOR ANY POLITICAL SUBDIVISION THEREOF SHALL BE LIABLE FOR PAYMENT OF THIS SERIES 2025A-1 BOND OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WITH RESPECT THERETO, NOR IN ANY EVENT SHALL THIS SERIES 2025A-1 BOND BE PAYABLE OUT OF ANY FUNDS, ASSETS OR PROPERTIES OTHER THAN THOSE OF THE ISSUER PLEDGED UNDER THE INDENTURE (BUT NOT FUNDS RESULTING FROM THE EXERCISE OF THE RESERVED RIGHTS). THIS SERIES 2025A-1 BOND SHALL NOT CONSTITUTE AN INDEBTEDNESS OR A MULTIPLE FISCAL-YEAR FINANCIAL OBLIGATION WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION, AND NONE OF THIS SERIES 2025A-1 BOND OR ANY OF THE ISSUER’S AGREEMENTS OR OBLIGATIONS WITH RESPECT TO THIS SERIES 2025A-1 BOND OR UNDER THE INDENTURE, SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF OR A PLEDGE OF THE FAITH AND CREDIT OF OR A LOAN OF THE CREDIT OF OR A MORAL OBLIGATION OF ANY OF THE ISSUER, ANY PUBLIC AGENCY, THE STATE, NOR ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER.

No covenant, condition or agreement contained in the Indenture or in the Bonds shall be deemed to be an obligation, covenant, condition or agreement of any past, present or future officer, member, director, mayor, city council member, trustee, fiscal agent, counsel, financial advisor, attorney, official, employee or agent of the Issuer in their individual capacity, and no recourse shall be had for the payment of the principal of, or premium, if any, or interest on, and any sum that may be due and unpaid by the Issuer on the Bonds or for any claim based thereon or upon any obligation, covenant, provision, condition or agreement contained in the Indenture or in the Bonds against any past, present or future officer, member, director, mayor, city council member, trustee, fiscal agent, counsel, financial advisor, attorney, official, employee or agent of the Issuer, or any counsel attorney, financial advisor, member, director, mayor, city council member, trustee, officer, official, employee or agent of any successor to the Issuer, as such, either directly or through the Issuer or any successor to the Issuer, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officer, member, director, mayor, city council member, trustee, attorney, financial advisor, fiscal agent, counsel, official, employee or agent as such is expressly waived and released as a condition of and in consideration for the execution of this Indenture and the delivery of the Bonds. Neither

the officers, members, directors, mayor, city council members, financial advisors, attorneys, trustees, fiscal agents, counsel, officials, employees or agents of the Issuer nor any person executing the Bonds or this Indenture shall be liable personally on the Bonds or under this Indenture or be subject to any personal liability or accountability by reason of the issuance of the Bonds or the execution of this Indenture.

Interest on this Series 2025A-1 Bond shall be computed on the basis of a 360 day year, comprised of twelve 30 day months. Interest on this Series 2025A-1 Bond shall be payable in such coin or currency of the United States as at time of payment is legal tender for payment of private and public debts, at the designated payment office of the Trustee or its successor. If a Bondholder so elects, any payment due to such Bondholder shall be made by wire transfer of federal reserve funds to any account in the United States of America designated by such Bondholder if such Bondholder, at its expense, (a) so directs by written notice delivered to the Trustee at least ten (10) Business Days before the date upon which such wire transfer or other arrangement is to be made and (b) otherwise complies with the reasonable requirements of the Trustee.

This Series 2025A-1 Bond is one of an issue of duly authorized City of Colorado Springs, Colorado Multifamily Housing Revenue Bonds (Royal Pine Apartments Project), Series 2025 issued in the aggregate principal amount of \$[\_\_\_\_\_], pursuant to the County and Municipality Development Revenue Bond Act, constituting Article 3, Title 29, Colorado Revised Statutes, as amended, the Supplemental Public Securities Act, constituting Part 2, Article 57, Title 11, Colorado Revised Statutes, as amended, the Charter of the Issuer, as amended, an ordinance duly adopted by the governing body of the Issuer, and the provisions of the Indenture (hereinafter defined).

This is a draw down bond. The principal amount of this Series 2025A-1 Bond as of any given date shall be equal to (i) the total amount of principal advanced by the Purchaser less (ii) any payment of principal on the Series 2025A-1 Bonds received by the Holders thereof. Principal amounts advanced shall be noted on the recordkeeping system maintained by the Trustee.

The proceeds from this Series 2025A-1 Bond are to be used for the purpose of making a mortgage loan pursuant to a Loan Agreement, dated as of [\_\_\_\_\_], 2025 (as amended, modified or supplemented from time to time, the "*Loan Agreement*"), between the Issuer and Royal Pine Apartments LLC, (the "*Borrower*"), to finance the acquisition, construction and equipping of an approximately 232-unit multifamily residential rental housing project to be located at 4150 Royal Pine Drive, Colorado Springs, Colorado, and subordinate and related facilities thereto, to be known as Royal Pine Apartments (the "*Project Facilities*"). The Borrower's payment obligations under the Loan Agreement will be evidenced by the Note and secured by the Security Instrument.

This Series 2025A-1 Bond is issued under and is equally and ratably secured by an Indenture of Trust, dated as of [\_\_\_\_\_], 2025 (as amended, modified or supplemented from time to time, the "*Indenture*"), between the Issuer and the Trustee. All capitalized terms not defined herein shall have the meaning set forth in the Indenture.

Reference is hereby made to the Indenture and to all amendments and supplements thereto for a description of the property pledged and assigned to the Trustee and of the provisions, among

others, with respect to the nature and extent of the security, the rights, duties and obligations of the Issuer and the Trustee, the terms on which this Series 2025A-1 Bond is issued and secured, the manner in which interest is computed on this Series 2025A-1 Bond, mandatory and optional redemption rights, acceleration, the rights of the Bondholders and the provisions for defeasance of such rights.

This Series 2025A-1 Bond is subject to optional and mandatory redemption in whole or in part, on the dates, under the terms and conditions and at the redemption prices set forth in the Indenture, all of the provisions of which are, by this reference, incorporated into this Series 2025A-1 Bond. Notice of redemption shall be given in the manner set forth in the Indenture.

This Series 2025A-1 Bond is subject to mandatory tender and exchange as set forth in the Indenture.

The registered owner of this Series 2025A-1 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 thereunder, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Indenture.

By its purchase of this Series 2025A-1 Bond, the registered owner hereof agrees to the appointment of the Controlling Person as provided in the Indenture and authorizes the Controlling Person to exercise such rights and remedies afforded to the Controlling Person on behalf of the Bondholder as provided in the Bond Documents.

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 Series 2025A-1 Bond may be exchanged, and its transfer may be effected, only by the registered owner hereof in person or by his attorney duly authorized in writing at the designated corporate trust office of the Trustee, but only in the manner and subject to the limitations provided in the Indenture. Upon exchange or registration of such transfer a new registered bond or bonds of the same series, maturity and interest rate and of an Authorized Denomination or Authorized Denominations for the same aggregate principal amount will be issued in exchange therefor.

The Issuer and the Trustee may deem and treat the person in whose name this Series 2025A-1 Bond shall be registered on the bond register 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.

All acts, conditions and things required by the laws of the State to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Series 2025A-1 Bond do exist, have happened and have been performed in due time, form and manner as required by law.

Neither the commissioners, directors, officers, agents, employees or representatives of the Issuer nor any person executing this Series 2025A-1 Bond shall be personally liable hereon or be subject to any personal liability by reason of the issuance hereof, 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 expressly released and waived as a condition of and in consideration for the execution of the Indenture and the issuance of this Series 2025A-1 Bond.

This Series 2025A-1 Bond shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose until the Trustee shall have executed the Certificate of Authentication appearing hereon.

IT IS HEREBY CERTIFIED, RECITED AND REPRESENTED that the issuance of this Series 2025A-1 Bond is duly authorized by law; that all acts, conditions and things required to exist and to be done precedent to and in the issuance of this Series 2025A-1 Bond to render the same lawful and valid have been properly done and performed and have happened in regular and due time, form and manner as required by law; and that all acts, conditions and things necessary to be done or performed by the Issuer or to have happened precedent to or in the execution and delivery of the Indenture have been done and performed and have happened in regular and due form as required by law.

It is also certified and recited that this Series 2025A-1 Bond is issued under the authority of the Public Securities Act, constituting Part 2, Article 57, Title 11, Colorado Revised Statutes, as amended, and this recital shall be conclusive evidence of the validity and the regularity of the issuance of this Series 2025A-1 Bond after its delivery for value and that this Series 2025A-1 Bond is incontestable for any cause whatsoever after its delivery for value.

IN WITNESS WHEREOF, the Issuer has caused this Series 2025A-1 Bond to be executed in its name by the manual or facsimile signature of its Mayor and its corporate seal (or a facsimile thereof) to be impressed or imprinted hereon and attested by the manual or facsimile signature of its City Clerk.

[SEAL]

CITY OF COLORADO SPRINGS, COLORADO

By: \_\_\_\_\_  
Blessing Mobolade, Mayor

Attest:

By \_\_\_\_\_  
Sarah B. Johnson  
City Clerk

**CERTIFICATE OF AUTHENTICATION**

This is to certify that this Series 2025A-1 Bond is one of the Series 2025A-1 Bonds referred to in the within mentioned Indenture.

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

ZIONS BANCORPORATION, NATIONAL  
ASSOCIATION, as Trustee

By: \_\_\_\_\_  
Name: Vladimir Muñoz  
Title: Vice President, Zions Bank Division

### ASSIGNMENT FOR TRANSFER

FOR VALUE RECEIVED, the undersigned, hereby sells, assigns and transfers unto \_\_\_\_\_ (Tax Identification or Social Security No. \_\_\_\_\_) the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within bond on the books kept for registration thereof, with full power or substitution in the premises.

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

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution participating in the Securities Transfer Agents Medallion Program or such other guarantee program acceptable to the Trustee.

NOTICE: Signature(s) must be guaranteed by member of Medallion Signature Program.

\_\_\_\_\_  
Signature

NOTICE: The signature to this assignment must correspond with the name of the registered owner of the within bond as it appears on the face hereof in every particular, without alteration or enlargement or any change whatever, and the Social Security number or federal employer identification must be supplied.

## EXHIBIT A-2

### FORM OF SERIES 2025A-2 BONDS

THIS SERIES 2025A-2 BOND HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED.

THIS SERIES 2025A-2 BOND IS SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE. NEITHER THIS SERIES 2025A-2 BOND NOR ANY BENEFICIAL OWNERSHIP INTEREST HEREIN MAY BE TRANSFERRED BY THE REGISTERED OWNER HEREOF EXCEPT (I) IN AUTHORIZED DENOMINATIONS AND (II) TO ANY PERSON THAT IS EITHER (A) A “QUALIFIED INSTITUTIONAL BUYER” (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT OF 1933, AS AMENDED); (B) AN INSTITUTIONAL “ACCREDITED INVESTOR” (AS DEFINED IN RULE 501(a)(1), (2), (3), AND (7) OF REGULATION D UNDER THE SECURITIES ACT OF 1933, AS AMENDED) OR (C) A SPECIAL PURPOSE ENTITY, TRUST OR CUSTODIAL ARRANGEMENT IN WHICH ALL OF THE BENEFICIAL OWNERSHIP INTERESTS WOULD BE OWNED BY ONE OR MORE APPROVED BUYERS OR WHERE SECONDARY MARKET CREDIT ENHANCEMENT IS PROVIDED FOR SUCH BENEFICIAL OWNERSHIP INTERESTS RESULTING IN A RATING THEREOF OF AT LEAST “A” OR BETTER.

**CITY OF COLORADO SPRINGS, COLORADO  
MULTIFAMILY HOUSING REVENUE BONDS  
(ROYAL PINE APARTMENTS PROJECT), SERIES 2025A-2**

No. R-[ ]

<u>DATED DATE</u>	<u>MATURITY DATE</u>	<u>INTEREST RATE</u>	<u>CUSIP</u>
[ ], 2025	[ ], 20__	Bond Interest Rate, as applicable	[ ]

REGISTERED OWNER: CEDE & Co.

PRINCIPAL AMOUNT: [AMOUNT IN WORDS] DOLLARS (\$[ ])

The City of Colorado Springs, Colorado (the “*Issuer*”), a municipal corporation duly organized and existing as a home-rule city under Article XX of the Constitution of the State of Colorado (“*State*”) and the home rule charter of the City of Colorado Springs, Colorado, for value received, hereby promises to pay (but only out of the revenues and other assets pledged under the Indenture (hereinafter defined)) to the Registered Owner specified above or registered assigns (subject to any right of prior redemption), (A) on each Principal Payment Date and the Maturity Date specified above, the applicable portion of the Principal Amount specified above, and (B) interest thereon, at the applicable Bond Interest Rate (as defined in the Indenture), payable until the Conversion Date, on the first day of each month, commencing [ ] 1, 2025 and, following the Conversion Date, on each [September 1] and [March 1], commencing on [September 1, 2025] (or if such day is not a Business Day, the immediately succeeding day that is a Business Day), to the person whose name appears on the registration books on the day before such day

(whether or not a Business Day) (a “*Record Date*”) and to pay any other amounts as specified in the Indenture (hereinafter defined). Principal of, and premium, if any, on this Series 2025A-2 Bond are payable in such coin or currency of the United States as at time of payment is legal tender for payment of private and public debts, at the designated payment office of Zions Bancorporation, National Association, as trustee (the “*Trustee*”), or its successor.

THIS SERIES 2025A-2 BOND IS A SPECIAL, LIMITED OBLIGATION OF THE ISSUER PAYABLE SOLELY FROM, AND SECURED ONLY BY, THE TRUST ESTATE (BUT NOT FUNDS RESULTING FROM THE EXERCISE OF THE RESERVED RIGHTS), AND WHICH SHALL BE USED FOR NO OTHER PURPOSE EXCEPT AS EXPRESSLY AUTHORIZED IN THE INDENTURE. THIS SERIES 2025A-2 BOND SHALL NOT BE A DEBT OR INDEBTEDNESS OF THE ISSUER, ANY PUBLIC AGENCY, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, AND NEITHER THE ISSUER, ANY PUBLIC AGENCY, THE STATE, NOR ANY POLITICAL SUBDIVISION THEREOF SHALL BE LIABLE FOR PAYMENT OF THIS SERIES 2025A-2 BOND OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WITH RESPECT THERETO, NOR IN ANY EVENT SHALL THIS SERIES 2025A-2 BOND BE PAYABLE OUT OF ANY FUNDS, ASSETS OR PROPERTIES OTHER THAN THOSE OF THE ISSUER PLEDGED UNDER THE INDENTURE (BUT NOT FUNDS RESULTING FROM THE EXERCISE OF THE RESERVED RIGHTS). THIS SERIES 2025A-2 BOND SHALL NOT CONSTITUTE AN INDEBTEDNESS OR A MULTIPLE FISCAL-YEAR FINANCIAL OBLIGATION WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION, AND NONE OF THIS SERIES 2025A-2 BOND OR ANY OF THE ISSUER’S AGREEMENTS OR OBLIGATIONS WITH RESPECT TO THIS SERIES 2025A-2 BOND OR UNDER THE INDENTURE, SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF OR A PLEDGE OF THE FAITH AND CREDIT OF OR A LOAN OF THE CREDIT OF OR A MORAL OBLIGATION OF ANY OF THE ISSUER, ANY PUBLIC AGENCY, THE STATE, NOR ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER.

No covenant, condition or agreement contained in the Indenture or in the Bonds shall be deemed to be an obligation, covenant, condition or agreement of any past, present or future officer, member, director, mayor, city council member, trustee, fiscal agent, counsel, financial advisor, attorney, official, employee or agent of the Issuer in their individual capacity, and no recourse shall be had for the payment of the principal of, or premium, if any, or interest on, and any sum that may be due and unpaid by the Issuer on the Bonds or for any claim based thereon or upon any obligation, covenant, provision, condition or agreement contained in the Indenture or in the Bonds against any past, present or future officer, member, director, mayor, city council member, trustee, fiscal agent, counsel, financial advisor, attorney, official, employee or agent of the Issuer, or any counsel attorney, financial advisor, member, director, mayor, city council member, trustee, officer, official, employee or agent of any successor to the Issuer, as such, either directly or through the Issuer or any successor to the Issuer, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officer, member, director, mayor, city council member, trustee, attorney, financial advisor, fiscal agent, counsel, official, employee or agent as such is expressly waived and released as a condition of and in consideration for the execution of this Indenture and the delivery of the Bonds. Neither

the officers, members, directors, mayor, city council members, financial advisors, attorneys, trustees, fiscal agents, counsel, officials, employees or agents of the Issuer nor any person executing the Bonds or this Indenture shall be liable personally on the Bonds or under this Indenture or be subject to any personal liability or accountability by reason of the issuance of the Bonds or the execution of this Indenture.

Interest on this Series 2025A-2 Bond shall be computed on the basis of a 360 day year, comprised of twelve 30 day months. Interest on this Series 2025A-2 Bond shall be payable in such coin or currency of the United States as at time of payment is legal tender for payment of private and public debts, at the designated payment office of the Trustee or its successor. If a Bondholder so elects, any payment due to such Bondholder shall be made by wire transfer of federal reserve funds to any account in the United States of America designated by such Bondholder if such Bondholder, at its expense, (a) so directs by written notice delivered to the Trustee at least ten (10) Business Days before the date upon which such wire transfer or other arrangement is to be made and (b) otherwise complies with the reasonable requirements of the Trustee.

This Series 2025A-2 Bond is one of an issue of duly authorized City of Colorado Springs, Colorado Multifamily Housing Revenue Bonds (Royal Pine Apartments Project), Series 2025 issued in the aggregate principal amount of \$[\_\_\_\_\_], pursuant to the County and Municipality Development Revenue Bond Act, constituting Article 3, Title 29, Colorado Revised Statutes, as amended, the Supplemental Public Securities Act, constituting Part 2, Article 57, Title 11, Colorado Revised Statutes, as amended, the Charter of the Issuer, as amended, an ordinance duly adopted by the governing body of the Issuer, and the provisions of the Indenture (hereinafter defined).

This is a draw down bond. The principal amount of this Series 2025A-2 Bond as of any given date shall be equal to (i) the total amount of principal advanced by the Purchaser less (ii) any payment of principal on the Series 2025A-2 Bonds received by the Holders thereof. Principal amounts advanced shall be noted on the recordkeeping system maintained by the Trustee.

The proceeds from this Series 2025A-2 Bond are to be used for the purpose of making a mortgage loan pursuant to a Loan Agreement, dated as of [\_\_\_\_\_], 2025 (as amended, modified or supplemented from time to time, the "*Loan Agreement*"), between the Issuer and Royal Pine Apartments LLC, (the "*Borrower*"), to finance the acquisition, construction and equipping of an approximately 232-unit multifamily residential rental housing project to be located at 4150 Royal Pine Drive, Colorado Springs, Colorado, and subordinate and related facilities thereto, to be known as Royal Pine Apartments (the "*Project Facilities*"). The Borrower's payment obligations under the Loan Agreement will be evidenced by the Note and secured by the Security Instrument.

This Series 2025A-2 Bond is issued under and is equally and ratably secured by an Indenture of Trust, dated as of [\_\_\_\_\_], 2025 (as amended, modified or supplemented from time to time, the "*Indenture*"), between the Issuer and the Trustee. All capitalized terms not defined herein shall have the meaning set forth in the Indenture.

Reference is hereby made to the Indenture and to all amendments and supplements thereto for a description of the property pledged and assigned to the Trustee and of the provisions, among

others, with respect to the nature and extent of the security, the rights, duties and obligations of the Issuer and the Trustee, the terms on which this Series 2025A-2 Bond is issued and secured, the manner in which interest is computed on this Series 2025A-2 Bond, mandatory and optional redemption rights, acceleration, the rights of the Bondholders and the provisions for defeasance of such rights.

This Series 2025A-2 Bond is subject to optional and mandatory redemption in whole or in part, on the dates, under the terms and conditions and at the redemption prices set forth in the Indenture, all of the provisions of which are, by this reference, incorporated into this Series 2025A-2 Bond. Notice of redemption shall be given in the manner set forth in the Indenture.

This Series 2025A-2 Bond is subject to mandatory tender and exchange as set forth in the Indenture.

The registered owner of this Series 2025A-2 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 thereunder, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Indenture.

By its purchase of this Series 2025A-2 Bond, the registered owner hereof agrees to the appointment of the Controlling Person as provided in the Indenture and authorizes the Controlling Person to exercise such rights and remedies afforded to the Controlling Person on behalf of the Bondholder as provided in the Bond Documents.

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 Series 2025A-2 Bond may be exchanged, and its transfer may be effected, only by the registered owner hereof in person or by his attorney duly authorized in writing at the designated corporate trust office of the Trustee, but only in the manner and subject to the limitations provided in the Indenture. Upon exchange or registration of such transfer a new registered bond or bonds of the same series, maturity and interest rate and of an Authorized Denomination or Authorized Denominations for the same aggregate principal amount will be issued in exchange therefor.

The Issuer and the Trustee may deem and treat the person in whose name this Series 2025A-2 Bond shall be registered on the bond register 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.

All acts, conditions and things required by the laws of the State to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Series 2025A-2 Bond do exist, have happened and have been performed in due time, form and manner as required by law.

Neither the commissioners, directors, officers, agents, employees or representatives of the Issuer nor any person executing this Series 2025A-2 Bond shall be personally liable hereon or be subject to any personal liability by reason of the issuance hereof, 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 expressly released and waived as a condition of and in consideration for the execution of the Indenture and the issuance of this Series 2025A-2 Bond.

This Series 2025A-2 Bond shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose until the Trustee shall have executed the Certificate of Authentication appearing hereon.

IT IS HEREBY CERTIFIED, RECITED AND REPRESENTED that the issuance of this Series 2025A-2 Bond is duly authorized by law; that all acts, conditions and things required to exist and to be done precedent to and in the issuance of this Series 2025A-2 Bond to render the same lawful and valid have been properly done and performed and have happened in regular and due time, form and manner as required by law; and that all acts, conditions and things necessary to be done or performed by the Issuer or to have happened precedent to or in the execution and delivery of the Indenture have been done and performed and have happened in regular and due form as required by law.

It is also certified and recited that this Series 2025A-2 Bond is issued under the authority of the Public Securities Act, constituting Part 2, Article 57, Title 11, Colorado Revised Statutes, as amended, and this recital shall be conclusive evidence of the validity and the regularity of the issuance of this Series 2025A-2 Bond after its delivery for value and that this Series 2025A-2 Bond is incontestable for any cause whatsoever after its delivery for value.

IN WITNESS WHEREOF, the Issuer has caused this Series 2025A-2 Bond to be executed in its name by the manual or facsimile signature of its Mayor and its corporate seal (or a facsimile thereof) to be impressed or imprinted hereon and attested by the manual or facsimile signature of its City Clerk.

[SEAL]

CITY OF COLORADO SPRINGS, COLORADO

By: \_\_\_\_\_  
Blessing Mobolade, Mayor

Attest:

By \_\_\_\_\_  
Sarah B. Johnson  
City Clerk

**CERTIFICATE OF AUTHENTICATION**

This is to certify that this Series 2025A-2 Bond is one of the Series 2025A-2 Bonds referred to in the within mentioned Indenture.

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

ZIONS BANCORPORATION, NATIONAL  
ASSOCIATION, as Trustee

By: \_\_\_\_\_  
Name: Vladimir Muñoz  
Title: Vice President, Zions Bank Division

### ASSIGNMENT FOR TRANSFER

FOR VALUE RECEIVED, the undersigned, hereby sells, assigns and transfers unto \_\_\_\_\_ (Tax Identification or Social Security No. \_\_\_\_\_) the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within bond on the books kept for registration thereof, with full power or substitution in the premises.

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

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution participating in the Securities Transfer Agents Medallion Program or such other guarantee program acceptable to the Trustee.

NOTICE: Signature(s) must be guaranteed by member of Medallion Signature Program.

\_\_\_\_\_  
Signature

NOTICE: The signature to this assignment must correspond with the name of the registered owner of the within bond as it appears on the face hereof in every particular, without alteration or enlargement or any change whatever, and the Social Security number or federal employer identification must be supplied.

**EXHIBIT A-3**

**FORM OF SERIES 2025A-T BONDS**

THIS SERIES 2025A-T BOND HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED.

THIS SERIES 2025A-T BOND IS SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE. NEITHER THIS SERIES 2025A-T BOND NOR ANY BENEFICIAL OWNERSHIP INTEREST HEREIN MAY BE TRANSFERRED BY THE REGISTERED OWNER HEREOF EXCEPT (I) IN AUTHORIZED DENOMINATIONS AND (II) TO ANY PERSON THAT IS EITHER (A) A “QUALIFIED INSTITUTIONAL BUYER” (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT OF 1933, AS AMENDED); (B) AN INSTITUTIONAL “ACCREDITED INVESTOR” (AS DEFINED IN RULE 501(a)(1), (2), (3), AND (7) OF REGULATION D UNDER THE SECURITIES ACT OF 1933, AS AMENDED) OR (C) A SPECIAL PURPOSE ENTITY, TRUST OR CUSTODIAL ARRANGEMENT IN WHICH ALL OF THE BENEFICIAL OWNERSHIP INTERESTS WOULD BE OWNED BY ONE OR MORE APPROVED BUYERS OR WHERE SECONDARY MARKET CREDIT ENHANCEMENT IS PROVIDED FOR SUCH BENEFICIAL OWNERSHIP INTERESTS RESULTING IN A RATING THEREOF OF AT LEAST “A” OR BETTER.

**CITY OF COLORADO SPRINGS, COLORADO  
MULTIFAMILY HOUSING REVENUE BONDS  
(ROYAL PINE APARTMENTS PROJECT), SERIES 2025A-T BOND (TAXABLE)**

No. R-[ ]

<u>DATED DATE</u>	<u>MATURITY DATE</u>	<u>INTEREST RATE</u>	<u>CUSIP</u>
[ ], 2025	[ ], 20__	Bond Interest Rate, as applicable	[ ]

REGISTERED OWNER: CEDE & Co.

PRINCIPAL AMOUNT: [AMOUNT IN WORDS] DOLLARS (\$[ ])

The City of Colorado Springs, Colorado (the “*Issuer*”), a municipal corporation duly organized and existing as a home-rule city under Article XX of the Constitution of the State of Colorado (“*State*”) and the home rule charter of the City of Colorado Springs, Colorado, for value received, hereby promises to pay (but only out of the revenues and other assets pledged under the Indenture (hereinafter defined)) to the Registered Owner specified above or registered assigns (subject to any right of prior redemption), (A) on each Principal Payment Date and the Maturity Date specified above, the applicable portion of the Principal Amount specified above, and (B) interest thereon, at the applicable Bond Interest Rate (as defined in the Indenture), payable until the Conversion Date, on the first day of each month, commencing [ ] 1, 2025 and, following the Conversion Date, on each [September 1] and [March 1], commencing on [September 1, 2025] (or if such day is not a Business Day, the immediately succeeding day that is a Business Day), to the person whose name appears on the registration books on the day before such day

(whether or not a Business Day) (a “*Record Date*”) and to pay any other amounts as specified in the Indenture (hereinafter defined). Principal of, and premium, if any, on this Series 2025A-T Bond are payable in such coin or currency of the United States as at time of payment is legal tender for payment of private and public debts, at the designated payment office of Zions Bancorporation, National Association, as trustee (the “*Trustee*”), or its successor.

THIS SERIES 2025A-T BOND IS A SPECIAL, LIMITED OBLIGATION OF THE ISSUER PAYABLE SOLELY FROM, AND SECURED ONLY BY, THE TRUST ESTATE (BUT NOT FUNDS RESULTING FROM THE EXERCISE OF THE RESERVED RIGHTS), AND WHICH SHALL BE USED FOR NO OTHER PURPOSE EXCEPT AS EXPRESSLY AUTHORIZED IN THE INDENTURE. THIS SERIES 2025A-T BOND SHALL NOT BE A DEBT OR INDEBTEDNESS OF THE ISSUER, ANY PUBLIC AGENCY, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, AND NEITHER THE ISSUER, ANY PUBLIC AGENCY, THE STATE, NOR ANY POLITICAL SUBDIVISION THEREOF SHALL BE LIABLE FOR PAYMENT OF THIS SERIES 2025A-T BOND OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WITH RESPECT THERETO, NOR IN ANY EVENT SHALL THIS SERIES 2025A-T BOND BE PAYABLE OUT OF ANY FUNDS, ASSETS OR PROPERTIES OTHER THAN THOSE OF THE ISSUER PLEDGED UNDER THE INDENTURE (BUT NOT FUNDS RESULTING FROM THE EXERCISE OF THE RESERVED RIGHTS). THIS SERIES 2025A-T BOND SHALL NOT CONSTITUTE AN INDEBTEDNESS OR A MULTIPLE FISCAL-YEAR FINANCIAL OBLIGATION WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION, AND NONE OF THIS SERIES 2025A-T BOND OR ANY OF THE ISSUER’S AGREEMENTS OR OBLIGATIONS WITH RESPECT TO THIS SERIES 2025A-T BOND OR UNDER THE INDENTURE, SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF OR A PLEDGE OF THE FAITH AND CREDIT OF OR A LOAN OF THE CREDIT OF OR A MORAL OBLIGATION OF ANY OF THE ISSUER, ANY PUBLIC AGENCY, THE STATE, NOR ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER.

No covenant, condition or agreement contained in the Indenture or in the Bonds shall be deemed to be an obligation, covenant, condition or agreement of any past, present or future officer, member, director, mayor, city council member, trustee, fiscal agent, counsel, financial advisor, attorney, official, employee or agent of the Issuer in their individual capacity, and no recourse shall be had for the payment of the principal of, or premium, if any, or interest on, and any sum that may be due and unpaid by the Issuer on the Bonds or for any claim based thereon or upon any obligation, covenant, provision, condition or agreement contained in the Indenture or in the Bonds against any past, present or future officer, member, director, mayor, city council member, trustee, fiscal agent, counsel, financial advisor, attorney, official, employee or agent of the Issuer, or any counsel attorney, financial advisor, member, director, mayor, city council member, trustee, officer, official, employee or agent of any successor to the Issuer, as such, either directly or through the Issuer or any successor to the Issuer, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officer, member, director, mayor, city council member, trustee, attorney, financial advisor, fiscal agent, counsel, official, employee or agent as such is expressly waived and released as a condition of and in consideration for the execution of this Indenture and the delivery of the Bonds. Neither

the officers, members, directors, mayor, city council members, financial advisors, attorneys, trustees, fiscal agents, counsel, officials, employees or agents of the Issuer nor any person executing the Bonds or this Indenture shall be liable personally on the Bonds or under this Indenture or be subject to any personal liability or accountability by reason of the issuance of the Bonds or the execution of this Indenture.

Interest on this Series 2025A-T Bond shall be computed on the basis of a 360 day year, comprised of twelve 30 day months. Interest on this Series 2025A-T Bond shall be payable in such coin or currency of the United States as at time of payment is legal tender for payment of private and public debts, at the designated payment office of the Trustee or its successor. If a Bondholder so elects, any payment due to such Bondholder shall be made by wire transfer of federal reserve funds to any account in the United States of America designated by such Bondholder if such Bondholder, at its expense, (a) so directs by written notice delivered to the Trustee at least ten (10) Business Days before the date upon which such wire transfer or other arrangement is to be made and (b) otherwise complies with the reasonable requirements of the Trustee.

This Series 2025A-T Bond is one of an issue of duly authorized City of Colorado Springs, Colorado Multifamily Housing Revenue Bonds (Royal Pine Apartments Project), Series 2025 issued in the aggregate principal amount of \$[\_\_\_\_\_], pursuant to the County and Municipality Development Revenue Bond Act, constituting Article 3, Title 29, Colorado Revised Statutes, as amended, the Supplemental Public Securities Act, constituting Part 2, Article 57, Title 11, Colorado Revised Statutes, as amended, the Charter of the Issuer, as amended, an ordinance duly adopted by the governing body of the Issuer, and the provisions of the Indenture (hereinafter defined).

This is a draw down bond. The principal amount of this Series 2025A-T Bond as of any given date shall be equal to (i) the total amount of principal advanced by the Purchaser less (ii) any payment of principal on the Series 2025A-T Bonds received by the Holders thereof. Principal amounts advanced shall be noted on the recordkeeping system maintained by the Trustee.

The proceeds from this Series 2025A-T Bond are to be used for the purpose of making a mortgage loan pursuant to a Loan Agreement, dated as of [\_\_\_\_\_], 2025 (as amended, modified or supplemented from time to time, the "*Loan Agreement*"), between the Issuer and Royal Pine Apartments LLC, (the "*Borrower*"), to finance the acquisition, construction and equipping of an approximately 232-unit multifamily residential rental housing project to be located at 4150 Royal Pine Drive, Colorado Springs, Colorado, and subordinate and related facilities thereto, to be known as Royal Pine Apartments (the "*Project Facilities*"). The Borrower's payment obligations under the Loan Agreement will be evidenced by the Note and secured by the Security Instrument.

This Series 2025A-T Bond is issued under and is equally and ratably secured by an Indenture of Trust, dated as of [\_\_\_\_\_], 2025 (as amended, modified or supplemented from time to time, the "*Indenture*"), between the Issuer and the Trustee. All capitalized terms not defined herein shall have the meaning set forth in the Indenture.

Reference is hereby made to the Indenture and to all amendments and supplements thereto for a description of the property pledged and assigned to the Trustee and of the provisions, among

others, with respect to the nature and extent of the security, the rights, duties and obligations of the Issuer and the Trustee, the terms on which this Series 2025A-T Bond is issued and secured, the manner in which interest is computed on this Series 2025A-T Bond, mandatory and optional redemption rights, acceleration, the rights of the Bondholders and the provisions for defeasance of such rights.

This Series 2025A-T Bond is subject to optional and mandatory redemption in whole or in part, on the dates, under the terms and conditions and at the redemption prices set forth in the Indenture, all of the provisions of which are, by this reference, incorporated into this Series 2025A-T Bond. Notice of redemption shall be given in the manner set forth in the Indenture.

This Series 2025A-T Bond is subject to mandatory tender and exchange as set forth in the Indenture.

The registered owner of this Series 2025A-T 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 thereunder, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Indenture.

By its purchase of this Series 2025A-T Bond, the registered owner hereof agrees to the appointment of the Controlling Person as provided in the Indenture and authorizes the Controlling Person to exercise such rights and remedies afforded to the Controlling Person on behalf of the Bondholder as provided in the Bond Documents.

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 Series 2025A-T Bond may be exchanged, and its transfer may be effected, only by the registered owner hereof in person or by his attorney duly authorized in writing at the designated corporate trust office of the Trustee, but only in the manner and subject to the limitations provided in the Indenture. Upon exchange or registration of such transfer a new registered bond or bonds of the same series, maturity and interest rate and of an Authorized Denomination or Authorized Denominations for the same aggregate principal amount will be issued in exchange therefor.

The Issuer and the Trustee may deem and treat the person in whose name this Series 2025A-T Bond shall be registered on the bond register 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.

All acts, conditions and things required by the laws of the State to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Series 2025A-T Bond do exist, have happened and have been performed in due time, form and manner as required by law.

Neither the commissioners, directors, officers, agents, employees or representatives of the Issuer nor any person executing this Series 2025A-T Bond shall be personally liable hereon or be subject to any personal liability by reason of the issuance hereof, 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 expressly released and waived as a condition of and in consideration for the execution of the Indenture and the issuance of this Series 2025A-T Bond.

This Series 2025A-T Bond shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose until the Trustee shall have executed the Certificate of Authentication appearing hereon.

IT IS HEREBY CERTIFIED, RECITED AND REPRESENTED that the issuance of this Series 2025A-T Bond is duly authorized by law; that all acts, conditions and things required to exist and to be done precedent to and in the issuance of this Series 2025A-T Bond to render the same lawful and valid have been properly done and performed and have happened in regular and due time, form and manner as required by law; and that all acts, conditions and things necessary to be done or performed by the Issuer or to have happened precedent to or in the execution and delivery of the Indenture have been done and performed and have happened in regular and due form as required by law.

It is also certified and recited that this Series 2025A-T Bond is issued under the authority of the Public Securities Act, constituting Part 2, Article 57, Title 11, Colorado Revised Statutes, as amended, and this recital shall be conclusive evidence of the validity and the regularity of the issuance of this Series 2025A-T Bond after its delivery for value and that this Series 2025A-T Bond is incontestable for any cause whatsoever after its delivery for value.

IN WITNESS WHEREOF, the Issuer has caused this Series 2025A-T Bond to be executed in its name by the manual or facsimile signature of its Mayor and its corporate seal (or a facsimile thereof) to be impressed or imprinted hereon and attested by the manual or facsimile signature of its City Clerk.

[SEAL]

CITY OF COLORADO SPRINGS, COLORADO

By: \_\_\_\_\_  
Blessing Mobolade, Mayor

Attest:

By \_\_\_\_\_  
Sarah B. Johnson  
City Clerk

**CERTIFICATE OF AUTHENTICATION**

This is to certify that this Series 2025A-T Bond is one of the Series 2025A-T Bonds referred to in the within mentioned Indenture.

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

ZIONS BANCORPORATION, NATIONAL  
ASSOCIATION, as Trustee

By: \_\_\_\_\_  
Name: Vladimir Muñoz  
Title: Vice President, Zions Bank Division

### ASSIGNMENT FOR TRANSFER

FOR VALUE RECEIVED, the undersigned, hereby sells, assigns and transfers unto \_\_\_\_\_ (Tax Identification or Social Security No. \_\_\_\_\_) the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within bond on the books kept for registration thereof, with full power or substitution in the premises.

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

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution participating in the Securities Transfer Agents Medallion Program or such other guarantee program acceptable to the Trustee.

NOTICE: Signature(s) must be guaranteed by member of Medallion Signature Program.

\_\_\_\_\_  
Signature

NOTICE: The signature to this assignment must correspond with the name of the registered owner of the within bond as it appears on the face hereof in every particular, without alteration or enlargement or any change whatever, and the Social Security number or federal employer identification must be supplied.

**EXHIBIT B**  
**FORM OF INVESTOR LETTER**

[\_\_\_\_\_], 2025

City of Colorado Springs, Colorado  
Colorado Springs Colorado

Zions Bancorporation, National Association  
Colorado Springs, Colorado

Re: City of Colorado Springs, Colorado Multifamily Housing Revenue Bonds  
(Royal Pine Apartments Project) [Series 2025A-1] [Series 2025A-2]  
[Series 2025A-T (Taxable)]

Ladies and Gentlemen:

The undersigned (the “*Investor*”) hereby acknowledges receipt of \$\_\_\_\_\_ in aggregate principal amount of the above-referenced Series [2025A-1] [2025A-2] [2025A-T] Bonds (the “*Bonds*”), constituting the [first/\_\_\_\_] draw of the [Bonds]

The undersigned acknowledges that the Bonds were issued for the purpose of making a loan to finance the acquisition, construction and equipping of an approximately 232-unit multifamily residential rental housing project to be located at 4150 Royal Pine Drive, Colorado Springs, Colorado 80920, and subordinate and related facilities thereto, to be known as Royal Pine Apartments (the “*Project*”), as more particularly described in that certain Loan Agreement dated as of [\_\_\_\_\_], 2025 (the “*Loan Agreement*”), between the City of Colorado Springs, Colorado (the “*Issuer*”) and Royal Pine Apartments LLC (the “*Borrower*”). The undersigned further acknowledges that the Bonds are secured by an Indenture of Trust dated as of [\_\_\_\_\_], 2025 (the “*Indenture*”), between the Issuer and Zions Bancorporation, National Association, as trustee (the “*Trustee*”), which creates a security interest in the trust estate described therein (the “*Security*”) for the benefit of the Owner of the Bonds. Capitalized terms used herein and not otherwise defined have the meaning given such terms in the Indenture.

In connection with the purchase of the Bonds by the Investor, the Investor hereby makes the following representations upon which you may rely:

1. The Investor has authority to purchase the Bonds and to execute this letter and any other instruments and documents required to be executed by the Investor in connection with the purchase of the Bonds.
2. The Investor is an Approved Buyer, as defined in the Indenture.

3. The Investor (A) has sufficient knowledge and experience in financial and business matters (i) in general, and tax-exempt obligations in particular, and (ii) with respect to the evaluation of residential real estate developments such as the Project, (B) is capable of evaluating the risks and merits of its investment represented by the Bonds, and (C) can bear the economic risk of the purchase of the Bonds.

4. The Bonds are being purchased by the Investor at the par value thereof plus any accrued but unpaid interest thereon for investment and not with a view to, or for resale in connection with, any distribution of the Bonds, in that it does not intend to resell or otherwise dispose of all or any of the Bonds, and the Investor intends to hold the Bonds for its own account and for an indefinite period of time. The Investor understands that it may need to bear the risks of this investment for an indefinite time, including the total loss of such investment, since any sale prior to maturity may not be possible. The Investor is able to bear the economic risk of an investment in the Bonds.

5. The Investor understands that the Bonds are not registered under the Securities Act and that such registration is not legally required as of the date hereof; and further understands that the Bonds (a) are not being registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state, (b) will not be listed in any stock or other securities exchange, (c) will not carry a rating from any rating service and (d) will be delivered in a form which is be readily marketable. The Investor agrees that it will comply with any applicable state and federal securities laws then in effect with respect to any disposition of the Bonds by it, and further acknowledges that any current exemption from registration of the bonds does not affect or diminish such requirements.

6. The Investor understands that THE BONDS ARE SPECIAL, LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM, AND SECURED ONLY BY, THE TRUST ESTATE (BUT NOT FUNDS RESULTING FROM THE EXERCISE OF THE RESERVED RIGHTS), AND WHICH SHALL BE USED FOR NO OTHER PURPOSE EXCEPT AS EXPRESSLY AUTHORIZED IN THIS INDENTURE. THE BONDS SHALL NOT BE A DEBT OR INDEBTEDNESS OF THE ISSUER, ANY PUBLIC AGENCY, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, AND NEITHER THE ISSUER, ANY PUBLIC AGENCY, THE STATE, NOR ANY POLITICAL SUBDIVISION THEREOF SHALL BE LIABLE FOR PAYMENT OF THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WITH RESPECT THERETO, NOR IN ANY EVENT SHALL THE BONDS BE PAYABLE OUT OF ANY FUNDS, ASSETS OR PROPERTIES OTHER THAN THOSE OF THE ISSUER PLEDGED UNDER THIS INDENTURE (BUT NOT FUNDS RESULTING FROM THE EXERCISE OF THE RESERVED RIGHTS). THE BONDS SHALL NOT CONSTITUTE AN INDEBTEDNESS OR A MULTIPLE FISCAL-YEAR FINANCIAL OBLIGATION WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION, AND NONE OF THE BONDS OR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS WITH RESPECT TO THE BONDS OR HEREUNDER, SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF OR A PLEDGE OF THE FAITH AND CREDIT OF OR A LOAN OF THE CREDIT OF OR A MORAL OBLIGATION OF ANY OF THE ISSUER, ANY PUBLIC AGENCY,

THE STATE, NOR ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER.

7. The Investor understands that at the time of its purchase of the Bonds, the Bonds are not rated, and no application will be made to obtain a rating for the Bonds.

8. The Investor acknowledges that to its knowledge it has either been supplied with or been given access to information, including financial statements and other financial information, to which a reasonable investor would attach significance in making investment decisions, and the Purchaser has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Borrower, the Project, the Bonds and the security therefor so that, as a reasonable investor, the Investor has been able to make its decision to purchase the Bonds.

9. The Investor has made its own inquiry and analysis with respect to the Bonds and the security therefor, and other material factors affecting the security and payment of the Bonds. The Investor is aware that the business of the Borrower involves certain economic variables and risks that could adversely affect the security for the Bonds.

10. The Investor acknowledges that:

(i) It has reviewed the Indenture and Loan Agreement and evaluated the risk factors associated with its investment decision to purchase the Bonds;

(ii) It has been provided with full and complete access to and has been furnished with all the information requested regarding the Borrower, the Project (including site visit offers), and the Bonds as was deemed by such Investor necessary in connection with the purchase of the Bonds; and

(iii) It has not relied upon the Issuer with regard to the accuracy or completeness of any information furnished to the Investor in connection with the issuance of the Bonds, the Borrower, or the Project.

11. The Investor has waived any requirement of due diligence and investigation or inquiry on the part of the Issuer, Bond Counsel, or the Trustee.

12. The Investor acknowledges that it has the right to sell and transfer the Bonds only to an Approved Buyer in accordance with the terms of the Indenture, including, but not limited to Section 2.17 thereof. The Investor will not utilize any offering memorandum, placement memorandum or any other similar document in connection with any sale or transfer of the Bonds without providing the Issuer with a draft of any such offering memorandum, placement memorandum or other similar document to be provided to any subsequent buyer or beneficial owner of any Bond, and the Issuer shall have the right to approve any description of the Issuer and the Bonds therein (which approval shall not be unreasonably withheld). The Investor acknowledges that costs associated with any such approval by the Issuer shall be paid for by the Investor or any such transferee.

13. The Investor acknowledges and understands that the addressees to this Investor Letter are relying and will continue to rely on the statements made herein and that the Investor may share a copy of this Investor Letter with the financial institutions it has engaged to assist with the structuring and execution of this transaction.

14. NO RECOURSE SHALL BE HAD TO THE ISSUER IN SATISFACTION OF ANY AMOUNTS DUE OR LIABILITIES INCURRED PURSUANT TO THE ISSUER'S ISSUANCE OF THE BONDS AND RELATED ACTIONS, IN ACTIONS OR TRANSACTIONS (WHICH SHALL ONLY APPLY TO THE ISSUER IN ITS CAPACITY AS THE ISSUER OF THE BONDS AND WILL NOT APPLY TO THE CITY AND COUNTY OF DENVER, COLORADO IN ANY OTHER CAPACITY), AND ALL SUCH LIABILITY IS HEREBY EXPRESSLY WAIVED AND RELEASED AS A CONDITION OF, AND CONSIDERATION FOR THE EXECUTION OF THE FINANCING AGREEMENT AND THE ISSUANCE OF THIS BOND.

15. The Investor also understands that it shall indemnify the Issuer as set forth in the Financing Agreement and hereby AGREES TO FURTHER INDEMNIFY THE ISSUER FROM AND AGAINST ANY AND ALL LIABILITY, COST OR EXPENSE (INCLUDING ATTORNEYS' FEES AND EXPENSES) THAT MAY RESULT IF THE REPRESENTATIONS OF THE INVESTOR CONTAINED IN THIS INVESTOR LETTER ARE FALSE IN ANY MATERIAL RESPECT. The Investor agrees to cause any transferee to agree to such indemnification of the Issuer.

All confirmations, affirmations, statements and provisions of the Investor in this Investor Letter are made solely and exclusively for the benefit of the Issuer in connection with its purchase of the Bonds. The Investor is aware of the significance to the Issuer of the foregoing representations, and they are made with the intention that the Issuer will rely on them.

Very truly yours,

[INVESTOR SIGNATURE BLOCK]

**EXHIBIT C**  
**AMORTIZATION SCHEDULE**