



To: MAYOR AND COUNCIL

Agenda Item #: VII. A.

From: John Wallin, Finance Director

Action

Discussion

Date: July 1, 2014

Information

Subject: Resolution No. 2014-73 Authorizing The Sale and Issuance Of Multifamily Housing Revenue Bonds (Yorktown Continental, LP Project) Series 2014

Action Requested:

Adopt Resolution No. 2014-73 Authorizing The Sale and Issuance Of Multifamily Housing Revenue Bonds (Yorktown Continental, LP Project) Series 2014

Information / Background:

Yorktown Continental, LP (the "Borrower"), a limited-purpose entity, proposes to acquire and rehabilitate the existing 264-unit Yorktown Continental apartment building located at 7151 York Avenue South. The Borrower is requesting that the City give approval to the issuance of up to \$26,500,000 in bonds to finance a portion of the cost of the project. Other sources of financing for the approximately \$64,000,000 project include various sources of taxable financing and low-income housing tax credit equity. Final approval of the project and bond issuance by the City following the public hearing at the City Council's last meeting requires the review of documents and the passage of Resolution 2014-73. Representatives from Yorktown Continental will be at the Council meeting to discuss the project and the financing.

The attached resolution and various documents as drafted by Dorsey & Whitney gives authorization for the issuance of Housing Revenue Bonds on behalf of Yorktown Continental, LP for the proposed project at 7151 York Avenue South. The Bonds will be special, limited obligations of the City and will be payable solely from the revenues pledged to the payment thereof. No holder of any Bond will ever have the right to compel any exercise of the taxing power of the City to pay the Bonds, or the interest thereon, nor to enforce payment thereon against any property of the City, except money payable by the Borrower to the City and pledged to the payment of the Bonds. The City is authorized by Minnesota Statutes, Chapter 462C, to issue the Bonds to finance multifamily housing developments such as the Development.

ATTACHMENT:

Resolution 2014-73

Assignment of Mortgage

Loan Agreement Between the City of Edina and Yorktown Continental, LP Series 2014A

Loan Agreement Between the City of Edina and Yorktown Continental, LP Series 2014B

Combination Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Financing Statement

Regulatory Agreement Between the City of Edina, U. S. Bank National Assn., and Yorktown Continental, LP

Trust Indenture Between the City of Edina and U.S. Bank National Assoc., Series 2014A

Indenture of Trust Between the City of Edina and U.S. Bank National Assoc., Series 2014B

**CERTIFICATION OF MINUTES RELATING TO
TO THE ISSUANCE OF HOUSING REVENUE BONDS PURSUANT TO MINNESOTA
STATUTES, CHAPTERS 462A AND 462C ON BEHALF OF YORKTOWN
CONTINENTAL, LP**

Issuer: City of Edina, Minnesota

Governing Body: City Council

Kind, date, time and place of meeting: A regular meeting held on July 1, 2014, at
7:00 o'clock P.M., at the City Hall.

Councilmembers present:

Councilmembers absent:

Documents Attached:

Minutes of said meeting (pages): 1 through ___

RESOLUTION NO. 2014-73

**RESOLUTION AUTHORIZING THE SALE AND ISSUANCE
OF MULTIFAMILY HOUSING REVENUE BONDS
(YORKTOWN CONTINENTAL, LP PROJECT), SERIES 2014;
ESTABLISHING THE SECURITY THEREFOR AND
AUTHORIZING THE EXECUTION OF DOCUMENTS**

I, the undersigned, being the duly qualified and acting recording officer of the public corporation issuing the bonds referred to in the title of this certificate, certifying that the documents attached hereto, as described above, have been carefully compared with the original records of said corporation in my legal custody, from which they have been transcribed; that said documents are a correct and complete transcript of the minutes of a meeting of the governing body of said corporation, and correct and complete copies of all resolutions and other actions taken and of all documents approved by the governing body at said meeting, so far as they relate to said bonds; and that said meeting was duly held by the governing body at the time and place and was attended throughout by the members indicated above, pursuant to call and notice of such meeting given as required by law.

WITNESS my hand officially as such recording officer this _____ day of _____,
2014.

Debra Mangen, City Clerk

RESOLUTION AUTHORIZING THE SALE AND ISSUANCE OF MULTIFAMILY HOUSING REVENUE BONDS (YORKTOWN CONTINENTAL, LP PROJECT), SERIES 2014; ESTABLISHING THE SECURITY THEREFOR AND AUTHORIZING THE EXECUTION OF DOCUMENTS

BE IT RESOLVED by the City Council of the City of Edina, Minnesota (the “City”), as follows:

Section 1. Recitals.

1.01. The City has by resolutions adopted May 20, 2014 and June 17, 2014, given preliminary approval to the issuance of its Multifamily Housing Revenue Bonds (Yorktown Continental, LP Project), Series 2014 in a principal amount not to exceed \$26,500,000 (the “Bonds”) for the purpose of making a loan to Yorktown Continental, LP, a Minnesota limited partnership (the “Borrower”).

1.02. Draft forms of the following documents relating to the Bonds have been prepared and submitted to this Council and are hereby directed to be filed with the City Manager:

(a) a Loan Agreement with respect to each series of the Bonds proposed to be entered into by the City and the Borrower;

(b) an Indenture of Trust with respect to each series of the Bonds (together, the “Indenture”) proposed to be entered into with respect to the Bonds by the City and the trustee thereunder (the “Trustee”);

(c) a Bond Purchase Agreement proposed to be entered into with respect to the Bonds by the City, the Borrower and Dougherty & Company LLC (the “Underwriter”);

(d) a Regulatory Agreement between the City, the Borrower and the Trustee;

(e) a Combination Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Financing Statement from the Borrower to the City;

(f) an Assignment of Mortgage from the City to the Trustee

(g) an Official Statement or other offering document (the “Official Statement”) to be used in connection with the offer and sale of the Bonds by the Underwriter.

Section 2. Findings.

It is hereby found, determined and declared that:

(a) It is desirable that the Bonds be issued by the City upon the terms set forth in this resolution and the Indenture, under the provisions of which the City grants to the Trustee under the Indenture a security interest in certain revenues and payments to be received by the City under the Loan Agreement as security for the payment of the principal of, premium, if any, and interest on the Bonds.

(b) The payments required to be made to the Trustee pursuant to the Loan Agreement are fixed, and are required to be revised from time to time as necessary, so as to produce income and revenue sufficient to provide for prompt payment of principal of and interest on all Bonds issued under the Indenture when due, and the Loan Agreement also provides that the Borrower is required to continue to pay all expenses of the operation and maintenance of the Project, including, but without limitation, adequate insurance thereon and insurance against all liability for injury to persons or property arising from the operation thereof, and all taxes and special assessments levied upon or with respect to the site of the Project and payable during the term of the Loan Agreement.

(c) The execution and delivery of the documents referred to in Section 1.02 (together with all such other documents as are necessary in connection with the Bonds, the “Bond Documents”) and all other acts and things required under the Constitution and laws of the State of Minnesota to make the Bond Documents and the Bonds valid and binding special, limited obligations in accordance with their terms, are authorized by Minnesota Statutes, Chapters 462A and 462C.

Section 3. Authorization and Approval of Bond Documents. The City is hereby authorized to issue the Bonds to provide funds, to be used, with other available funds, to finance the Project and pay costs of issuance of the Bonds, and to pledge and assign the Loan Agreement and the loan repayments due thereunder, all as provided in the Documents. It is acknowledged that the purchase price of the Bonds, the principal amount of the Bonds, the initial reoffering prices of the Bonds, the maturity schedule of the Bonds, the provisions for redemption of the Bonds and the initial interest rate on the Bonds have not been determined as of the date of adoption of this resolution and are not reflected in the Indenture, the Loan Agreement or the Bond Purchase Agreement. The Mayor and the City Manager are hereby authorized to approve: (1) the purchase price of the Bonds; (2) the principal amount of the Bonds (as hereinafter defined); provided that the aggregate principal amount of the Bonds is not in excess of \$26,500,000; (3) the reoffering prices of the Bonds; (4) the maturity schedule of the Bonds; (5) the provisions for redemption of the Bonds; and (6) the interest rates on the Bonds. The approval of such officers of the terms of the Bonds shall be conclusively presumed by the execution of the Bond Purchase Agreement by said officers.

The forms of the Bond Documents and the Bonds are approved, subject to such modifications as are deemed appropriate and approved by the Mayor and City Manager, within the limitations provided in the immediately preceding paragraph, which approval shall be conclusively evidenced by execution of the Bond Documents by the Mayor and the City

Manager. Copies of all the documents shall be delivered, filed or recorded as provided therein. The Mayor and the City Manager are also authorized and directed to execute such other instruments as may be required to give effect to the transactions herein contemplated.

Section 4. Official Statement. The City hereby consents to the use of the Official Statement by the Underwriter in connection with the offer and sale of the Bonds to potential investors. The City has consented to the distribution of the Official Statement, but did not prepare the Official Statement, and has not reviewed the financial disclosures of the Borrower or approved any information or statements contained in the Official Statement or the Appendices thereto and assumes no responsibility for the sufficiency, completeness or accuracy of the same. The City Manager is authorized to deem the Official Statement “final” as of its date for purposes of SEC Rule 15c2-12.

Section 5. The Bonds.

5.01. In anticipation of the receipt of the loan repayments from the Borrower, the City shall proceed forthwith to issue the Bonds in the form and upon the terms set forth in the Indenture or established pursuant to this resolution.

5.02. The Mayor and the City Manager are authorized and directed to prepare and execute the Bonds as prescribed herein and in the Indenture and to deliver them to the Trustee, together with a certified copy of this resolution, the other documents required in the Indenture, and such other certificates, documents and instruments as may be appropriate to effect the transactions herein contemplated. The Trustee is hereby appointed authenticating agent for the Bonds pursuant to Minnesota Statutes, Section 475.55, Subdivision 1.

Section 6. Absence of Officers. In the absence or disability of the Mayor, any of the documents authorized by this resolution to be approved and executed by the Mayor may be so approved and executed by the acting Mayor. In the absence or disability of the City Manager, any of the documents authorized by this resolution to be approved and executed by the City Manager may be so approved and executed by the person designated as acting City Manager or by such other officer of the City who, in the opinion of the City Attorney, may execute such documents.

Section 7. Authentication of Proceedings. The Mayor, the City Manager and other officers of the City are authorized and directed to furnish to the Underwriter and bond counsel certified copies of all proceedings and records of the City relating to the Bonds, and such other affidavits and certificates as may be required to show the facts relating to the legality and marketability of the Bonds as such facts appear from the books and records in the officers' custody and control or as otherwise known to them, and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of the City as to the truth of all statements of fact contained therein.

Section 8. Limitations of the City's Obligations. Notwithstanding anything contained in the Bonds or the Bond Documents, the Bonds shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation, and shall not be payable from nor shall constitute a charge, lien or encumbrance, legal or equitable, upon any funds or any property of the City other than the revenues specifically pledged to the payment thereof pursuant to the Bond Documents, and no holder of the Bonds shall ever have the right to compel any exercise of the taxing power of the City to pay the Bonds or the premium, if any, or interest thereon, or to enforce payment thereof against any property of the City other than those rights and interests of the City which have been pledged to the payment thereof pursuant to the Bond Documents. The agreement of the City to perform the covenants and other provisions contained in this resolution or the Bonds or the Bond Documents shall be subject at all times to the availability of the revenues furnished by the Borrower sufficient to pay all costs of such performance or the enforcement thereof, and the City shall not be subject to any personal or pecuniary liability thereon.

Adopted this 1st day of July, 2014.

Mayor

Attest: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember _____ and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

whereupon said resolution was declared duly passed and adopted.

ASSIGNMENT OF MORTGAGE

Date: July 1, 2014

(reserved for recording data)

FOR VALUABLE CONSIDERATION, the City of Edina, Minnesota, a political subdivision under the laws of Minnesota, Assignor, hereby sells, assigns and transfers to, without recourse or warranty, [U.S. Bank National Association, Assignee], the Assignor's interest in the Combination Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Financing Statement, dated as of July 1, 2014 (the "Mortgage"), executed by Yorktown Continental, LP, a Minnesota limited partnership, as Mortgagor, to the City of Edina, Minnesota, as Mortgagee, and filed for record July __, 2014, as Document Number _____, in the office of the County Recorder of Hennepin County, Minnesota, together with all right and interest in the obligations therein specified and the debt thereby secured. Assignor covenants with Assignee, its successors and assigns, that there is still due and unpaid of the debt secured by the Mortgage the sum of _____ Dollars (\$_____), with interest thereon from the date hereof and that Assignor has good right to sell, assign and transfer the same.

THIS INSTRUMENT WAS DRAFTED BY
Dorsey & Whitney LLP
50 South Sixth Street
Minneapolis, Minnesota 55402
(612) 492-6959

ASSIGNOR

THE CITY OF EDINA, MINNESOTA

By _____
Mayor

By _____
City Manager

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of July, 2014, by Jim Hovland, the Mayor, and Scott Neal, the City Manager, of the City of Edina, Minnesota, on behalf of the City.

Notary Public

Assignment of Mortgage

LOAN AGREEMENT

between

THE CITY OF EDINA, MINNESOTA

as Issuer

and

YORKTOWN CONTINENTAL, LP

as Borrower

RELATING TO

\$ _____

City of Edina, Minnesota

Multifamily Housing Revenue Bonds

(Yorktown Continental, LP Project), Series 2014A

Dated as of July 1, 2014

With the exception of certain reserved rights, the interest of the City of Edina, Minnesota in this Loan Agreement has been assigned to U.S. Bank National Association, as trustee for the above-referenced bonds.

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but rather is for convenience of reference only.)

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LOAN AGREEMENT

THIS LOAN AGREEMENT (the “Loan Agreement” or “Agreement”) is made and entered into as of July 1, 2014 between the City of Edina, Minnesota, a body corporate and politic of the State of Minnesota (the “Issuer”), and Yorktown Continental, LP, a Minnesota limited partnership (the “Borrower”), under the circumstances summarized in the following recitals (the capitalized terms not defined in the recitals and granting clauses being used therein are defined as per Article I hereof).

RECITALS

WHEREAS, pursuant to and in accordance with the laws of the State of Minnesota (the “State”), including without limitation, Minnesota Statutes, Chapters 462A, 462C and 474A, as amended (the “Act”), the Issuer has determined to issue and sell its Multifamily Housing Revenue Bonds (Yorktown Continental, LP Project) Series 2014A in the aggregate principal amount of \$_____ (the “Bonds”) and to loan the proceeds to be derived from the sale thereof to the Borrower to assist in the financing of the acquisition, rehabilitation, and equipping by Borrower of an existing 264-unit building containing 262 one-bedroom units and two two-bedroom units as a senior low-income housing project located at 7151 York Avenue South, in Edina, Minnesota (the “Project”); and

WHEREAS, the Borrower and the Issuer each have full right and lawful authority to enter into this Agreement and to perform and observe the provisions hereof on their respective parts to be performed and observed.

NOW THEREFORE, in consideration of the premises and the mutual representations and agreements hereinafter contained, the Issuer and the Borrower agree as follows (provided that any obligation of the Issuer created by or arising out of this Agreement shall never constitute a general debt of the Issuer or give rise to any pecuniary liability of the Issuer but shall be payable solely out of Issuer Revenues):

ARTICLE I

DEFINITIONS

Section 1.1 Use of Defined Terms

In addition to the words and terms defined elsewhere in this Agreement, the words and terms in this Agreement shall have the meanings set forth in the Trust Indenture (the “Indenture”), dated as of the date of this Agreement between the Issuer and U.S. Bank National Association, as Trustee.

Section 1.2 Interpretation

Any reference herein to the Issuer, to its governing body or to any member or officer of either includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a section or provision of the Constitution of the State or the Act, or to a section, provision or chapter of the Minnesota Statutes or to any statute of the United States of America, includes that section, provision or chapter as amended, modified, revised, supplemented or superseded from time to time, provided that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this provision, if it constitutes in any way an impairment of the rights or obligations of the Issuer, the Holders, the Trustee or the Borrower under this Agreement.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms “hereof,” “hereby,” “herein,” “hereto,” “hereunder” and similar terms refer to this Agreement; and the term “hereafter” means after, and the term “heretofore” means before, the date of delivery of the Bonds. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

Section 1.3 Captions and Headings

The captions and headings in this Agreement are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Articles, Sections, subsections, paragraphs, subparagraphs or clauses hereof.

END OF ARTICLE I

ARTICLE II

REPRESENTATIONS AND COVENANTS

Section 2.1 Representations of the Issuer

The Issuer represents that

(a) it is a body corporate and politic organized and existing under the laws of the State and is authorized to issue the Bonds to finance the Project pursuant to the Act;

(b) in authorizing the Project, its purpose is, and in its judgment, the effect thereof will be, to promote the public welfare by providing a multifamily rental housing development within the meaning of the Act and assisting persons within the Issuer to obtain decent, safe and sanitary housing at rentals they can afford, and facilitating the development of rental housing opportunities for residents of the Issuer;

(c) it has duly accomplished all conditions necessary to be accomplished by it prior to the issuance and delivery of the Bonds and the execution and delivery of this Agreement, the Indenture and the Regulatory Agreement;

(d) it is not in violation of or in conflict with any provisions of the laws of the State that would impair its ability to carry out its obligations contained in this Agreement, the Indenture and the Regulatory Agreement;

(e) it has the legal right and is empowered to enter into the transactions contemplated by this Agreement, the Indenture and the Regulatory Agreement;

(f) it has duly authorized the execution, delivery and performance of this Agreement, the Indenture and the Regulatory Agreement; and

(g) it will do all things in its power in order to maintain its existence or assure the assumption of its obligations under this Agreement, the Indenture and the Regulatory Agreement by any successor public body.

The Issuer makes no representation or warranty that the Project will be adequate or sufficient for the purposes of the Borrower. Nothing in this Agreement shall be construed as requiring the Issuer to provide any financing for the Project other than the proceeds of the Loan or to provide sufficient moneys for all of the costs of the Project.

Section 2.2 Representations and Covenants of the Borrower

The Borrower represents, warrants and covenants that

(a) it is a limited partnership duly organized under the laws of the State, duly authorized to conduct its business in the State;

(b) it has full power and authority to execute, deliver and perform this Agreement, the Note and the Regulatory Agreement (collectively, the “Borrower Documents”) and to enter into and carry out the transactions on its part contemplated by those documents. The execution, delivery and performance by it of the Borrower Documents do not, and will not, violate any provision of law applicable to the Borrower and do not, and will not, conflict with or result in a default under any agreement or instrument to which the Borrower is a party or by which it is bound. The Borrower Documents have, by proper action, been duly authorized, executed and delivered by the Borrower and all steps necessary have been taken to constitute the Borrower Documents valid and binding obligations of the Borrower;

(c) the provision of financial assistance to be made available to it under this Agreement and the commitments therefor made by the Issuer have induced the Borrower to undertake the transactions contemplated by this Agreement;

(d) it presently intends to use or operate the Project in a manner consistent with the Act and in accordance with the Regulatory Agreement and knows of no reason why the Project will not be so operated. If, in the future, there is a cessation of that operation, it will use its best efforts to resume that operation or accomplish an alternate use by the Borrower or others approved in writing by the Issuer which will be consistent with the Act and the Regulatory Agreement;

(e) the acquisition and rehabilitation of the Project will be completed in accordance with the Plans and Specifications and the portion of the Project funded with the proceeds of the Combined Bonds will constitute a qualified residential rental project within the meaning of Section 142(d) of the Code and will be operated and maintained in such manner as to conform in all material respects with all applicable zoning, planning, building, environmental and other applicable Governmental regulations and as to be consistent with the Act;

(f) the Project will be located entirely within the boundaries of the Issuer;

(g) at least 95% of the net proceeds of the Combined Bonds (as defined in Section 150 of the Code) will be used to provide a “qualified residential rental project” (as defined in Section 142(d) of the Code), and the Borrower will not request or authorize any disbursement from the Project Fund pursuant to Section 3.4 hereof, which, if paid, would result in less than 95% of the net proceeds of the Combined Bonds being so used;

(h) the costs of issuance financed by the Combined Bonds will not exceed 2% of the proceeds of the Combined Bonds (within the meaning of Section 147(g) of the Code), and the Borrower will not request or authorize any disbursement from the Project Fund pursuant to Section 3.4 hereof or otherwise, which, if paid, would result in more than 2% of the proceeds of the Combined Bonds being so used. Except as permitted by Treasury Regulations 1.148-6(d)(3)(ii), none of the proceeds of the Combined Bonds will be used for working capital purposes;

(i) the proceeds of the Combined Bonds shall be used exclusively to pay costs that (i) are (A) capital expenditures (as defined in Section 1.150-1(a) of the Code's regulations) and (B) not made for the acquisition of existing property, to the extent prohibited in Section 147(d) of the Code, and (ii) are made exclusively with respect to a "qualified residential rental project" within the meaning of Section 142(d) of the Code so that the Project and the land on which it is located will have been financed fifty percent (50%) or more by the proceeds of the Combined Bonds for the purpose of complying with Section 42(h)(4)(B) of the Code;

(j) upon the execution and delivery thereof by the other parties thereto, each of the Borrower Documents will constitute valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their respective terms, except as limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws or judicial decisions affecting creditors' rights generally and by judicial discretion in the exercise of equitable remedies;

(k) it understands the nature and structure of the Project; that it is familiar with the provisions of all of the documents and instruments relating to the financing of the Project to which it is a party; that it understands the risks inherent in such transactions, including without limitation the risk of loss of the Project; and that it has not relied on the Issuer for any guidance or expertise in analyzing the financial or other consequences of such financing transactions or otherwise relied on the Issuer in any manner except to issue the Bonds in order to provide funds for the Loan;

(l) it intends to hold the Project for its own account, has no current plans to sell and has not entered into any agreement to sell any of the units that comprise the Project. [It is hereby acknowledged, however, that the Borrower's partnership agreement does provide for certain rights of one or more of its partners to acquire the Project, and for the possible acquisition of the Project following the fifteen year tax credit compliance period as identified in the Borrower's partnership agreement, and those provisions shall not result in a breach of this Section 2.2(l);]

(m) it shall use its best efforts to cause there to be deposited from time to time in the Collateral Fund, Available Moneys in such amount and at such times as may be necessary to allow the Trustee to disburse funds from the Project Fund pursuant to Section 5.03 of the Indenture upon the Trustee's receipt of a Disbursement Request from the Borrower to pay costs of the Project;

(n) in the event the Loan proceeds are not sufficient to complete the acquisition and rehabilitation of the Project and the payment of all costs of issuance of the Bonds, the Borrower will furnish any additional moneys from any source determined by the Borrower as necessary to complete the acquisition and rehabilitation of the Project and pay all cost of issuance of the Bonds;

(o) less than 25% of the proceeds of the Combined Bonds will be used to pay or reimburse the Borrower for the cost of land or any interest therein;

(p) it has not knowingly taken or permitted to be taken and will not knowingly take or permit to be taken any action which would have the effect, directly or indirectly, of causing interest on any of the Bonds to be included in the gross income of the owners thereof for purposes of federal income taxation; and

(q) it shall not take, or knowingly permit or suffer to be taken by the Trustee or any party acting on its behalf, any action with respect to the proceeds of the Combined Bonds which if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the Combined Bonds would have caused the Combined Bonds to be “arbitrage bonds” within the meaning of Section 148(a) of the Code.

The Borrower acknowledges that the representations and covenants herein made by the Borrower have been expressly and specifically relied upon by the Issuer in determining to make the Loan to the Borrower and the Loan would not have been made but for such representations and covenants.

END OF ARTICLE II

ARTICLE III

COMPLETION OF THE PROJECT; ISSUANCE OF THE BONDS

Section 3.1 Acquisition, Construction, Installation, Equipment and Improvement

The Borrower (a) has acquired or is in the process of acquiring the Project site and shall rehabilitate, install, improve and equip the Project with all reasonable dispatch and in substantial accordance with the Plans and Specifications, (b) shall pay when due all fees, costs and expenses incurred in connection with that acquisition, construction, installation, equipping and improving from funds made available therefor in accordance with this Agreement or otherwise, except to the extent being contested in good faith, and (c) shall ask, demand, sue for, levy, recover and receive all those sums of money, debts and other demands whatsoever which may be due, owing and payable under the terms of any contract, order, receipt, writing and instruction in connection with the acquisition, rehabilitation, improvement and equipping of the Project, and shall enforce the provisions of any contract, agreement, obligation, bond or other performance security with respect thereto. It is understood that the Project is that of the Borrower and any contracts made by the Borrower with respect thereto, whether acquisition contracts, construction contracts or otherwise, or any work to be done by the Borrower on the Project are made or done by the Borrower in its own behalf and not as agent or contractor for the Issuer. The Borrower agrees that it will compensate all workers employed in the construction and improvement of the Project as required by law.

Section 3.2 Plans and Specifications

The Borrower may revise the Plans and Specifications from time to time, provided that no revision shall be made which would change the Project Purposes to purposes other than those permitted by the Act and the Regulatory Agreement. At or prior to the execution and delivery of this Agreement, the Borrower shall provide to the Underwriter evidence acceptable to the Underwriter, in its sole discretion, of the availability of all financing contemplated by the plan of financing for the Project including, without limitation (and without regard to whether the immediate availability of such financing is a condition to undertaking the Project), the equity portion of the financing and all other public and private financing and any interim or bridge financing to be provided in anticipation of the closing of any of the foregoing aspects of the financing therefor. Any material changes in the plan of financing shall be communicated promptly to the Underwriter. Copies of all documents evidencing that financing, and the security therefor, all in form reasonably acceptable to the Underwriter, shall have been provided to the Underwriter.

Section 3.3 Issuance of the Bonds; Application of Proceeds

To provide funds to make the Loan for purposes of assisting in paying the Project Costs, the Issuer will issue, sell and deliver the Bonds to the Underwriter. The Bonds will be issued pursuant to the Indenture in the aggregate principal amount, will bear interest and will mature as set forth therein. The Borrower hereby approves the terms and conditions of the Indenture and

the Bonds, and of the terms and conditions under which the Bonds will be issued, sold and delivered.

The proceeds from the sale of the Bonds in the amount of \$_____ shall be loaned to the Borrower and paid over to the Trustee for the benefit of the Borrower and the Holders of the Bonds and deposited as follows: [(a) a sum equal to any accrued interest paid by the Holder shall be deposited in the Bond Fund, and (b) the balance of the proceeds of the Bonds shall be deposited in the Project Fund.] Pending disbursement pursuant to Section 3.4 hereof, the proceeds of the Bonds deposited in the Project Fund, together with any investment earnings thereon, shall constitute a part of the Issuer Revenues assigned by the Issuer to the Trustee as security for the payment of Bond Debt Service Charges as provided in the Indenture.

Section 3.4 Disbursements from the Project Fund

Subject to the provisions below and so long as no Event of Default hereunder has occurred and is continuing for which the Loan Payments and principal amount of the Bonds has been declared to be immediately due and payable pursuant to Section 7.2 hereof and Section 7.03 of the Indenture, respectively, disbursements from the Project Fund shall be made only to pay any of the following Project Costs:

(a) Costs incurred directly or indirectly for or in connection with the acquisition and rehabilitation of the Project, including costs incurred in respect of the Project for preliminary planning and studies; architectural, legal, engineering, accounting, consulting, supervisory and other services; labor, services and materials; and recording of documents and title work.

(b) Premiums attributable to any surety bonds and insurance required to be taken out and maintained during the Construction Period with respect to the Project.

(c) Taxes, assessments and other governmental charges in respect of the Project that may become due and payable during the Construction Period.

(d) Costs incurred directly or indirectly in seeking to enforce any remedy against any contractor or subcontractor in respect of any actual or claimed default under any contract relating to the Project.

(e) Subject to Section 2.2(h) hereof, financial, legal, accounting, printing and engraving fees, charges and expenses, and all other such fees, charges and expenses incurred in connection with the authorization, sale, issuance and delivery of the Bonds, including, without limitation, the fees and expenses of the Trustee, the Registrar and any Paying Agent properly incurred under the Indenture that may become due and payable during the Construction Period.

(f) Any other costs, expenses, fees and charges properly chargeable to the cost of acquisition and rehabilitation of the Project.

(g) Payment of interest on the Bonds during the Construction Period.

(h) Payments to the Rebate Fund.

Any disbursements from the Project Fund shall be made by the Trustee only as permitted pursuant to Section 5.03 of the Indenture and upon the written request of the Borrower executed by an Authorized Borrower Representative substantially in the form attached hereto as Exhibit B, which requests shall be consecutively numbered and accompanied by invoices or other appropriate documentation supporting the payments or reimbursements requested. No disbursement shall be made by the Trustee upon the basis of any such disbursement request except upon satisfaction of the following conditions and pursuant to the following procedures:

(i) An executed Certificate of the FHA Lender substantially in the form attached hereto as Exhibit D, or an executed Certificate of the Borrower substantially in the form attached hereto as Exhibit E, in each case related to the deposit of Available Moneys in to the Collateral Fund for the applicable disbursement request.

(ii) An executed Certificate of the Borrower substantially in the form attached hereto as Exhibit B accompanied by a disbursement schedule listing the items for which the disbursement is sought and the total cost of each such item, together with invoices or other appropriate documentation (which may be a copy of an escrow agreement if a disbursement is to be made to an escrow account) for each such item.

(iii) All Loan Payments that are then due shall have been paid.

Any moneys in the Project Fund remaining after the Completion Date and payment, or provision for payment, in full of the Project Costs, at the direction of the Authorized Borrower Representative, promptly shall be paid into the Bond Fund for payment of Bond Debt Service Charges.

Section 3.5 HUD Funds

(a) The Borrower hereby acknowledges that the FHA Lender has determined to fund the FHA Insured Mortgage Loan, on the condition that the FHA Lender originate and service the FHA Insured Mortgage Loan in accordance with the FHA Loan Documents, the FHA Insurance Regulations and the GNMA Regulations, and the FHA Lender has further agreed pursuant to the related FHA Loan Documents to issue the GNMA Securities in accordance with the GNMA Regulations, based on and backed by the FHA Insured Mortgage Loan.

(b) The Borrower hereby assigns all right, title and interest of the Borrower in and to the proceeds of the FHA Insured Mortgage Loan to the Trustee.

(c) The FHA Lender has agreed to deliver or cause to be delivered to the Trustee the HUD Funds upon its receipt and approval of a requisition from the Borrower requesting an advance under the FHA Insured Mortgage Loan for payments of Project Costs.

(d) The amount of the HUD Funds hereby assigned by the Borrower to the Trustee is hereby expressly limited to \$_____ and the Borrower shall have no further interest therein.

(e) The Borrower agrees to pay to the FHA Lender all amounts when due under the FHA Insured Mortgage Note and the FHA Insured Mortgage Note and to abide by the provisions of the FHA Loan Documents and the GNMA Documents.

(f) The Trustee agrees upon receipt from the FHA Lender of (i) the HUD Funds, and (ii) an approved requisition, from time to time, to disburse amounts from the Project Fund, in the exact same amount of the HUD Funds received by the Trustee from the FHA Lender, to the Borrower for application to the payment of the Project Costs set forth in the approved requisition.

(g) The Borrower acknowledges that all HUD Funds requested by the Borrower shall be wired from the FHA Lender directly to the Trustee and disbursed and invested and applied by the Trustee in accordance with the provisions of Section 5.03 of the Indenture.]

Section 3.6 Borrower Required to Pay Costs in Event Project Fund Insufficient

If moneys in the Project Fund are not sufficient to pay all Project Costs, the Borrower, nonetheless, will complete the Project in substantial accordance with the Plans and Specifications and shall pay all such additional Project Costs from its own funds (or from other public or private financing sources available to the Borrower). The Borrower shall pay all costs of issuing the Bonds. The Borrower shall not be entitled to any reimbursement for any such additional Project Costs or payment of issuance costs from the Issuer, the Trustee or any Holder; nor shall it be entitled to any abatement, diminution or postponement of the Loan Payments.

Section 3.7 Completion Date

The Borrower shall notify the Issuer and the Trustee of the Completion Date by the delivery of a Completion Certificate signed by the Authorized Borrower Representative substantially in the form of Exhibit C attached hereto. The Completion Certificate shall be delivered as promptly as practicable after the occurrence of the events and conditions referred to in paragraphs (a) through (d) of the Completion Certificate.

Section 3.8 Investment of Fund Moneys

At the written request of the Borrower, any moneys held as part of the Bond Fund, the Project Fund, the Collateral Fund and the Rebate Fund shall be invested or reinvested by the Trustee in Eligible Investments as provided in Section 5.05 of the Indenture. The Borrower covenants that it will restrict that investment and reinvestment and the use of the proceeds of the Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time of delivery of and payment for the Bonds or subsequent intentional acts, so that the Bonds will not constitute arbitrage bonds under Section 148 of the Code. No provision of this Agreement shall be construed to impose upon the Trustee any obligation or responsibility for compliance with arbitrage regulations.

Section 3.9 Rebate Fund

The Borrower agrees to make such payments to the Trustee as are required of it under Section 5.09 of the Indenture as well as the expenses of any Independent certified public

accounting firm or qualified rebate analyst engaged in accordance with that Section. The obligation of the Borrower to make such payments shall remain in effect and be binding upon the Borrower notwithstanding the release and discharge of the Indenture.

END OF ARTICLE III

ARTICLE IV

LOAN BY ISSUER; REPAYMENT OF THE LOAN; LOAN PAYMENTS AND ADDITIONAL PAYMENTS

Section 4.1 Loan Repayment; Delivery of Note

Upon the terms and conditions of this Agreement and the Note, the Issuer will make the Loan to the Borrower. In consideration of and in repayment of the Loan, the Borrower shall deliver or cause to be delivered to the Trustee on or before each Loan Payment Date, Loan Payments, equal to the amount necessary to pay Bond Debt Service Charges due on the next Bond Payment Date for each of the Series 2014A Bonds and the Series 2014B Bonds. All such Loan Payments shall be paid to the Trustee in accordance with the terms of the Note for the account of the Issuer and shall be held and disbursed in accordance with the provisions of the Indenture and this Agreement.

The Borrower shall be entitled to a credit against the Loan Payments required to be made hereunder, on any date, equal to the amounts, if any, transferred by the Trustee from the Initial Deposit Account, the Project Fund or the Collateral Fund on such date for the payment of Bond Debt Service Charges.

To secure the Borrower's performance of its obligations under this Agreement, the Borrower shall execute and deliver, concurrently with the issuance and delivery of the Bonds, the Note and the Regulatory Agreement.

Upon payment in full of the Bond Debt Service Charges on any or all of the Bonds, in accordance with the Indenture, whether at maturity, upon acceleration or otherwise, or upon provision for the payment of all other obligations herein and therein having been made in accordance with the provisions of the Indenture, (i) if with respect to less than all of the Bonds then outstanding, an appropriate notation shall be endorsed on the Note evidencing the date and amount of the principal payment (or prepayment) equal to the Bonds so paid, or with respect to which provision for payment has been made, and (ii) with respect to all of the Bonds then outstanding, the Note shall be deemed fully paid, the obligations of the Borrower shall be terminated, and the Note shall be surrendered by the Trustee to the Borrower for cancellation. Unless the Borrower is entitled to a credit under express terms of this Agreement or the Note, all payments on the Note shall be in the full amount required thereunder.

The Borrower and the Issuer each acknowledge that neither the Borrower nor the Issuer has any interest in the Bond Fund or the Collateral Fund and any moneys deposited therein shall be in the custody of and held by the Trustee in trust for the benefit of the Holders.

Section 4.2 Additional Payments

The Borrower shall pay to the Issuer or the Trustee, as the case may be, as Additional Payments hereunder the following:

- (a) To the Issuer, on the Closing Date, an administrative fee equal to _____ of one percent (___%) of the principal amount of the Bonds.

(b) To the Issuer or the Trustee, as the case may be, whether or not an Event of Default has occurred hereunder, as payment for or reimbursement or prepayment of any and all costs, expenses, and liabilities (i) incurred or paid by the Issuer or the Trustee, as the case may be, in satisfaction of any obligations of the Borrower hereunder not performed by the Borrower in accordance with the provisions hereof, or (ii) incurred as a result of a request by the Borrower or of a requirement of any Borrower Document or the Indenture and not otherwise required to be paid by the Borrower under this Agreement, or (iii) incurred in the defense of any action or proceeding with respect to the Project or any Borrower Document, or in enforcing any Borrower Document, or arising out of or based upon any other document related to the issuance of the Bonds; and

(c) To the applicable party, as payment for or reimbursement or prepayment of any Ordinary Services and Ordinary Expenses and Extraordinary Services and Extraordinary Expenses of the Trustee as trustee, registrar, authenticating agent and paying agent, and of any other paying agent, authenticating agent, and registrar on the Bonds under the Indenture, all as provided in the Indenture, as and when the same become due, provided that the Borrower may, without creating an Event of Default hereunder, contest in good faith the necessity for any Extraordinary Services and Extraordinary Expenses and the amount of any such Ordinary Services, Ordinary Expenses, Extraordinary Services or Extraordinary Expenses, provided that fees for Ordinary Services provided for by the respective letter agreements agreed to by the Borrower and the Trustee, the Registrar, and any Paying Agents and Authenticating Agents, respectively, shall be considered to be customary.

Upon the payment, prepayment, or incurrence of any such cost, expense, or liability described in this Section by any such party, the Additional Payments in respect thereof shall be payable upon written demand to the Borrower, which demand shall be accompanied by invoices or other appropriate documentation concerning the nature, amount and incurrence of such cost, expense or liability. If the Additional Payments payable under this Section are not paid by the Borrower within ten (10) days of the Borrower's receipt of such demand, such Additional Payments shall bear interest from such tenth (10th) date at the Interest Rate for Advances until the amount due shall have been fully paid.

Section 4.3 Place of Payments

The Borrower shall make all Loan Payments directly to the Trustee at its designated corporate trust office. Additional Payments shall be made directly to the person or entity to whom or to which they are due.

Section 4.4 Obligations Unconditional

The obligations of the Borrower to make Loan Payments, Additional Payments and any payments required of the Borrower under Sections 5.09 and 6.03 of the Indenture shall be absolute and unconditional, and the Borrower shall make such payments without abatement, diminution or deduction regardless of any cause or circumstances whatsoever including, without limitation, any defense, set-off, recoupment or counterclaim which the Borrower may have or assert against the Issuer, the Trustee or any other Person, provided that the Borrower may contest

in good faith the necessity for any Extraordinary Services and Extraordinary Expenses and the amount of any Ordinary Services, Ordinary Expenses, Extraordinary Services or Extraordinary Expenses.

Section 4.5 Assignment of Agreement and Issuer Revenues

To secure the payment of Bond Debt Service Charges, the Issuer shall assign to the Trustee, by the Indenture, its rights under and interest in this Agreement (except for the Unassigned Issuer's Rights) and the Note. The Borrower hereby agrees and consents to those assignments. The Issuer shall not attempt to further assign, transfer or convey its interest in the Issuer Revenues or this Agreement or create any pledge or Lien of any form or nature with respect to the Issuer Revenues or Loan Payments hereunder.

END OF ARTICLE IV

ARTICLE V

ADDITIONAL AGREEMENTS AND COVENANTS

Section 5.1 Right of Inspection

At all reasonable times and upon reasonable notice, the Borrower shall allow any duly authorized representative of the Issuer or the Trustee to visit and inspect the Project, to examine and make copies of and from its books of record and account, and to discuss its affairs, finances, and accounts with its officers, and shall furnish to the Issuer and the Trustee any information reasonably required regarding its business affairs and financial condition within a reasonable time after receipt of written request therefor.

Section 5.2 Borrower to Maintain its Existence; Sales of Assets or Mergers

The Borrower shall maintain its existence, not dissolve or sell, transfer or otherwise dispose of all or substantially all of its assets and not consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it, provided that it may do so if the surviving, resulting or transferee entity is other than the Borrower, it assumes in writing all of the obligations of the Borrower under this Agreement and the Regulatory Agreement and it has a net worth equal to or greater than that of the Borrower immediately prior to such consolidation, merger, sale or transfer. Nothing herein contained shall limit the rights of (i) any direct or indirect owners of interests in the Borrower to (a) transfer, convey, sell or otherwise dispose (a "Transfer") their ownership interests to any Affiliate, or in connection with any estate planning, or by operation of law, or (b) make Transfers among and between themselves, or (ii) Borrower to make Transfers as otherwise permitted by (or subject to the terms and conditions set forth in) the Regulatory Agreement.

Notwithstanding anything to the contrary contained herein or in any other Subordinate Bond Document (as defined in Section 13.14 of the Indenture), and subject to the consent of HUD (as defined in Section 13.14 of the Indenture) prior to each occurrence in accordance with the FHA Loan Documents (as defined in Section 13.14 of the Indenture), the following shall be permitted and shall not require the prior written approval of Issuer, FHA Lender or Trustee, (a) the transfer by the Investor Member of its interest in Borrower in accordance with the terms of Borrower's [Amended and Restated] Operating Agreement, as it may be amended from time to time (the "Partnership Agreement"), (b) the removal of the managing member of Borrower in accordance with the Partnership Agreement and the replacement thereof with the Investor Member, or any of its affiliates, (c) the transfer of ownership interests in the Investor Member or the Special Member, (d) the transfer of the interests of the Investor Member in Borrower to Borrower's managing member or any of its affiliates, and (e) any amendment to the Partnership Agreement to memorialize the transfers or removal described above. The parties agree that this section shall control to the extent of any conflict in any [Subordinate Bond Documents].

Section 5.3 Indemnification

The Borrower releases the Issuer and the Trustee from, agrees that the Issuer and the Trustee shall not be liable for, and indemnifies, defends and holds the Issuer and the Trustee harmless from and against, all liabilities, claims, costs and expenses and attorneys' fees imposed upon, incurred or asserted against the Issuer or the Trustee on account of: (i) any loss or damage to property or injury to or death of or loss by any person that may be occasioned by any cause whatsoever pertaining to the acquisition, financing, construction, occupation, possession, management, equipping, furnishing, maintenance, operation and use of the Project or from any work or thing done in or about the Project site, or any sidewalks, passageways, driveways, curbs, vaults and vault space, streets or parking areas on the Project site or adjacent thereto; (ii) any breach or default on the part of the Borrower in the performance of any covenant or agreement of the Borrower under this Agreement, the Regulatory Agreement, the Note or any related document, or arising from any act or failure to act by the Borrower, or any of its agents, contractors, servants, employees or licensees; (iii) the Borrower's failure to comply with any requirement of this Agreement including the covenant in Section 5.4 hereof; (iv) any action taken or omitted to be taken by the Issuer or the Trustee under this Loan Agreement, the Indenture or the Regulatory Agreement; (v) the issuance of the Bonds; and (vi) any claim, action or proceeding brought with respect to any matter set forth in clause (i), (ii), (iii), (iv) or (v) above, provided, however, that the indemnification provided in this Section shall not apply to any matter arising or resulting from the gross negligence or willful misconduct of the party proposed to be indemnified hereunder.

The Borrower agrees to indemnify the Trustee for and to hold it harmless against all liabilities, claims, costs and expenses incurred without negligence or willful misconduct on the part of the Trustee, on account of any action taken or omitted to be taken by the Trustee in accordance with the terms of this Agreement, the Bonds, the Regulatory Agreement, the Note or the Indenture or any action taken at the request of or with the consent of the Borrower, including the costs and expenses of the Trustee in defending itself against any such claim, action or proceeding brought in connection with the exercise or performance of any of its powers or duties under this Agreement, the Bonds, the Indenture, the Regulatory Agreement or the Note.

In case any action or proceeding is brought against the Issuer or the Trustee in respect of which indemnity may be sought hereunder, the party seeking indemnity promptly shall give notice of that action or proceeding to the Borrower, and the Borrower upon receipt of that notice shall have the obligation and the right to assume the defense of the action or proceeding, provided that failure of a party to give that notice shall not relieve the Borrower from any of its obligations under this Section unless that failure prejudices the defense of the action or proceeding by the Borrower. The indemnified party shall have the right to employ separate counsel in any such action or proceedings and to participate in the defense thereof, but, unless such separate counsel is employed with the approval and consent of the Borrower, or because the indemnified party has been advised by counsel that there may be a conflict of interest between the Borrower and the indemnified party, the Borrower shall not be required to pay the fees and expenses of such separate counsel. The Borrower shall not be liable for any settlement made without its consent, which consent shall not be unreasonably withheld, conditioned or delayed.

The indemnification set forth above is intended to and shall include the indemnification of all affected officials, directors, officers, agents and employees of the Issuer and the Trustee,

respectively. That indemnification is intended to and shall be enforceable by the Issuer and the Trustee, respectively, to the full extent permitted by law.

Section 5.4 Borrower Not to Adversely Affect Exclusion from Gross Income of Interest on Bonds

The Borrower hereby represents that it has taken and caused to be taken, and covenants that it will take and cause to be taken, all actions that may be required of it, alone or in conjunction with the Issuer, for the interest on the Bonds to be and to remain excluded from gross income for federal income tax purposes, and represents that it has not taken or permitted to be taken on its behalf, and covenants that it will not take or permit to be taken on its behalf, any actions that would adversely affect such exclusion under the provisions of the Code.

Section 5.5 Affirmative Covenants

Unless the Issuer or the FHA Lender shall otherwise consent in writing:

(a) Maintenance of Properties. The Borrower shall maintain and preserve in good working order and condition, ordinary wear and tear and casualty loss excepted, all of its properties which are necessary or useful in the proper conduct of its business, and shall from time to time make all necessary repairs, renewals, replacements, additions and improvements to said properties. All damage to apartment units shall be repaired promptly and apartment units shall be maintained so as to be available at all times for habitation.

(b) Keeping of Records and Books of Account. The Borrower shall keep adequate records and books of account in which complete entries will be made in accordance with GAAP or indicating deviations therefrom, reflecting all financial transactions. The Borrower shall deliver to the Trustee annually its year end financial statements accompanied by a written statement of the Borrower's independent public accountants that in making the examination necessary for certification of such financial statements, nothing has come to their attention that would lead them to believe that the Borrower has violated any of the terms, covenants or provisions of this Agreement insofar as it relates to accounting matters.

(c) Payment of Taxes, Etc. The Borrower shall promptly pay and discharge: all taxes, assessments, fees, and other government charges or levies imposed upon it or upon any of its properties, income or profits, before the same shall become delinquent; all lawful claims of materialmen, mechanics, carriers, warehousemen, landlords and other similar Persons for labor, materials, supplies and rentals, which if unpaid might by law become a Lien upon its properties; any Indebtedness heretofore or hereafter incurred by it when due, and discharge, perform and observe covenants, provisions and conditions to be discharged, performed and observed by it in connection therewith, or in connection with any agreement or other instrument relating thereto or in connection with any Lien existing at any time upon any of its properties, provided, however, that the Borrower shall not be required to pay any of the foregoing if (a) the amount, applicability or validity thereof shall currently be contested in good faith by appropriate proceedings, (b)

the Borrower shall have set aside on its books adequate reserves with respect thereto and (c) the title of the Borrower to, and its right to use, its properties is not materially and adversely affected thereby. The Borrower hereby agrees that, in the event it fails to pay or cause to be paid taxes, assessments, fees and other government charges or levies or the premium on any required insurance and such failure constitutes a default under the FHA Loan Documents, the Trustee may make such payment, but is not obligated to do so, and the Trustee shall be reimbursed by the Borrower therefor with interest on the amount so advanced at the Interest Rate for Advances as provided in Section 4.2 hereof.

(d) Insurance. The Borrower shall at all times maintain, or cause to be maintained, insurance of such types and in such amounts as required by the FHA Loan Documents.

(e) Notice of Material Litigation. The Borrower shall promptly notify the Issuer and the Trustee in writing of any litigation, arbitration proceeding or administrative investigation, inquiry or other proceeding to which it may hereafter become a party or be subject to which may result in a change in the business or assets or in the condition, financial or otherwise, of the Borrower which would materially impair the ability of the Borrower to perform this Agreement, the Regulatory Agreement, the Borrower guaranties or the Note, or any other agreement or instrument herein or therein contemplated.

(f) Notice of Default. In the event that any Event of Default occurs under this Agreement, the Borrower shall give prompt notice in writing of such happening to the Trustee.

(g) Performance of Contracts, Etc. Except to the extent contested in good faith, the Borrower shall perform according to and shall comply with all of its Contractual Obligations and all Requirements of Law if nonperformance thereof would result in a change in the business or assets or in the condition, financial or otherwise, of the Borrower which would materially impair the ability of the Borrower to perform this Agreement, the Regulatory Agreement or the Note or any other agreement or instrument herein or therein contemplated.

(h) Notice of Other Matters. The Borrower shall promptly notify the Trustee in writing of any of the following events:

(i) Any event with respect to the business or assets or in the condition, financial or otherwise, of the Borrower which would materially impair the ability of the Borrower to perform its obligations under this Agreement, the Regulatory Agreement or the Note or any other agreement or instrument herein or therein contemplated.

(ii) A default by the Borrower in any material respect under any material agreement to which the Borrower is a party or by which the Borrower or its properties or assets may be bound, giving in each case the details thereof and specifying the action proposed to be taken with respect thereto.

(i) Cooperation in Perfecting Security Interests, Etc. The Borrower shall promptly perform such acts as may be necessary or advisable to perfect and maintain any Lien provided for in this Agreement or in any agreement or document contemplated herein or therein, or otherwise to carry out the intent of this Agreement. The Borrower shall, and shall promptly execute, deliver and perform or cause to be done, executed, delivered and performed all such documents, instruments, agreements, things and acts, including, without limitation, financing statements, continuation statements and mortgages as may be necessary or advisable to perfect or maintain a Lien on any and all assets or rights owned by the Borrower, or any interest of the Borrower therein.

(j) Environmental Matters. The Borrower will take and continue to take prompt action to remedy all environmental pollution and contamination, hazardous waste disposal and other environmental cleanup problems, if any, whether or not such cleanup problems have resulted from the order or request of a municipal, state, federal, administrative or judicial authority, or otherwise. The foregoing covenant shall not constitute or create a waiver of any rights the Borrower may have to pursue any legal rights or remedies against any third party for any environmental claims.

(k) Non-discrimination. The Borrower will not discriminate, and will require each contractor, subcontractor and commercial tenant of the Project to covenant that it will not discriminate by reason of race, creed, color, handicap, national origin or sex in the employment of any Person employed by it in connection with the Project or working in or on the Project. The Borrower will require each manager of the Project to covenant that in the leasing of the Project it will not discriminate by reason of race, creed, color, handicap, national origin or sex.

(l) Patriot Act. The Borrower covenants and agrees to provide documentation as reasonably requested or required by the Trustee to enable the Trustee to comply with the requirements of the USA Patriot Act as described in Section 13.13 of the Indenture.

Section 5.6 Additional Indebtedness

So long as no Event of Default or default hereunder shall have occurred and be continuing, the Borrower shall be permitted to incur any Indebtedness for any Project Cost or other obligation or payment due under this Agreement, the Indenture or the Regulatory Agreement.

Section 5.7 Nature of Business

The Borrower will not change the general character of its business as conducted at the date hereof, or engage in any type of business not reasonably related to its business as normally conducted.

Section 5.8 Cooperation in Enforcement of Regulatory Agreement

In order to maintain the exclusion from gross income under federal tax law of interest on the Bonds and to assure compliance with the laws of the State (including the Act), the Borrower hereby agrees that it shall, concurrently with or before the execution and delivery of the Bonds, execute and deliver and cause to be recorded the agreement defined in the Indenture as the “Regulatory Agreement.” The Borrower hereby covenants and agrees as follows:

- (a) to comply with all provisions of the Regulatory Agreement;
- (b) to advise the Issuer in writing promptly upon learning of any default with respect to the covenants, obligations and agreements of the Borrower set forth in the Regulatory Agreement;
- (c) upon written direction by the Issuer, to cooperate fully and promptly with the Issuer in enforcing the terms and provisions of the Regulatory Agreement; and
- (d) to file in accordance with the time limits established by the Regulatory Agreement all reports and certificates required thereunder, and the annual certification to the Secretary of the Treasury required by the Regulatory Agreement.

The Issuer shall not incur any liability in the event of any breach or violation of a Regulatory Agreement by the Borrower, and the Borrower agrees to indemnify the Issuer from any claim or liability for such breach pursuant to Section 5.3 hereof.

Section 5.9 Tax Exempt Status of the Bonds

(a) It is the intention of the Issuer and the Borrower that interest on the Bonds shall be and remain excludable from gross income for federal income taxation purposes, and to that end the covenants and agreements of the Borrower in this Section 5.9 are for the benefit of the owners of the Bonds and the Issuer.

(b) The Borrower covenants and agrees that it will not (i) use or permit the use of any of the funds provided by the Issuer hereunder or any other funds of the Borrower, directly or indirectly, in such manner as would, or (ii) enter into, or allow any “related person” (as defined in Section 147(a)(2) of the Code) to enter into, any arrangement, formal or informal, for the purchase of the Bonds that would, or (iii) take or omit to take any other action that would, in each case cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code.

(c) In the event that at any time the Borrower is of the opinion or becomes otherwise aware that for purposes of this Section 5.9 it is necessary to restrict or to limit the yield on the investment of any moneys held under the Indenture or otherwise by the Trustee, the Borrower shall determine the limitations and so instruct the Trustee in writing and cause the Trustee to comply with those limitations under the Indenture.

(d) The Borrower will take such action or actions as may be necessary to fully comply with the Tax Agreement and with Section 148 of the Code as applicable to the Bonds.

(e) The Borrower further agrees that it shall not discriminate on the basis of race, creed, color, sex, sexual preference, source of income (e.g. AFDC, SSI), physical disability, national origin or marital status in the lease, use or occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project, to the extent required by applicable State or federal law.

(f) The Borrower further warrants and covenants that it has not executed and will not execute any other agreement, or any amendment or supplement to any other agreement, with provisions contradictory to, or in opposition to, the provisions, of this Loan Agreement and of the Regulatory Agreement, and that in any event, the requirements of this Loan Agreement and the Regulatory Agreement are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith and therewith.

(g) The Borrower will use due diligence to complete the acquisition and rehabilitation of all of the units comprising the Project and reasonably expects to fully expend the entire \$_____ principal amount of the Loan by the earlier of _____ 1, 20__ or the day before the Maturity Date.

(h) The Borrower will take such action or actions as necessary to ensure compliance with Sections 2.2(e), (g), (h), (i), (l), (n), (o) and (p) hereof.

Section 5.10 Useful Life

The Borrower hereby represents and warrants that, within the meaning of Section 147(a)(14) of the Code, the average maturity of the Combined Bonds does not exceed 120 percent of the average reasonably expected economic life of the facilities being financed with the proceeds of the Bonds.

Section 5.11 Federal Guarantee Prohibition

The Borrower shall take no action, nor permit nor suffer any action to be taken if the result of the same would be to cause the Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code.

Section 5.12 Prohibited Facilities

The Borrower represents and warrants that no portion of the proceeds of the Loan shall be used to provide any airplane, skybox or other private luxury box, health club facility, facility primarily used for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off premises, and no portion of the proceeds of the Loan shall be used for an office unless (a) the office is located on the premises of facilities constituting a portion of the Project and (b) not more than a de minimis amount of the functions to be performed at such office is not related to the day-to-day operations of the Project.

END OF ARTICLE V

ARTICLE VI

PREPAYMENT

Optional Prepayment

The Note may be prepaid by the Borrower in whole or in part any Business Day occurring on or after _____ 1, ____, without penalty at a prepayment price equal to the outstanding principal amount plus any unpaid accrued interest on the Note. In order to prepay Note, the Borrower shall give the Trustee written notice at least thirty-five (35) days prior to the prepayment date to effect an optional redemption of the Bonds pursuant to Section 4.01 of the Indenture.

END OF ARTICLE VI

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

Section 7.1 Events of Default

Each of the following shall be an Event of Default:

(a) The Borrower shall fail to pay any Loan Payment on or prior to the date on which that Loan Payment is due and payable or within the Loan Payment Cure Period;

(b) The Borrower shall fail to observe and perform any other agreement, term or condition contained in this Agreement and the continuation of such failure for a period of thirty (30) days after written notice thereof shall have been given to the Borrower and the Investor Limited Partner by the Issuer or the Trustee, or for such longer period as the Issuer and the Trustee may agree to in writing, provided that if the failure is other than the payment of money and is of such nature that it can be corrected but not within the applicable period, that failure shall not constitute an Event of Default so long as the Borrower institutes curative action within the applicable period and diligently pursues that action to completion, which must be resolved within one hundred eighty (180) days after the aforementioned notice;

(c) The Borrower shall: (i) admit in writing its inability to pay its debts generally as they become due; (ii) have an order for relief entered in any case commenced by or against it under the federal bankruptcy laws, as now or hereafter in effect, which is not dismissed within ninety (90) days; (iii) voluntarily commence a proceeding under any other federal or state bankruptcy, insolvency, reorganization or similar law, or have such a proceeding commenced against it and either have an order of insolvency or reorganization entered against it or have the proceeding remain undismissed and unstayed for ninety (90) days; (iv) make an assignment for the benefit of creditors; or (v) have a receiver or trustee appointed for it or for the whole or any substantial part of its property which appointment is not vacated within a period of ninety (90) days;

(d) Any representation or warranty made by the Borrower herein or any statement in any report, certificate, financial statement or other instrument furnished in connection with this Agreement or with the purchase of the Bonds shall at any time prove to have been false or misleading in any adverse material respect when made or given; and

(e) There shall occur an "Event of Default" as defined in the Indenture or the Regulatory Agreement.

Notwithstanding the foregoing, if, by reason of Force Majeure, the Borrower is unable to perform or observe any agreement, term or condition hereof which would give rise to an Event of Default under subsection (b) hereof, the Borrower shall not be deemed in default during the continuance of such inability. However, the Borrower shall promptly give notice to the Trustee and the Issuer of the existence of an event of Force Majeure and shall use commercially

reasonable efforts to remove the effects thereof, provided that the settlement of strikes or other industrial disturbances shall be entirely within its discretion.

The term “Force Majeure” shall mean, without limitation, the following:

- (i) acts of God; strikes, lockouts or other industrial disturbances; acts of terrorism or of public enemies; orders or restraints of any kind of the government of the United States of America or of the State or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; civil disturbances; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; tornados; storms; droughts; floods; arrests; restraint of government and people; explosions; breakage, malfunction or accident to facilities, machinery, transmission pipes or canals; partial or entire failure of utilities; shortages of labor, materials, supplies or transportation; or
- (ii) any cause, circumstance or event not reasonably within the control of the Borrower.

The declaration of an Event of Default under subsection (c) above, and the exercise of remedies upon any such declaration, shall be subject to any applicable limitations of federal bankruptcy law affecting or precluding that declaration or exercise during the pendency of or immediately following any bankruptcy, liquidation or reorganization proceedings.

Section 7.2 Remedies on Default

Whenever an Event of Default shall have happened and be subsisting, any one or more of the following remedial steps may be taken:

- (a) If acceleration of the principal amount of the Bonds has been declared pursuant to Section 7.03 of the Indenture, the Trustee shall declare all Loan Payments to be immediately due and payable together with any other amounts payable by the Borrower under this Agreement and the Note whereupon the same shall become immediately due and payable;
- (b) The Trustee may exercise any or all or any combination of the remedies specified in this Agreement;
- (c) The Issuer or the Trustee may have access to, inspect, examine and make copies of the books, records, accounts and financial data of the Borrower pertaining to the Project; or
- (d) The Issuer or the Trustee may pursue all remedies now or hereafter existing at law or in equity to collect all amounts then due and thereafter to become due under this Agreement, the Regulatory Agreement and the Note or to enforce the performance and observance of any other obligation or agreement of the Borrower under those instruments.

Notwithstanding the foregoing, neither the Issuer nor the Trustee, as assignee of the Issuer, shall be obligated to take any step which in its respective opinion will or might cause it to expend time or money or otherwise incur liability unless and until a satisfactory indemnity bond has been furnished to the Issuer or the Trustee, as applicable, at no cost or expense to the Issuer or the Trustee. Any amounts collected as Loan Payments or applicable to Loan Payments and any other amounts which would be applicable to payment of Bond Debt Service Charges collected pursuant to action taken under this Section shall be paid into the Bond Fund and applied in accordance with the provisions of the Indenture or, if the Outstanding Bonds have been paid and discharged in accordance with the provisions of the Indenture, shall be paid as provided in Section 5.08 of the Indenture for transfers of remaining amounts in the Bond Fund.

The provisions of this Section are subject to the further limitation that the rescission by the Trustee of its declaration that all of the Bonds are immediately due and payable also shall constitute an annulment of any corresponding declaration made pursuant to paragraph (a) of this Section and a waiver and rescission of the consequences of that declaration and of the Event of Default with respect to which that declaration has been made, provided that no such waiver or rescission shall extend to or affect any subsequent or other default or impair any right consequent thereon.

Section 7.3 No Remedy Exclusive

No remedy conferred upon or reserved to the Issuer or the Trustee by this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement, the Regulatory Agreement or the Note, or now or hereafter existing at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair that right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than any notice required by law or for which express provision is made herein.

Section 7.4 Agreement to Pay Attorneys' Fees and Expenses

If the Issuer or the Trustee should incur expenses, including attorneys' fees, in connection with the enforcement of this Agreement, the Regulatory Agreement or the Note or the collection of sums due thereunder, the Borrower shall reimburse the Issuer and the Trustee, as applicable, for the expenses so incurred upon demand.

Section 7.5 No Waiver

No failure by the Issuer or the Trustee to insist upon the strict performance by the Borrower of any provision hereof shall constitute a waiver of their right to strict performance and no express waiver shall be deemed to apply to any other existing or subsequent right to remedy the failure by the Borrower to observe or comply with any provision hereof.

Section 7.6 Notice of Default

The Borrower shall notify the Trustee immediately if it becomes aware of the occurrence of any Event of Default hereunder or of any fact, condition or event which, with the giving of notice or passage of time or both, would become an Event of Default.

Section 7.7 Investor Limited Partner's Cure Rights

The Issuer hereby agrees that any cure of any Event of Default hereunder made or tendered by the Investor Limited Partner shall be deemed to be cured by the Borrower, and shall be accepted or rejected by the Issuer on the same basis as if made or tendered by the Borrower.

END OF ARTICLE VII

ARTICLE VIII

MISCELLANEOUS

Section 8.1 Term of Agreement

This Agreement shall be and remain in full force and effect from the date of delivery of the Bonds to the Holder until such time as all of the Bonds shall have been fully paid (or provision made for such payment) pursuant to the Indenture and all other sums payable by the Borrower under this Agreement and the Note shall have been paid, except for obligations of the Borrower under Sections 3.9, 4.2 and 5.3 hereof, which shall survive any termination of this Agreement.

Section 8.2 Amounts Remaining in Funds

Any amounts in the Bond Fund remaining unclaimed by the Holders of Bonds for two years after the due date thereof (whether at stated maturity or otherwise), at the option of the Borrower, shall be deemed to belong to and shall be paid, at the written request of the Borrower, to the Borrower by the Trustee as overpayment of Loan Payments. With respect to that principal of and interest on the Bonds to be paid from moneys paid to the Borrower pursuant to the preceding sentence, the Holders of the Bonds entitled to those moneys shall look solely to the Borrower for the payment of those moneys. Further, any amounts remaining in the Bond Fund, the Project Fund and any other special funds or accounts created under this Agreement, the Regulatory Agreement or the Indenture after all of the Outstanding Bonds shall be deemed to have been paid and discharged under the provisions of the Indenture and all other amounts required to be paid under this Agreement, the Note, Regulatory Agreement and the Indenture have been paid, shall be paid to the Borrower to the extent that those moneys are in excess of the amounts necessary to effect the payment and discharge of the outstanding Bonds.

Section 8.3 Notices

All notices, certificates, requests or other communications hereunder shall be given in the same manner as notices, certificates, requests and other communications are to be given under Section 13.03 of the Indenture.

Section 8.4 Extent of Covenants of the Issuer; No Personal Liability

All covenants, obligations and agreements of the Issuer contained in this Agreement and the Indenture shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, officer, agent or employee of the Issuer or the Council in other than his official capacity, and neither the members of the Council nor any official executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof or by reason of the covenants, obligations or agreements of the Issuer contained in this Agreement or in the Indenture.

Section 8.5 Binding Effect

This Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the Issuer, the Borrower and their respective permitted successors and assigns provided that this Agreement may not be assigned by the Borrower (except in connection with a sale or transfer of assets pursuant to Section 5.2 hereof) and may not be assigned by the Issuer except to the Trustee pursuant to the Indenture or as otherwise may be necessary to enforce or secure payment of Bond Debt Service Charges. This Agreement may be enforced only by the parties, their assignees and others who may, by law, stand in their respective places.

Section 8.6 Amendments and Supplements

Except as otherwise expressly provided in this Agreement or the Indenture, subsequent to the issuance of the Bonds and prior to all conditions provided for in the Indenture for release of the Indenture having been met, this Agreement, the Regulatory Agreement and the Note may not be effectively amended, changed, modified, altered or terminated except in accordance with the provisions of Article XI of the Indenture, as applicable.

Section 8.7 Execution Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

Section 8.8 Severability

If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

Section 8.9 Governing Law

This Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State.

Section 8.10 Non-Recourse Obligations

Notwithstanding anything to the contrary set forth herein, in the Note and in any other document delivered in connection herewith, it is hereby expressly agreed and understood that the obligations of Borrower hereunder, under the Note and under every document executed and delivered in connection herewith, are non-recourse. Neither the Borrower nor any member, partner, officer, director or employee of the Borrower (each, a "Related Party") shall have any personal liability for the repayment of the Loan. In furtherance thereof, the Issuer and the Trustee shall be entitled to look solely and exclusively to the Issuer Revenues, the Project and any income derived therefrom for the payment and other obligations of Borrower hereunder,

under the Note and all evidences of indebtedness secured hereby, and shall not seek a personal judgment against any member, partner, officer, director, member or stockholder of the Borrower, provided that nothing herein shall relieve any such Related Party from liability for any of the following:

- (a) rent collected for more than one month in advance and received by a Related Party and not applied to the reasonable operating requirements of the Project;
- (b) misappropriation or misapplication by a Related Party of insurance or eminent domain proceeds;
- (c) fraud or material misrepresentation by a Related Party against the Issuer or the Holder;
- (d) conversion by a Related Party of all or a material portion of the Project; or
- (e) gross negligence, willful misconduct or intentional torts of a Related Party relating to the Project or the revenues therefrom.

Section 8.11 HUD-Required Provisions

Borrower and Issuer acknowledge that this Agreement, and all Borrower's obligations hereunder, are subject and subordinate to the FHA Loan Documents. Notwithstanding any provisions of this Agreement to the contrary, no obligations of the Borrower hereunder shall be payable except from (A) Surplus Cash (as defined in the FHA Regulatory Agreement) or (B) funds that are not derived from revenues of the Project (as defined in the FHA Mortgage), any proceeds of the FHA Note, any reserve or deposit made with the FHA Lender or any other party as required by HUD in connection with the FHA Loan Documents (collectively, "Non-Project Sources"). No claims or actions shall be made (or payable) under this Agreement against the Project, the FHA Lender, the proceeds of the FHA Note, or the assets of the Borrower, except for Surplus Cash of the Borrower. In addition, the rights and obligations of the parties under this Agreement and all other documents evidencing, implementing, or securing this Agreement (collectively, the "Subordinate Bond Documents") are and shall be subordinated in all respects rights and obligations of the parties to and under the FHA Loan Documents. In the event of any conflict between the provisions of (i) this Agreement or the Subordinate Bond Documents and (ii) the provisions of the FHA Loan Documents or the Program Obligations (as defined in the FHA Mortgage), the provisions of the FHA Loan Documents or the Program Obligations shall control. The provisions of this Section 8.11 shall control over any inconsistent provisions in this Agreement or the Subordinate Bond Documents. This Agreement shall not be amended or modified without the prior written consent of HUD.

Section 8.12 Limitation on Liability of the Issuer

The Issuer shall not be obligated to pay the principal of or interest on the Bonds, except from moneys and assets received by the Trustee on behalf of the Issuer pursuant to this Loan Agreement, or from amounts held by the Trustee under the Indenture. Neither the faith and credit nor the taxing power of the State, or any political subdivision thereof, nor the faith and credit of the Issuer is pledged to the payment of the principal of or interest on the Bonds. The

Issuer shall not be liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with this Loan Agreement, the Note, the Bonds, the Indenture or the Regulatory Agreement except only to the extent amounts are received for the payment thereof from the Borrower under this Loan Agreement, or from amounts held by the Trustee under the Indenture.

The Borrower hereby acknowledges that the Issuer's sole source of moneys to repay the Bonds will be provided by the payments made by the Borrower pursuant to this Loan Agreement, and amounts in certain funds and accounts held by the Trustee under the Indenture, and hereby agrees that if the payments to be made hereunder shall ever prove insufficient to pay all principal of and interest on the Bonds as the same shall become due (whether by maturity, redemption, acceleration or otherwise), then upon notice from the Trustee, the Borrower shall pay such amounts as are required from time to time to prevent any deficiency or default in the payment of such principal of or interest on the Bonds, including, but not limited to, any deficiency caused by acts, omissions, nonfeasance or malfeasance on the part of the Trustee, the Borrower, the Issuer or any third party, subject to any right of reimbursement from the Trustee, the Issuer or any such third party, as the case may be, therefor.

Section 8.13 Waiver of Personal Liability

No Commissioner, officer, agent or employee of the Issuer shall be individually or personally liable for the payment of any principal of or interest on the Bonds or any other sum hereunder or be subject to any personal liability or accountability by reason of the execution and delivery of this Loan Agreement; but nothing herein contained shall relieve any such Commissioner, director, officer, agent or employee from the performance of any official duty provided by law or by this Loan Agreement.

Section 8.14 Delivery of Reports, Etc.

The delivery of reports, information and documents to the Issuer as provided herein is for informational purposes only and the Issuer's receipt of such shall not constitute constructive knowledge of any information contained therein or determinable from information contained therein. The Issuer shall have no duties or responsibilities except those that are specifically set forth herein, and no other duties or obligations shall be implied in this Loan Agreement against the Issuer.

Section 8.15 Audit Expenses. The Borrower agrees to pay any costs incurred by the Issuer, including fees of Issuer's counsel, as a result of the Issuer's compliance with an audit or inquiry of any kind, random or otherwise, by the Internal Revenue Service, the Minnesota Department of Revenue, the Minnesota Office of the State Auditor, or any other governmental agency with respect to the Combined Bonds or the Project.

END OF ARTICLE VIII

YORKTOWN CONTINENTAL, LP

By: _____
General Partner

By: _____
[TITLE]

[BORROWER SIGNATURE PAGE TO LOAN AGREEMENT]

CITY OF EDINA, MINNESOTA

By: _____
Mayor

By: _____
City Manager

[ISSUER SIGNATURE PAGE TO LOAN AGREEMENT]

EXHIBIT A

FORM OF SERIES 2014A NOTE

This Note has not been registered under the Securities Act of 1933. Its transferability is restricted by the Trust Indenture and the Loan Agreement referred to herein.

\$ _____, 20__

Yorktown Continental, LP, a Minnesota limited partnership (the “Borrower”), for value received, promises to pay in installments to the City of Edina, Minnesota, as Issuer (the “Issuer”) under the Indenture hereinafter referred to, the principal sum of

_____ MILLION _____ THOUSAND DOLLARS.

and to pay interest on the unpaid balance of such principal sum from and after the date hereof at the rate of ___% per annum, until the payment of such principal sum has been made or provided for. The principal amount stated above shall be paid on or before the fifth Business Day (as defined in the Indenture defined herein) immediately preceding the Maturity Date (as defined in the Indenture defined herein). Interest shall be calculated on the basis of a 360-day year of 12 equal months. Interest on this Note shall be paid in Federal Reserve funds on the fifth Business Day next preceding each _____ 1 and _____ 1, commencing _____ 1, 20__ (the “Interest Payment Dates”).

This Note has been executed and delivered by the Borrower to the Issuer pursuant to a certain Loan Agreement (the “Agreement”) dated as of July 1, 2014, between the Issuer and the Borrower. Terms used but not defined herein shall have the meanings ascribed to such terms in the Agreement and the Indenture, as defined below.

Under the Agreement, the Issuer has loaned the Borrower a portion of the principal proceeds received from the sale of the Issuer’s \$_____ Multifamily Housing Revenue Bonds (Yorktown Continental, LP), Series 2014A dated, as originally issued, as of July __, 2014 (the “Bonds”) to assist in the financing of the Project, and the Borrower has agreed to repay such loan by making payments (“Loan Payments”) at the times and in the amounts set forth in this Note for application to the payment of Bond Debt Service Charges on the Bonds as and when due. The Bonds have been issued, concurrently with the execution and delivery of this Note, pursuant to, and are secured by, the Trust Indenture (the “Indenture”), dated as of July 1, 2014, between the Issuer and U.S. Bank National Association, as Trustee (the “Trustee”) and in the Indenture has been assigned by the Issuer to the Trustee to secure the repayment of principal and interest on the Bonds and other amounts under the Indenture.

To provide funds to pay the principal of and interest on the Bonds as and when due as specified herein, the Borrower hereby agrees to and shall make Loan Payments in Federal Reserve funds on the 5th Business Day immediately preceding each Interest Payment Date in an amount equal to the Bond Debt Service Charges on the Bonds payable on the next succeeding Interest Payment Date related thereto. In addition, to provide funds to pay the Bond Debt Service Charges on the Bonds as and when due at any other time, the Borrower hereby agrees to and shall make Loan Payments in United States Federal Reserve funds on the fifth Business Day

immediately preceding any other date on which any Bond Debt Service Charges on the Bonds shall be due and payable, whether at maturity, upon acceleration or otherwise, in an amount equal to those Bond Debt Service Charges.

If payment or provision for payment in accordance with the Indenture is made in respect of the Bond Debt Service Charges on the Bonds from moneys other than Loan Payments, this Note shall be deemed paid to the extent such payments or provision for payment of Bonds has been made. Consistent with the provisions of the immediately preceding sentence, the Borrower shall have credited against its obligation to make Loan Payments any amounts transferred from the Project Fund or the Collateral Fund to the Bond Fund. Subject to the foregoing, all Loan Payments shall be in the full amount required hereunder.

All Loan Payments shall be made to the Trustee at its designated corporate trust office for the account of the Issuer and deposited in the Bond Fund created by the Indenture. Except as otherwise provided in the Indenture, the Loan Payments shall be used by the Trustee to pay the Bond Debt Service Charges on the Bonds as and when due.

The obligation of the Borrower to make the payments required hereunder shall be absolute and unconditional and the Borrower shall make such payments without abatement, diminution or deduction regardless of any cause or circumstances whatsoever including, without limitation, any defense, set-off, recoupment or counterclaim which the Borrower may have or assert against the Issuer, the Trustee or any other person.

This Note is subject to optional prepayment by the Borrower on the terms stated in the Agreement.

Whenever an Event of Default under Section 7.01 of the Indenture shall have occurred and, as a result thereof, the principal of and any premium on all Bonds then outstanding, and interest accrued thereon, shall have been declared to be immediately due and payable pursuant to Section 7.03 of the Indenture, the unpaid principal amount of and any premium and accrued interest on this Note shall also be due and payable in Federal Reserve funds on the date on which the principal of and premium and interest on the Bonds shall have been declared due and payable, provided that the annulment of a declaration of acceleration with respect to the Bonds shall also constitute an annulment of any corresponding declaration with respect to this Note.

The payment obligations of this Note are non-recourse to the Borrower to the extent set forth in Section 8.10 of the Agreement.

Borrower, Trustee and Issuer acknowledge that this Note, and all Borrower's obligations hereunder, are subject and subordinate to the FHA Loan Documents (i) FHA-Insured Note (Multistate) dated as of _____ 1, 20__ from Borrower to FHA Lender, initially endorsed for mortgage insurance by the Secretary of Housing and Urban Development ("HUD") pursuant to Section 221(d)(4) of the National Housing Act, as amended (the "FHA Note"); (ii) Multifamily Mortgage, Assignment of Leases and Rents, and Security Agreement ([State]) dated as of [Dated Date] from Borrower for the benefit of FHA Lender to secure the FHA Note (the "FHA Mortgage"); (iii) Regulatory Agreement dated as of [Dated Date] between Borrower and HUD (the "HUD Regulatory Agreement"); and (iv) any and all other documents, agreements, or

instruments which evidence or secure the indebtedness evidenced by the FHA Note. Notwithstanding any provision in this Note to the contrary, this Note shall not be due and payable prior to the maturity date of the FHA Note, provided that it may be prepaid at any time from (A) Surplus Cash (as defined in the HUD Regulatory Agreement) or (B) funds that are not derived from revenues of the Project (as defined in the FHA Mortgage), any proceeds of the FHA Note, any reserve or deposit made with the FHA Lender or any other party as required by HUD in connection with the FHA Loan Documents (collectively, "Non-Project Sources"), but provided further that no prepayment of this Note is permitted prior to the "final endorsement" of the FHA Note for mortgage insurance by HUD. Payments due under this Note may only be paid from Surplus Cash (but in no event greater than 75% of the total amount of Surplus Cash) or from Non-Project Sources, provided that this restriction on payment shall not excuse any default caused by the failure of the Borrower to pay the indebtedness evidenced by this Note. In addition, (1) the indebtedness evidenced by this Note and all other documents evidencing or securing this Note (collectively, the "Subordinate Loan Documents") are and shall be subordinated in right of payment, to the prior payment in full of the indebtedness evidenced by the FHA Loan Documents, and (2) the Subordinate Loan Documents are and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the FHA Mortgage and the other FHA Loan Documents and to all advances heretofore made or which may hereafter be made pursuant to the FHA Mortgage and the other FHA Loan Documents (including but not limited to, all sums advanced for the purposes of (a) protecting or further securing the lien of the FHA Mortgage, curing defaults by Borrower under the FHA Loan Documents or for any other purpose expressly permitted by the FHA Mortgage, or (b) constructing, renovating, repairing, furnishing, fixturing or equipping the Project).

In the event of any conflict between the provisions of (i) this Note [or the Subordinate Loan Documents] and (ii) the provisions of the FHA Loan Documents or the Program Obligations (as defined in the FHA Mortgage), the provisions of the FHA Loan Documents or the Program Obligations shall control.

IN WITNESS WHEREOF, the Borrower has caused this Note to be executed in its name as of the date first above written.

YORKTOWN CONTINENTAL, LP

By: _____
General Partner

By: _____
[TITLE]

EXHIBIT B

BORROWER'S CERTIFICATE TO FHA LENDER AND TRUSTEE

STATEMENT NO. _____ REQUESTING DISBURSEMENT OF FUNDS FROM
PROJECT FUND PURSUANT TO SECTION 3.4 OF THE LOAN AGREEMENT
DATED AS OF JULY 1, 2014 BETWEEN THE
CITY OF EDINA, MINNESOTA
AND YORKTOWN CONTINENTAL, LP

Pursuant to Section 3.4 of the Loan Agreement (the "Agreement") between the City of Edina, Minnesota (the "Issuer") and Yorktown Continental, LP, a Minnesota limited partnership (the "Borrower"), dated as of July 1, 2014, the undersigned Authorized Borrower Representative hereby requests and authorizes U.S. Bank National Association, as trustee (the "Trustee"), as depository of the Project Fund created by the Indenture, to disburse out of the moneys deposited in the Project Fund in the amount(s) and to the person(s) set forth in this certificate immediately upon a corresponding amount of HUD Funds or other Available Moneys being deposited by the FHA Lender or the Borrower into the Collateral Fund. Capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Indenture referenced in the Agreement.

To induce the Trustee to release moneys deposited in the Project Fund pursuant to the terms of the Indenture and the Agreement in the amounts(s) and to the person(s) set forth herein and in the Disbursement Schedule attached hereto, the undersigned Borrower represents, warrants and certifies to the Issuer and the Trustee:

- (a) Each item for which disbursement is requested hereunder either (i) are presently due and payable, constitute Project Costs properly incurred by the Borrower in connection with the Project being financed with the proceeds of the Loan, or are reimbursable Project Costs properly chargeable against the Loan; or (ii) are to be deposited to an escrow fund to be disbursed therefrom solely for Project Costs properly incurred by the Borrower in connection with the Project; and in each case none of the items for which disbursement is requested has formed the basis for any disbursement heretofore made from said Project Fund. The amount or amounts and the party or parties to whom the disbursements shall be made are specified in the Disbursement Schedule attached hereto (and may be the undersigned in the case of reimbursement for advances and payments made or cost incurred for work done by the undersigned).
- (b) Each such item is or was necessary in connection with the acquisition and rehabilitation of the Units of the Project.
- (c) The costs specified in the Disbursement Schedule attached hereto, when added to all previous disbursements under the Loan, will result in at least 95% of the aggregate amount of all disbursements having been used to pay or reimburse the Borrower for amounts which are Qualified Project Costs (as defined in the Regulatory Agreement referred to in the Agreement).

- (d) To the knowledge of the undersigned, there is no current or existing event of default pursuant to the terms of the Agreement or the Regulatory Agreement and no event exists which by notice or passage of time or both would constitute an event of default under any of the foregoing documents.
- (e) No representation or warranty of the Borrower contained in the Agreement or the Regulatory Agreement is materially incorrect or inaccurate, except as the Borrower has set forth in writing, and there has been no event of default under the terms of any of those documents and which is continuing and no event shall exist which by notice, passage of time or both would constitute an event of default under any of those documents.
- (f) This statement and all exhibits hereto, including the Disbursement Schedule attached hereto, shall be conclusive evidence of the facts and statements set forth herein and shall constitute full warrant, protection and authority to the Trustee for its actions taken pursuant hereto.

This statement constitutes the approval of the Borrower of the disbursement hereby requested and authorized.

This _____ day of _____, 20__.

By: Authorized Borrower Representative

[Name/Title]

Schedule 1 Approved by Authorized Lender
Representative:

By: _____
[Name/Title]

DISBURSEMENT SCHEDULE 1
TO STATEMENT NO. _____ REQUESTING AND AUTHORIZING
DISBURSEMENT OF FUNDS FROM PROJECT FUND PURSUANT TO SECTION 3.4 OF
THE LOAN AGREEMENT DATED AS OF JULY 1, 2014 BETWEEN THE CITY OF EDINA,
MINNESOTA AND YORKTOWN CONTINENTAL, LP

PAYEE

AMOUNT

PURPOSE

EXHIBIT C

\$ _____
City of Edina, Minnesota
Multifamily Housing Revenue Bonds
(Yorktown Continental, LP Project), Series 2014A

COMPLETION CERTIFICATE

U.S. Bank National Association
[Trustee Address]

Attention: _____

Pursuant to Section 3.7 of the Loan Agreement (the “Agreement”) between the City of Edina, Minnesota (the “Issuer”) and Yorktown Continental, LP, a Minnesota limited partnership (the “Borrower”), dated as of July 1, 2014, and relating to the captioned Bonds, the undersigned Authorized Borrower Representative hereby certifies to that (with capitalized words and terms used and not defined in this Certificate having the meanings assigned in the Agreement):

(a) The Project was substantially completed and available and suitable for use as multifamily housing on _____.

(b) All other facilities necessary in connection with the Project have been acquired, constructed, equipped and improved.

(c) The acquisition, rehabilitating, equipping and improvement of the Project and those other facilities have been accomplished in such a manner as to conform in all material respects with all applicable zoning, planning, building, environmental and other similar governmental regulations.

(d) Except as provided in subsection (e) of this Certificate, all costs of that acquisition and installation due on or after the date of this Certificate and now payable have been paid.

(e) The Trustee shall retain \$_____ in the Project Fund for the payment of costs of the Project not yet due or for liabilities which the Borrower is contesting or which otherwise should be retained, for the following reasons:

(f) This Certificate is given without prejudice to any rights against third parties that now exist or subsequently may come into being.

IN WITNESS WHEREOF, the Authorized Borrower Representative has set his or her hand as of the ____ day of 20__.

Authorized Borrower Representative

By: _____
[Name/Title]

EXHIBIT D

FHA LENDER'S CERTIFICATE TO TRUSTEE

Pursuant to Section 3.4 of the Loan Agreement (the "Agreement") between the City of Edina, Minnesota (the "Issuer") and Yorktown Continental, LP, a Minnesota limited partnership (the "Borrower"), dated as of July 1, 2014, the undersigned Authorized Lender Representative hereby certifies that the deposit of \$_____ into the Collateral Fund on _____, 20__ was fully derived from HUD Funds or other Available Moneys.

Capitalized terms used herein and not otherwise defined herein shall have the meanings given them in the Indenture referenced in the Agreement.

This _____ day of _____, 20__.

By: Authorized Lender Representative

[Name/Title]

EXHIBIT E

BORROWER'S CERTIFICATE TO TRUSTEE

Pursuant to Section 3.4 of the Loan Agreement (the "Agreement") between the City of Edina, Minnesota (the "Issuer") and Yorktown Continental, LP, a Minnesota limited partnership (the "Borrower"), dated as of July 1, 2014, the undersigned Authorized Borrower Representative hereby certifies that the deposit of \$_____ into the Collateral Fund on _____, 20__ was fully derived from Available Moneys.

Capitalized terms used herein and not otherwise defined herein shall have the meanings given them in the Indenture referenced in the Agreement.

This _____ day of _____, 20__.

By: Authorized Borrower Representative

[Name/Title]

LOAN AGREEMENT

BY AND BETWEEN

**THE CITY OF EDINA, MINNESOTA
as Issuer**

AND

**YORKTOWN CONTINENTAL, LP,
as Borrower**

Dated as of July 1, 2014

RELATING TO

**\$ _____
CITY OF EDINA, MINNESOTA
MULTIFAMILY HOUSING REVENUE BONDS
(YORKTOWN CONTINENTAL, LP PROJECT)
SERIES 2014B**

With the exception of certain reserved rights, the interest of the City of Edina, Minnesota in this Loan Agreement has been assigned to U.S. Bank National Association, as trustee for the above-referenced bonds.

This instrument drafted by:
Dorsey & Whitney LLP
50 South Sixth Street
Minneapolis, Minnesota 55402

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LOAN AGREEMENT

THIS LOAN AGREEMENT is made and entered into as of the 1st day of July, 2014, by and between the City of Edina, Minnesota, a body corporate and politic and a political subdivision of the State of Minnesota (the “Issuer”), and Yorktown Continental, LP, a Minnesota limited partnership (the “Borrower”).

The Issuer and Borrower, each in consideration of the representations, covenants and agreements of the other as set forth herein, mutually represent, covenant and agree as follows:

ARTICLE 1

DEFINITIONS, EXHIBITS AND MISCELLANEOUS

Section 1.1 Definitions. In this Agreement, the following terms have the following meanings, unless the context clearly requires otherwise, and any other capitalized terms defined in Section 1.1 of the Indenture (incorporated herein by reference) shall have the same meanings when used herein as assigned them in the Indenture unless the context or use thereof indicates another or different meaning or intent:

Agreement or Loan Agreement: this Loan Agreement by and between the Issuer and Borrower, as the same may from time to time be amended or supplemented as provided herein and in the Indenture;

Bond Purchase Agreement: the Bond Purchase Agreement dated July __, 2014, by and among the Issuer, the Borrower and the Underwriter pursuant to which the Underwriter agreed to purchase the Bonds;

Completion Date: the date the Borrower certifies that the rehabilitation of the Project has been completed;

Date of this Agreement: July 1, 2014;

[Disbursing Agreement: the Disbursing Agreement, dated as of July 1, 2014, entered into by the Borrower, the Trustee and Title, specifying the conditions for the disbursement of Bond proceeds to pay Project Costs;]

Event of Default: any of the events set forth in Section 9.1 hereof;

Issuer: the City of Edina, Minnesota, or any successor thereto;

Indenture: the Indenture of Trust, dated as of July 1, 2014, by and between the Issuer and Trustee, as the same may from time to time be amended or supplemented as therein provided;

Independent: when used with reference to an attorney, engineer, architect, certified public accountant, consultant or other professional person, means a person who (a) is in fact independent, (b) does not have any material financial interest in the Borrower or the transaction to which his certificate or opinion relates (other than payment to be received for professional services rendered), and (c) is not connected with the Issuer or the Borrower as an officer, director or employee;

Independent Counsel: means an Independent attorney duly admitted to practice law before the highest court of any state;

Independent Engineer: means an Independent engineer or engineering firm or an Independent architect or architectural firm qualified to practice the profession of engineering or architecture under the laws of Minnesota;

Issuance Expenses: any and all costs and expenses relating to the issuance, sale and delivery of the Bonds incurred or payable by the Borrower, including, but not limited to, Underwriter's discount, all fees and expenses of legal counsel, the Trustee, financial consultants, feasibility consultants and accountants, any fee to be paid to the Issuer, the preparation and printing of this Loan Agreement, the Indenture, the Disbursing Agreement, the Regulatory Agreement, the Mortgage, the Security Documents, any preliminary and final official statement or offering memorandum, the Bonds and all other related closing documents, the costs of rating the Bonds, and all other expenses relating to the issuance, sale and delivery of the Bonds and any other costs which are treated as "issuance costs" within the meaning of Section 147(g) of the Code;

Loan: the loan of Bond proceeds by the Issuer to the Borrower pursuant to Section 4.1 hereof;

Net Bond Proceeds: proceeds of the Bonds, including interest earnings thereon, less such proceeds of the Bonds, including interest earnings thereon, used to fund any reserve fund;

Net Proceeds: means, when used with respect to proceeds of insurance or a condemnation award, moneys received or receivable by the Borrower as owner or the Trustee as secured party of the Project, less the cost of recovery (including attorneys' fees) of such moneys from the insuring company or the condemning authority;

Net Revenues: the excess of revenues over expenses of the Borrower before depreciation, interest and amortization of financing expenses, as determined in accordance with generally accepted accounting principles; for purposes of this Agreement, Net Revenues shall exclude (i) any items properly classified as extraordinary in accordance with generally accepted accounting principles, and (ii) any gain arising from the sale or other disposition of any assets of the Borrower other than current assets;

Permitted Encumbrances: shall have the meaning specified in [Section 5] of the Mortgage;

Project Costs: the cost items enumerated in Section 3.2 hereof;

Series A Bonds: the Issuer's Multifamily Housing Revenue Bonds (Yorktown Continental, LP Project), Series 2014A, in the original aggregate principal amount of \$_____;

Single Purpose Entity: a Person, other than an individual, which is formed or organized solely for the purpose of directly holding an ownership interest in the Project, does not engage in any business unrelated to the Project, does not have any assets other than those related to its interest in such Project, has its own separate books and records and has its own accounts, in each case which are separate and apart from the books and records and accounts of any other Person, and holds itself out as being a Person, separate and apart from any other Person. In addition to the foregoing, with respect to the Borrower, a Single-Purpose Entity shall also be as follows:

- (i) a Person which is and at all times since its formation has been (a) a duly formed and existing Person which is either not treated as a taxpayer under the tax laws of any governmental authority or (I) treated as a taxpayer under any tax law of any governmental

authority and (II) has tax liability which is adequately provided for, and, (b) duly qualified as a foreign Person in each jurisdiction in which such qualification was or may be necessary for the conduct of its business;

(ii) a Person which is in compliance with, and at all times since its formation has complied with, the provisions of its organizational documents and the laws of its jurisdiction of formation;

(iii) a Person which has at all times since its formation observed all customary formalities regarding its existence;

(iv) a Person which (a) has at all times since its formation accurately maintained its financial statements, accounting records and other books and records separate from those of any Person, (b) has not at any time since its formation commingled its assets with those of any Person and (c) has at all times since its formation accurately maintained its own bank accounts, payroll and separate books of account;

(v) a Person which has at all times since its formation paid its own liabilities from its own separate assets;

(vi) a Person which (a) has at all times since its formation identified itself in all dealings with the public, under its own name or under any “doing business as” name (provided such “doing business as” name is used exclusively by such Person) and as a separate and distinct entity and (b) has not at any time since its formation identified itself as being a division or a part of any other entity and (c) has not at any time since its formation identified any other Person as being a division or part of such Person;

(vii) a Person which has been at all times since its formation adequately capitalized in light of the nature of its business;

(viii) a Person which, except with respect to obligations and liabilities set forth in this Agreement and in the Collateral Documents, and except with respect to the Series A Bonds, has not at any time since its formation incurred, assumed or guaranteed any indebtedness (contingent or otherwise) or the liabilities of any Person or has not at any time since its formation acquired obligations or securities of any Person or has not at any time since its formation made loans or advances to any Person; and

(ix) a Person which has not at any time since its formation entered into and was not a party to any transaction with any affiliate, except in the ordinary course of business of such Person on terms which are no less favorable to such Person than would be obtained in a comparable arm’s-length transaction with an unrelated third party.

Term of this Agreement: the period of time commencing on the Date of this Agreement and terminating on the date set forth in Section 10.10 or such earlier date as provided by Sections 7.8 or 8.2, whichever date occurs sooner;

Title: [Commercial Partners Title, LLC;]

Working Capital Expense: any cost that is not properly chargeable to the Project’s capital account within the meaning of the Code.

Section 1.2 Exhibits. The following Exhibits are attached to and by reference made a part of this Agreement:

- (1) Exhibit A: legal description of the Project Premises

Section 1.3 Borrower's Acts.

Where the Borrower is permitted or required to do or accomplish any act or thing hereunder, the Borrower may cause the same to be done or accomplished by a third party selected by the Borrower with the same force and effect as if done or accomplished by the Borrower.

Section 1.4 Rules of Interpretation.

- (1) This Agreement shall be interpreted in accordance with and governed by the laws of the State.

- (2) The words "herein", "hereof" and "hereunder" and words of similar import, without reference to any particular section or subdivision, refer to this Agreement as a whole rather than to any particular section or subdivision of this Agreement.

- (3) References in this instrument to any particular article, section or subdivision hereof are to the designated article, section or subdivision of this instrument as originally executed.

- (4) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles; and all computations provided for herein shall be made in accordance with generally accepted accounting principles consistently applied and applied on the same basis as in prior years.

- (5) The Table of Contents and titles of articles and sections herein are for convenience of reference only and are not a part of this Agreement, and shall not define or limit the provisions hereof.

- (6) Unless the context hereof clearly requires otherwise, the singular shall include the plural and vice versa and the masculine shall include the feminine and vice versa.

- (7) Articles, sections, subsections and clauses mentioned by number only are those so numbered which are contained in this Agreement.

- (8) For purposes of this Agreement and the Indenture, an Act of Bankruptcy shall be deemed no longer in effect if either (a) the petition initiating the Act of Bankruptcy is dismissed by order of a court of competent jurisdiction and no further appeal rights exist from such order or (b) the Borrower notifies the Trustee that such a dismissal has occurred.

- (9) Any opinion of counsel required hereunder shall be a written opinion of such counsel.

- (10) References to the Bonds as "tax exempt" or to the "tax exempt status of the Bonds" are to the exclusion of interest on the Bonds from gross income pursuant to Section 103(a) of the Code, irrespective of such forms of taxation as the alternative minimum tax or branch profits tax on foreign corporations, as is consistent with the approach taken in Section 59(i) of the Code.

ARTICLE 2

REPRESENTATIONS OF ISSUER AND BORROWER

Section 2.1 Representations of the Issuer. The Issuer makes the following representations and warranties as the basis for its covenants herein:

(1) The Issuer is a body corporate and politic organized and existing under the laws of the State of Minnesota and is authorized to issue the Bonds to finance the Project pursuant to the Act;

(2) In authorizing the Project, the Issuer's purpose is, and in its judgment the effect thereof will be, to promote the public welfare by continuing to provide a multifamily rental housing development within the meaning of the Act and assisting persons within the Issuer to obtain decent, safe and sanitary housing at rentals they can afford; and facilitating the development of rental housing opportunities for residents of the Issuer;

(3) A public hearing on the proposal to finance the Project was called and held on June 17, 2014, at which time all persons who appeared were given an opportunity to express their views with respect to the proposal to undertake and finance the Project;

(4) The issuance and sale of the Bonds, the execution and delivery of this Agreement, the Indenture, the Regulatory Agreement, the Bond Purchase Agreement and the Assignment of Mortgage, and the performance of all covenants and agreements of the Issuer contained in this Agreement, the Regulatory Agreement, the Bond Purchase Agreement, the Assignment of Mortgage and the Indenture and of all other acts and things required under the Constitution and laws of the State to make this Agreement, the Indenture and the Bonds valid and binding obligations of the Issuer in accordance with their terms, are authorized by the Act and have been duly authorized by resolutions of the governing body of the Issuer adopted at a meeting thereof duly called and held on July __, 2014, by the affirmative vote of not less than a majority of the governing body's members;

(5) Under the provisions of the Indenture, the Issuer's interest in this Agreement (except for certain reserved or unassigned rights) and certain payments due hereunder are pledged and assigned to the Trustee as security for the payment of the principal and purchase price of, interest, and premium, if any, on the Bonds; and

Section 2.2 Representations of the Borrower. The Borrower makes the following representations and warranties as the basis for its covenants herein:

(1) The Borrower is a limited partnership duly organized under the laws of the State of Minnesota, is duly authorized to conduct its business in the State of Minnesota, has power to enter into this Agreement, the Bond Purchase Agreement, the Mortgage, the Disbursing Agreement, the Security Documents and the Regulatory Agreement, and to use the Project for the purpose set forth in this Agreement and by proper action has authorized the execution and delivery of this Agreement, the Regulatory Agreement, the Mortgage, the Disbursing Agreement, the Security Documents and the Bond Purchase Agreement, and has approved the Indenture;

(2) The execution and delivery of this Agreement, the Regulatory Agreement, the Mortgage, the Disbursing Agreement, the Security Documents and the Bond Purchase Agreement, and the consummation of the transactions contemplated thereby, and the fulfillment of the terms and conditions thereof do not and will not conflict with or result in a breach of any of the terms or conditions of the Partnership Agreement of the Borrower, any restriction or any agreement or instrument to which the

Borrower is now a party or by which it is bound or to which any property of the Borrower is subject, and do not and will not constitute a default under any of the foregoing, or cause the Borrower to be in violation of any order, decree, statute, rule or regulation of any court or any state or federal regulatory body having jurisdiction over the Borrower or its properties, including the Project, and do not and will not result in the creation or imposition of any lien, charge or encumbrance of any nature upon any of the property or assets of the Borrower contrary to the terms of any instrument or agreement to which the Borrower is a party or by which it is bound;

(3) The design and plan of the Project comprise a multifamily rental housing development as contemplated by the Act; and subject to the other provisions of this Agreement, it is presently intended and reasonably expected that the equipment purchased from the proceeds of the Bonds will be permanently located and exclusively used on the Project Premises and that the Borrower will own and operate the Project on the Project Premises throughout the Term of this Agreement in the normal conduct of the Borrower's business;

(4) There is public access to the Project Premises; and, as of the date hereof, the use of the Project complies, in all material respects, with all presently applicable development, pollution control, water conservation and other laws, regulations, rules and ordinances of the federal government and the State of Minnesota and the respective agencies thereof and the political subdivisions in which the Project is located; the Borrower has obtained or will obtain all necessary and material approvals of and licenses, permits, consents and franchises from federal, state, county, municipal or other governmental authorities having jurisdiction over the Project to acquire, rehabilitate, install, and operate the Project and to enter into, execute and perform its obligations under this Agreement, the Bond Purchase Agreement, and the Regulatory Agreement;

(5) The proceeds of the Bonds, together with any other funds to be contributed to the Project by the Borrower or otherwise in accordance with this Agreement, will be sufficient to pay the cost of acquiring and renovating the Project in a manner suitable for operation as a multifamily housing development as required in Article 3;

(6) The Bonds are issued within the exemption provided under Section 142(d) of the Code with respect to residential rental property; and "substantially all" of the proceeds of the Bonds will be used for expenditures chargeable to the capital account of the Project;

(7) A major inducement to the Borrower to acquire, rehabilitate and equip the Project was the source of financing provided under the Act and the assurance the Borrower received from the Issuer that such financing would be made available to the Borrower; all Project Costs heretofore incurred by the Borrower for which the Borrower will seek reimbursement from the proceeds of the Bonds were incurred in anticipation of reimbursement from the proceeds of the Bonds of the Issuer if such proceeds should become available on terms acceptable to the Borrower; and the Borrower investigated the possibility of such financing prior to incurring such Project Costs; and the Borrower did not commence acquisition or renovation of the Project prior to March 21, 2014, which is 60 days prior to the date on which the Issuer gave preliminary approval of the Project and the financing thereof in whole or part through the Bonds;

(8) The Borrower is not in the trade or business of selling properties such as the Project and the Borrower is acquiring the Project for investment purposes only or otherwise for use by the Borrower in its trade or business, and therefore the Borrower has no intention, now or in the foreseeable future to voluntarily sell, surrender or otherwise transfer, in whole or part, its interest in the Project;

(9) There are no actions, suits, or proceedings pending or, to the knowledge of the Borrower, threatened against the Borrower or any property of the Borrower in any court or before any federal, state,

municipal or other governmental agency, which, if decided adversely to the Borrower, would have a material adverse effect upon the Borrower or upon the business or properties of the Borrower or upon the validity or enforceability of the instruments referred to in clause (1), or the ability of the Borrower to perform its obligations thereunder; and the Borrower is not in default with respect to any order of any court or governmental agency;

(10) The Borrower is not in default in the payment of the principal of or interest on any indebtedness for borrowed money nor in default under any instrument or agreement under and subject to which any indebtedness for borrowed money has been issued;

(11) The Borrower has filed all federal and state income tax returns which, to the knowledge of the Borrower, are required to be filed and has paid all taxes shown on said returns and all assessments and governmental charges received by it to the extent that they have become due;

(12) To the best of the Borrower's knowledge, no public official of the Issuer has either a direct or indirect financial interest in this Agreement nor will any public official either directly or indirectly benefit financially from this Agreement within the meaning of Minnesota Statutes, Sections 412.311 and 471.87, as amended;

(13) Except for the Series A Bonds, no other obligations have been or will be issued under Section 103 of the Code which are sold at substantially the same time as the Bonds, pursuant to the same plan of financing, which are reasonably expected to be paid out of substantially the same source of funds as the Bonds.

(14) The Project is and will continue to be eligible for low income housing tax credits under Section 42 of the Code.

(The remainder of this page is intentionally left blank.)

ARTICLE 3

COMPLETION OF PROJECT

Section 3.1 Acquisition, Rehabilitation and Equipping of Project by Borrower. In connection with the acquisition, rehabilitation, equipping and completion of the Project, the Borrower represents and covenants as follows:

(1) Installation and Construction. The Borrower will acquire the Project and construct any improvements to the Project within the boundary lines of the Project Premises and will provide all other improvements, access roads, utilities, parking facilities, and other items required for a facility fully operable for use as a multifamily residential rental property.

(2) Completion. The Borrower will acquire and rehabilitate the Project as promptly as practicable with all reasonable dispatch and in any event no later than _____, 20__, except only as completion may be delayed by strikes, riots or acts of God or the public enemy, shortages of materials or supplies or any other reason beyond the reasonable control of the Borrower for which a reasonable extension of the time of completion shall be granted as determined by the Trustee, provided that if the Project is not completed by that date there shall be no resulting liability on the part of the Issuer and no abatement or diminution in the payments required to be made by the Borrower under Article 4.

Section 3.2 Payment of Costs by Borrower. The Borrower agrees that it will provide any and all money required for the prompt and full payment of all sums required to complete the Project, including all of the following items which the Issuer agrees will be reimbursable from Bond proceeds from and to the extent and in the manner provided in Sections 3.5 and 3.6 and subject to the provisions of the Act and the Code:

(1) all expenses incurred and to be incurred in connection with the acquisition, renovation and installation of the Project, including but not limited to the cost of acquiring the Project, the contract price of all labor, services, materials, supplies and equipment furnished under any contract for renovation and installation of the Project, any developer fee or construction management fee or other amounts incurred in connection therewith, provided that such fee is not paid to the Borrower or an affiliate thereof, including the cost of all Project Equipment and all appurtenances thereto, and of all rights-of-way for access and utility connections to and from the Project, and all fees required for recording all financing statements and any real estate documents;

(2) the expense of preparation of the plans and specifications for the Project, including utilities, and all other facilities necessary or desirable in connection therewith, and all other architectural, engineering and supervisory services incurred and to be incurred in the planning, rehabilitation and completion of the Facility;

(3) all legal (including Bond Counsel and counsel to the Issuer, Borrower, Original Purchaser, and Trustee), abstractors', financial and accounting fees and expenses, administrative and rating agency fees (if any), printing and engraving costs and other expenses incurred and to be incurred on or before or in connection with the Completion Date with respect to (i) the establishment of title to the Project Premises, (ii) the authorization, sale and issuance of the Bonds, (iii) the preparation of this Agreement, the Indenture, the Regulatory Agreement, and all other documents necessary to the Bond Closing or required by this Agreement or the Indenture, (iv) the establishment of the Completion Date, including compliance with any governmental or administrative rules or regulations on or before such date,

or (v) the administrative charges imposed by the Issuer pursuant to Section 4.4(2) in connection with the issuance of the Bonds;

(4) premiums on all insurance (including any title insurance) required to be taken out and maintained during the period before the Completion Date;

(5) all expenses incurred in seeking to enforce any remedy against any contractor, or any subcontractor or any supplier in respect of any default under any contract with such Person;

(6) all deed taxes, mortgage registry taxes, recording fees and other taxes, charges and assessments and license and registration fees of every nature whatsoever incurred and to be incurred in connection with acquisition or completion of the Project including the financing thereof;

(7) the cost of all other labor, services, materials, supplies and equipment necessary to complete the rehabilitation, acquisition and installation of the Project, including but not limited to the Project Equipment;

(8) all fees and expenses of the Trustee and Paying Agent under the Indenture that become due on or before the Completion Date or in connection with the establishment of the Completion Date; and

(9) without limitation by the foregoing, all other expenses which under accepted accounting practice constitute necessary capital expenditures for the completion of the Project or issuance of the Bonds, not including Working Capital Expenses (all of which, in excess of 3% of the Net Bond Proceeds, are nevertheless to be supplied by the Borrower from its own funds without reimbursement).

All Project Costs may be paid or reimbursed from available moneys in the Project Fund to the extent and in the manner permitted in Sections 3.5 and 3.6. If, however, such moneys are insufficient to pay in full Project Costs payable therefrom or are otherwise unavailable to pay any Project Costs, the Borrower shall nevertheless promptly pay so much of such Project Costs as may be in excess of such available moneys in the Project Fund or shall, at the request of the Trustee, forthwith pay over to the Trustee such moneys as are necessary to pay such Project Costs. The Borrower shall not by reason of the payment of such excess Project Costs be entitled to any reimbursement from the Issuer in excess of any moneys available therefor in the Project Fund or for any abatement or diminution of the Basic Payments or Additional Charges.

Section 3.3 Authorization by Issuer. In accordance with the Act, the Borrower is authorized by the Issuer, and the Borrower, pursuant to such authorization, agrees:

(1) to acquire and renovate the Project and install the Project Equipment as provided in Section 3.1, upon the Project Premises;

(2) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, with any other Persons, and in general to do all things which may be requisite or proper for acquiring, renovation and installing the Project;

(3) pursuant to the provisions of this Agreement, to pay all fees, costs and expenses incurred in the acquisition, construction and installation of the Project from funds made available therefor in accordance with this Agreement or otherwise subject to the right to contest such fees, costs and expenses;

(4) so long as the Borrower is not in default under any of the provisions of this Agreement to exercise all authority hereby conferred, which is granted and conferred irrevocably to the Completion Date and thereafter until all activities in connection with the acquisition, renovation and installation of the Project shall have been completed.

Neither the authorization granted in this Section nor any other provision of this Agreement shall be construed as making the Borrower an agent or joint venturer with the Issuer.

Section 3.4 Issuance of Bonds. The Issuer and Borrower have contracted for the sale of the Bonds authorized by the Indenture, and the Borrower has approved and does approve the terms of the Indenture. Forthwith upon execution of this Agreement, the Bond Purchase Agreement, the Indenture, the Regulatory Agreement and all other documents required to be executed by the aforementioned documents, or as soon thereafter as practicable, the Issuer will execute the Bonds and cause them to be authenticated by the Trustee and delivered to the Original Purchaser upon payment of the purchase price of the Bonds and filing with the Trustee of the opinion of Bond Counsel as to the legality of the Bonds and the furnishing of all other documents required by this Agreement, the Mortgage, the Disbursing Agreement, the Bond Purchase Agreement, the Security Documents and the Indenture to be furnished before delivery. The Issuer will cause the proceeds of the Bonds to be transmitted to the Trustee, who is required by the Indenture to deposit the same in the following trust funds in the following amounts:

- (1) [in the Capitalized Interest Fund, the sum of \$ _____; and]
- (2) [in the Project Fund, the remainder of the Bond proceeds.]

If for any reason such documents are not furnished and the approving opinion of Bond Counsel in customary form cannot be obtained, then this Agreement shall be terminated and be void and of no effect and the Borrower shall be obligated to pay all costs and expenses enumerated in Section 3.2 and incurred on or before the date of such termination.

Section 3.5 Disbursements from Project Fund.

(1) The Issuer has in the Indenture authorized and directed the Trustee to disburse money from the Project Fund, subject to the Disbursing Agreement (except the disbursement of Issuance Expenses of the Bonds shall not be subject to the provisions of the Disbursing Agreement), to or upon the order of the Borrower, in payment or reimbursement of Project Costs enumerated in Section 3.2 and certified, in writing by the Borrower Representative, provided that in no event shall:

(a) any Net Bond Proceeds be used to pay or reimburse for the payment of the acquisition of any property other than land (or an interest therein) unless the first use of such property is pursuant to such acquisition (except for certain rehabilitations where rehabilitation expenditures equal at least 15% of the cost of acquiring such property);

(b) 25% or more of Net Bond Proceeds to be used to pay or reimburse for the payment of the acquisition of land;

(c) any Net Bond Proceeds, including earnings thereon, be used to pay or reimburse for the payment of any Working Capital Expenses in excess of 3% of the Net Bond Proceeds.

(2) The cost of acquiring the Project Premises and the Project Costs described in Section 3.2(3), (4), (5), (6) and (8) may be paid or reimbursed in full upon receipt by the Trustee of any statement of the payee covering such expenses endorsed by the payee and approved by the Borrower Representative

or, with respect to fees of Bond Counsel, Issuer's Counsel or other fees of the Trustee or Issuer or printing expenses, of the Issuer. With respect to all other Project Costs, each certificate of the Borrower Representative shall contain the following additional information:

(a) the amount and nature of each item of Project Costs and the name and address of the payee, with the payee's statement and if reimbursement is requested, evidence of payment thereof attached;

(b) a statement that each item for which payment or reimbursement is requested is or was necessary in connection with the Project, qualifies as a Project Cost under this Agreement and, if for the rehabilitation or equipping of the Project, was made or incurred in accordance with the plans and specifications for the Project and that none of such items has formed the basis for any previous payment from the Project Fund;

(c) a statement that there is no outstanding indebtedness known, after due inquiry, for labor, wages, materials or supplies which, if unpaid, might become the basis of a vendor's lien, or a mechanics' materialmen's, statutory or other similar lien upon the Project or any part thereof, other than indebtedness then certified for payment or diligently being contested in good faith by the Borrower and that each contractor, subcontractor and materialman has filed with the Borrower receipts or waivers of liens for all amounts theretofore certified for payment, or any amount therein certified for reimbursement to the Borrower for payment, for work, materials and equipment furnished by him or that there is on file with the construction manager a cancelled check endorsed by the contractor, subcontractor or materialman evidencing such payment;

(d) a statement that no Working Capital Expenses are being certified for payment from the Project Fund.

(3) If Title shall request it, each Borrower Representative's certificate shall be approved by Title before the Borrower shall be entitled to payment from the Project Fund, and if requested by Title the lien waivers, receipts or cancelled checks specified above or copies thereof (if acceptable to such insurer) shall be filed with Title instead of the Trustee.

Section 3.6 Establishment of Completion Date. On the Completion Date any balance remaining in the Project Fund in excess of the amount retained therein pursuant to the Disbursing Agreement shall be disbursed by the Trustee to the Borrower or its order in such amount as may be necessary (and all thereof shall be disbursed if necessary) to pay, or to reimburse to the Borrower for the payment of, any part of the Project Costs which have not theretofore been paid by the Borrower or has not theretofore been reimbursed to the Borrower, as the case may be, in accordance with the provisions of Section 3.5. Any balance remaining in the Project Fund in excess of any amount retained therein to secure completion by any contractor shall be transferred by the Trustee to the Bond Fund and used to redeem the Bonds in accordance with Section 3.1(2) of the Indenture.

Section 3.7 Payment and Performance Bond. The requirement for any payment and performance bond is hereby waived.

Section 3.8 Enforcement of Contract. In the event of default of any contractor or subcontractor under any construction contract or in the event of a breach of warranty with respect to any materials, workmanship or performance, the Borrower will promptly proceed, either separately or in conjunction with others, to exhaust its remedies against the contractor, subcontractor or vendor in default and against any surety on a bond securing the performance of such contract, provided, however, that the Borrower may on the advice of its counsel and with the Trustee's consent refrain from exhausting such

remedies if determined by the Borrower not to be in its best interests and not necessary to complete the Project. The Borrower will promptly advise the Trustee of the steps it intends to take in connection with any such default. Any amounts recovered pursuant to any bond or by way of damages, refunds, adjustments or otherwise in connection with the foregoing, after deduction of expenses incurred in such recovery, other than any amounts resulting from the loss of income, shall be paid into the Project Fund if received before the Completion Date, and otherwise shall be paid into the Bond Fund, provided that the Borrower may obtain reimbursement for any payments made by the Borrower in connection with such action as an item of Project Cost as provided in Section 3.5.

Section 3.9 Title Insurance. In connection with the Bond Closing, the Borrower agrees to furnish to the Trustee a commitment for a mortgagee's policy of title insurance issued by Title in an amount not less than the original principal amount of the Bonds, insuring:

- (1) that fee title to the Project Premises is in the Borrower;
- (2) that the Mortgage is a [second mortgage lien] upon the Project Premises subject only to Permitted Encumbrances; and
- (3) that the Project and its use do not violate any zoning or other use restrictions covering the Project Premises and provides the coverage included within the standard zoning endorsement; and
- (4) waiving and insuring over the following standard exceptions: (a) facts which would be disclosed by a comprehensive survey of the premises, (b) mechanics', contractors or materialmen's liens and lien claims and (c) rights of parties in possession.

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ARTICLE 4

THE LOAN, BASIC PAYMENTS, ADDITIONAL CHARGES AND ADDITIONAL FINANCING

Section 4.1 The Loan. The Issuer agrees, upon the terms and conditions herein specified, to lend to the Borrower the proceeds received by the Issuer from the sale of the Bonds, by causing such proceeds to be deposited with the Trustee for disposition as provided herein and in the Indenture. The amount of the Loan shall be deemed to include any “discount” or any other amount by which the aggregate price at which the Issuer sells the Bonds to the Underwriter is less than the aggregate principal amount of the Bonds; and the obligation of the Issuer to make the Loan shall be deemed fully discharged upon so depositing the proceeds of the Bonds with the Trustee.

Section 4.2 Basic Payments. Subject to the Borrower’s right of prepayment granted in Section 8.2, the Borrower agrees to repay the Loan in installments of Basic Payments as follows:

(1) During the term of this Agreement, the Borrower shall make Basic Payments in immediately available funds as follows:

(a) On or before each Interest Payment Date, an amount which, together with any balance on hand in the Bond Fund or the Capitalized Interest Fund and available for that purpose, will equal the total interest due on all Outstanding Bonds on such Interest Payment Date.

(b) On _____ 1, 20__, an amount which is not less than the principal amount due on the Outstanding Bonds on the maturity date of the Bonds.

(c) [The Borrower will promptly deposit the proceeds of the Assigned Capital Contributions, the HOME Loan Proceeds loaned by the Issuer to the Borrower, the GP Capital Contributions contributed by the General Partner to the Borrower, and the Sponsor Loan Proceeds loaned by the Sponsor to the Borrower (or such lesser amounts as the Trustee shall advise are necessary to provide funds sufficient to redeem the Bonds in full pursuant to Section 3.1(3) of the Indenture), when and if received, with the Trustee with written instructions to deposit the amounts in the Bond Fund for application to the mandatory redemption of the Bonds pursuant to Section 3.1(3) of the Indenture. The Borrower and the Issuer acknowledge that (1) the aggregate proceeds of the Assigned Capital Contributions, the HOME Loan Proceeds loaned by the Issuer to the Borrower, the GP Capital Contributions and the Sponsor Loan Proceeds are expected to exceed the amount necessary to redeem the Bonds in full, and (2) the Borrower will only be required to deposit with the Trustee that portion of the Sponsor Loan Proceeds as is necessary to redeem the Bonds in full pursuant to Section 3.1(3) of the Indenture, as determined and advised by the Trustee, and the remainder of such Sponsor Loan Proceeds may be retained by the Borrower. The Investor Limited Partner has agreed with the General Partner in the Partnership Agreement to deposit the Assigned Capital Contributions directly to the Trustee on behalf of the Borrower, to be disbursed pursuant to the terms of the Indenture, provided, however, that notwithstanding anything contained herein to the contrary, the obligations of the Investor Limited Partner to make any equity contributions to the Borrower are governed solely by, and subject to the conditions, terms and provisions of, the Partnership Agreement. The Issuer has agreed to deposit the HOME Loan Proceeds directly to the Trustee on behalf of the Borrower, to be disbursed pursuant to the terms of the Indenture, provided, however, that notwithstanding anything contained herein to the contrary, the obligations of the Issuer to advance any HOME Loan Proceeds to the Borrower are governed solely by, and subject to the conditions, terms and

provisions of, the HOME Loan Repayment Agreement The General Partner has agreed in the Partnership Agreement to deposit the GP Capital Contributions directly to the Trustee on behalf of the Borrower, to be disbursed pursuant to the terms of the Indenture, and to be contributed in accordance with the conditions, terms and provisions of, the Partnership Agreement. The Sponsor has agreed to deposit the Sponsor Loan Proceeds (or such lesser amount as the Trustee shall advise is necessary to provide funds sufficient to redeem the Bonds in full pursuant to Section 3.1(3) of the Indenture) directly to the Trustee on behalf of the Borrower.]

(d) In any event the sum of the Basic Payments payable under this Section shall be sufficient to pay all principal, interest and premium, if any, on the Bonds as such principal, interest and premiums become due, at maturity, upon redemption, acceleration or otherwise.

(2) All payments of Basic Payments shall be made directly to the Trustee at its corporate trust office, for the account of the Issuer and shall be deposited by the Trustee in the Bond Fund. In the event the Borrower should fail to make any of the payments required in this Section 4.2, the item so in default shall continue as an obligation of the Borrower until the amount in default shall have been fully paid, and the Borrower agrees to pay the same with interest thereon (including to the extent permitted by law, interest on overdue installments of interest) at the rate borne by the respective Bonds as to which such default exists.

(3) As provided in Internal Revenue Service Revenue Procedure 79-5, Revenue Procedure 81-22 and 26 CFR 601.201 (and any subsequent amendments, modifications or replacements thereof) Restricted Project Funds in the Bond Fund shall be used only to prepay Bonds which are subject to redemption at their earliest call date without penalty or premium or to pay a pro rata portion of the principal of the Bonds as provided in Section 5.3(2) of the Indenture.

(4) Except during the continuance of an Event of Default, all available remaining sums on deposit in the Bond Fund not credited against currently payable installments of Basic Payments or applied as provided in Sections 7.8 or 8.2 shall be credited against the last installments of Basic Payments.

(5) In no event shall any purchase of any Bonds made by or on behalf of the Borrower result in the discharge of either (a) the Bonds so purchased, (b) the obligations under this Section 4.2 to make Basic Payments relating to the Bonds so purchased, or (c) the Loan made hereunder to the extent of the Bonds so purchased, unless and to the extent the Bonds so purchased are surrendered to the Trustee and canceled.

(6) [So long as the Series A Bonds are Outstanding, the Borrower shall repay this Loan Agreement solely from the Assigned Capital Contributions, the HOME Loan Proceeds, the GP Capital Contributions, the Sponsor Loan Proceeds and certain other property that may be received by the Trustee pursuant to the Security Documents.]

Section 4.3 Intentionally Omitted.

Section 4.4 Additional Charges. The Borrower agrees to pay, when due, each and all of the following:

(1) to or upon the order of the Trustee, when due, all reasonable fees of the Trustee for services rendered under the Indenture and all reasonable fees and charges of the Paying Agent, registrars, legal counsel, accountants, engineers, public agencies and others incurred in the performance on request of the Trustee of services required under the Indenture for which the Trustee and such other Persons are

entitled to payment or reimbursement, provided that the Borrower may, without creating a default hereunder, contest in good faith the necessity or reasonableness of any such services, fees or expenses;

(2) the reasonable fees and expenses of counsel for the Issuer and an administrative fee equal to _____;

(3) to the Trustee, the amount of all advances made by the Trustee, with interest thereon, as provided in Section 5.4;

(4) to the Issuer or Trustee, as the case may be, interest at the rate equal to 1% over the prime rate on each payment commencing on the date when due and required in this Section to be made to the Issuer or Trustee, if not made when due and if not advanced by the Trustee under the Indenture; and

(5) any costs incurred by the Trustee or Original Purchaser in the preparation of printed bonds.

Section 4.5 Borrower's Obligations Unconditional. All Basic Payments and Additional Charges and all other payments required of the Borrower hereunder shall be paid without notice or demand and without setoff, counterclaim, or defense for any reason and without abatement or deduction or defense (except as provided in Sections 8.2 and 9.13). The Borrower will not suspend or discontinue any such payments, and will perform and observe all of its other agreements in this Agreement, and, except as expressly permitted in Sections 7.8 and 8.2, will not terminate this Agreement for any cause, including but not limited to any acts or circumstances that may constitute failure of consideration, destruction or damage to the Project or the Borrower's business, the taking of the Project or the Borrower's business by Condemnation or otherwise, the lawful prohibition of the Borrower's use of the Project or the Borrower's business, the interference with such use by any Person, the invalidity or unenforceability or lack of due authorization or other infirmity of this Agreement, the lack of right, power or authority of the Issuer to enter into this Agreement, eviction by paramount title, commercial frustration of purpose, bankruptcy or insolvency of the Issuer or Trustee, change in the tax or other laws or administrative rulings or actions of the United States of America or of the State or any political subdivision thereof, or failure of the Issuer to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Agreement, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the Basic Payments and other amounts payable by the Borrower hereunder shall be paid in full when due without any delay or diminution whatever.

Section 4.6 Assignment of Issuer's Rights. As security for the payment of the Bonds, the Issuer will pledge the amounts payable hereunder and assign, without recourse or liability, to the Trustee, the Issuer's rights under this Agreement, including the right to receive payments hereunder (except the right to receive payments, if any, under Sections 3.2, 4.4, 7.4, 9.5, 10.8, 10.11, 10.12, and 10.13 hereof) and hereby directs the Borrower to make said payments directly to the Trustee. The Borrower herewith assents to such assignment and will make payments under this Agreement directly to the Trustee without defense or setoff by reason of any dispute between the Borrower and the Trustee.

Section 4.7 Borrower's Remedies. Nothing contained in this Article shall be construed to release the Issuer from the performance of any of its agreements herein, and if the Issuer should fail to perform any such agreements, the Borrower may institute such action against the Issuer as the Borrower may deem necessary to compel such performance so long as such action shall not violate the Borrower's agreements in Section 4.4 or diminish or delay the amounts required to be paid by the Borrower pursuant to Section 4.2. The Borrower acknowledges, however, and agrees that any pecuniary obligation of the

Issuer created by or arising out of this Agreement shall be payable solely out of the proceeds derived from this Agreement and the sale of the Bonds.

ARTICLE 5

PROJECT COVENANTS

Section 5.1 Project Operation and Maintenance. The Borrower shall pay all expenses of the operation and maintenance of the Project including, but without limitation, adequate insurance thereon and insurance against all liability for injury to Persons or property arising from the operation thereof, and all taxes and special assessments levied upon or with respect to the Project and payable during the Term of this Agreement and further described in this Article 5.

Section 5.2 Sale or Lease of Project. So long as any Bonds are Outstanding, the Borrower will not lease the Project (except leases in the normal course of business), in whole or in part, nor sell, mortgage or otherwise encumber its interests in the Project, in whole or in part, except for Permitted Encumbrances and except as provided in Sections 8.1 and 7.5, provided that in no event shall such lease, assignment or sale be permitted if (1) the effect thereof would be to impair the validity or the exclusion from gross income under Section 103 of the Code of the interest on the Bonds, or (2) if any such transaction should release the Borrower of any of its obligations under this Agreement (except as otherwise provided in Section 8.1). Before any such lease, sale or assignment, the Borrower shall deliver to the Trustee an opinion of Bond Counsel, addressed to the Trustee and in form and substance satisfactory to it, stating in effect that such lease, sale or assignment will not cause interest on the Bonds to be included in gross income for purposes of federal income taxation. The Borrower shall give at least 30 days notice to the Trustee and Issuer of any such sale, assignment or lease, unless such 30 day notice is waived by the Trustee and the Issuer.

Section 5.3 Mortgage and the Security Documents. In consideration of the Loan, and as security for the Basic Payments to be made by the Borrower for the payment of the Bonds, and as security for the performance of all of the other obligations, agreements and covenants of the Borrower to be performed and observed hereunder, the Borrower shall execute and cause the Security Documents to be delivered and, with respect to the Mortgage, recorded and shall keep, perform and observe each of its obligations thereunder.

Section 5.4 Advances. The Borrower acknowledges and agrees that under the Indenture the Trustee may take certain action and make certain advances relating to the Project or to certain other matters as expressly provided therein, and the Borrower shall be obligated to repay all such advances on demand, with interest from the date of each such advance, at the rate and under the conditions set forth in the Indenture.

Section 5.5 Alterations to the Project and Removal of Project Equipment. The Borrower shall have the right from time to time, at its cost and expense, to remodel and make such additions, modifications, alterations, improvements and changes (collectively referred to as “alterations”) in or to the Project or to remove any equipment therefrom as the Borrower, in its discretion, may deem to be desirable for its uses and purposes, provided such alterations or removal do not impair the character of the Project as a “project” within the meaning of the Act or otherwise impair the exclusion from gross income under Section 103 of the Code of the interest on the Bonds.

Section 5.6 Insurance. The Borrower shall maintain, or cause to be maintained, at its cost and expense, insurance as follows:

(1) Insurance against loss and/or damage to the Project under a policy or policies covering such risks as are ordinarily insured against by similar businesses, including (without limiting the

generality of the foregoing) fire and extended coverage in an amount not less than 100% of the full insurable replacement cost of the Project but any such policy may have a deductible amount of not more than \$100,000. No policy of insurance shall be so written that the proceeds thereof will produce less than the minimum coverage required by the preceding sentence, by reason of co-insurance provisions or otherwise, without the prior consent thereto in writing by the Trustee. The term “full insurable replacement cost” shall mean the actual replacement cost of the Project (excluding foundation and excavation costs and costs of underground flues, pipes, drains and other uninsurable items) and equipment. All policies evidencing insurance required by this subparagraph (1) with respect to the Project shall be carried in the names of the Borrower and the Trustee as their respective interests may appear and shall contain standard mortgage clauses which provide for Net Proceeds of insurance resulting from claims per casualty thereunder to the Project which are less than \$100,000 for loss or damage covered thereby to be made payable directly to the Borrower, and Net Proceeds from such claims which are equal to or in excess of \$100,000 to be made payable directly to the Trustee. The Net Proceeds of such insurance required by this paragraph (1) with respect to the Project shall be applied as provided in Sections 5.7 and 5.8 hereof.

(2) Comprehensive general public liability insurance, including personal injury liability, and, if the Borrower owns or leases any automobiles, automobile insurance, including owned, non-owned and hired automobiles, against liability for injuries to persons and/or property, in the minimum amount for each occurrence and for each year of \$1,000,000, for public liability not arising from ownership or operation of automobiles (or other motor vehicles), and in the minimum amount of \$500,000 for each occurrence and for each year for liability arising out of ownership or operation of automobiles (or other motor vehicles) and shall be endorsed to show the Trustee and Issuer as an additional insured.

(3) Business interruption insurance or rental loss insurance covering actual losses in gross operating earnings of the Borrower resulting directly from necessary interruption of business caused by damage to or destruction (resulting from fire and lightning; accident to a fired-pressure vessel or machinery; and other perils, including windstorm and hail, explosion, civil commotion, aircraft and vehicles, sprinkler leakage, smoke, vandalism and malicious mischief, and accident) to real or personal property constituting part of the Project, less charges and expenses which do not necessarily continue during the interruption of business, for such length of time as may be required with the exercise of due diligence and dispatch to rebuild, repair or replace such properties as have been damaged or destroyed, with limits equal to at least the sum of 12 months’ operating expenses of the Project, plus the maximum amount of principal of (other than the principal amount due on the maturity date of the Bonds) and interest payable on the Outstanding Bonds in the current or any future calendar year.

(4) Such other insurance, including workers’ compensation insurance respecting all employees of the Borrower, in such amount as is customarily carried by like organizations engaged in like activities of comparable size and liability exposure, provided that the Borrower may be self-insured with respect to all or any part of its liability for workers’ compensation.

All insurance required in this Section shall be taken out and maintained in responsible insurance companies selected by the Borrower which are authorized under the laws of Minnesota to assume the risks covered thereby. The Borrower will deposit annually with the Trustee copies of policies evidencing all such insurance, or a certificate or certificates or binders of the respective insurers stating that such insurance is in force and effect. Each policy shall contain a provision that the insurer shall not cancel nor modify it without giving written notice to the Borrower and the Trustee at least 30 days before the cancellation or modification becomes effective. Not less than 30 days prior to the expiration of any policy, the Borrower shall furnish the Trustee evidence satisfactory to the Trustee that the policy has been renewed or replaced by another policy conforming to the provisions of this Section, or that there is no necessity therefor under the terms hereof. In lieu of separate policies, the Borrower may maintain a single

policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein, in which event the Borrower shall deposit with the Trustee a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Project Facilities.

The provisions of this Article relating to application of insurance proceeds are subject to the requirement of Section 13.14(h) of the Trust Indenture for the Series A Bonds providing that proceeds from any condemnation award or from the payment of a claim under any hazard insurance policy relating to the Project will not be payable to the Trustee, but will be payable in accordance with the FHA Loan Documents.

Section 5.7 Damage or Destruction. The Borrower agrees to notify the Trustee immediately in the case of damage exceeding \$50,000 in amount to, or destruction of, the Project or any portion thereof resulting from fire or other casualty. In the event that any such damage or destruction does not exceed \$50,000, the Borrower shall forthwith repair, reconstruct and restore the Project to substantially the same or an improved condition or value as existed prior to the event causing such damage and, to the extent necessary to accomplish such repair, reconstruction and restoration, the Borrower will apply the Net Proceeds of any insurance relating to such damage received by the Borrower to the payment or reimbursement of the costs thereof. Net Proceeds of any insurance relating to such damage up to \$50,000 shall be paid directly to the Borrower.

In the event the Project or any portion thereof is destroyed by fire or other casualty and the damage or destruction is estimated to exceed \$50,000, then the Borrower shall within 120 days after such damage or destruction elect one of the following two options by written notice of such election to the Trustee:

(1) Option A - Repair and Restoration. The Borrower may elect to repair, reconstruct and restore the damaged Project. In such event, the Borrower shall proceed forthwith to repair, reconstruct and restore the damaged or destroyed Project to substantially the same condition or value as existed prior to the event causing such damage or destruction and, to the extent necessary to accomplish such repair, reconstruction and restoration, the Borrower will apply the Net Proceeds of any insurance relating to such damage or destruction received by the Borrower from the Trustee to the payment or reimbursement of the costs thereof. So long as no Event of Default exists, any Net Proceeds of insurance relating to such damage or destruction received by the Trustee shall be released from time to time by the Trustee to the Borrower upon the receipt of:

(a) A Certificate of the Borrower Representative specifying the expenditures made or to be made or the indebtedness incurred in connection with such repair, reconstruction and restoration and stating that such Net Proceeds, together with any other moneys legally available for such purposes, will be sufficient to complete such repair, reconstruction and restoration; and

(b) The written approval of such certificate by an Independent Engineer.

In the event the Borrower shall elect this Option A, the Borrower shall complete the repair, reconstruction and restoration of the Project, whether or not the Net Proceeds of insurance received by the Borrower for such purposes are sufficient to pay for the same. Net Proceeds not required for the repair, reconstruction and restoration of the Project shall be applied to the prepayment of the Bonds or used for such other purpose as the Trustee, based upon an opinion of Bond Counsel, determines will not cause interest on the Bonds to be included in gross income for purposes of federal income taxation.

(2) Option B - Redemption of the Bonds. In the event that the Borrower shall determine that it is not practical or desirable to rebuild, repair or restore the Project, or, in case the Borrower is unable to

deliver the certificates or reports necessary under Option A of this Section, the Bonds shall be redeemed on the earliest date for which notice may be given for redemption in accordance with Section 3.1(1) of the Indenture. If the Net Proceeds of insurance, together with all amounts then held by the Trustee under the Indenture available to redeem or retire the Bonds, shall be insufficient to so redeem the Bonds (including the expenses of redemption), the Borrower shall pay such deficiency to the Trustee as a Basic Payment and the Net Proceeds of insurance, together with such Basic Payment and amounts held by the Trustee under the Indenture, shall be applied to such redemption of the Bonds in accordance with Section 8.2 hereof and Section 3.1 of the Indenture. If the Bonds have been fully paid and all obligations of the Borrower hereunder have been paid or provided for, all Net Proceeds shall be paid to the Borrower.

Section 5.8 Condemnation. If the Project or any material portion thereof is condemned or taken for any public or quasi-public use and title thereto vests in the party condemning or taking the same, the Borrower hereby irrevocably assigns to the Trustee all its right, title and interest in and to any Net Proceeds of any award, compensation or damages (hereinafter referred to as an “award”), payable in connection with any such condemnation or taking. The Trustee shall cooperate fully with the Borrower in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Project or any material part thereof.

In the event of any condemnation or taking where title shall have been taken to all or substantially all of the Project or Project Premises, the Borrower shall, within 120 days after the date on which the Net Proceeds are finally determined, elect one of the two following options by written notice of such election to the Trustee.

(1) Option A - Repairs and Improvements. The Borrower may elect to use the Net Proceeds of the award made in connection with such condemnation or taking for additions, repairs and improvements to the Project. In such event, so long as no Event of Default exists, the Borrower shall have the right to receive such Net Proceeds from the Trustee from time to time upon receipt by the Trustee of:

(a) A Certificate of the Borrower Representative specifying the expenditures made or to be made or the indebtedness incurred in connection with such repairs and improvements and stating that such Net Proceeds, together with any of the moneys legally available for such purposes, will be sufficient to complete such repairs and improvements; and

(b) If such Net Proceeds equal or exceed \$500,000 in amount, the written approval of such Certificate by an Independent Engineer.

The Borrower agrees to apply any such Net Proceeds so received solely to the purposes specified in such Certificate. Net Proceeds not required for the repairs and improvements shall be applied to the prepayment of the Bonds or in such other manner as the Trustee, based upon an opinion of Bond Counsel, determines will not cause interest on the Bonds to be included in gross income for purposes of federal income taxation.

(2) Option B - Redemption of the Bonds. In the event that any material part of the Project is condemned, or such use or control thereof is taken by eminent domain, to the extent described above, or, in case the Borrower is unable to deliver the certificates or reports necessary under Option A of this Section, and, in the reasonable judgment of the Borrower the Project cannot be restored within six (6) months following completion of the proceedings by which such title is taken to a condition permitting conduct of the normal operations of the Borrower and at a cost not exceeding the Net Proceeds of the award in such condemnation proceedings the Bonds shall be redeemed on the earliest date for which notice may be given for redemption in accordance with Section 3.1(1) of the Indenture. If the Net

Proceeds of condemnation, together with the amount then held by the Trustee under the Indenture available to redeem the Bonds shall be insufficient to redeem the Bonds (including principal, accrued interest, and expenses of redemption), the Borrower shall pay such deficiency to the Trustee as a Basic Payment, and the Net Proceeds of condemnation, together with such Basic Payment and amounts held by the Trustee under the Indenture shall be applied to such redemption of the Bonds in accordance with Section 8.2 hereof and Section 3.1 of the Indenture. If the Bonds have been duly paid and all other obligations of the Borrower hereunder have been paid or provided for, any remaining Net Proceeds shall be paid to the Borrower.

Section 5.9 Intentionally Omitted.

Section 5.10 Hazardous Materials. The Borrower shall not use the Project in any manner so as to violate in any material respect any applicable law, rule, regulation or ordinance of any governmental body or in such manner as to vitiate insurance upon the Project. The Borrower shall not commit or permit any waste upon the Project which would materially decrease the value of the Project. The Borrower shall comply in all material respects with all regulations concerning the environment, health and safety relating to the generation, use, handling, production, disposal, discharge and storage of Hazardous Materials, as defined herein, in, on, under, or about the Project. The Borrower shall promptly take any and all necessary action in response to the presence, storage, use, disposal, transportation or discharge of any Hazardous Materials in, on, under or about the Project by the Borrower or Persons acting on behalf of or at the direction of the Borrower as all applicable laws, rules, regulations, or ordinances may require, provided, however, that the Borrower shall not, without the Trustee's prior written consent, which consent shall not be unreasonably withheld, take any remedial action in response to the presence of any Hazardous Materials in, on, under or about the Project, nor enter into any settlement agreement, consent decree, or other compromise in respect to any claims, proceedings, lawsuits or actions, completed or threatened pursuant to any Hazardous Materials laws or in connection with any third party, if such remedial action, settlement, consent or compromise might, in the Trustee's sole determination, impair the value of the Project; the Trustee's prior consent shall not, however, be necessary in the event that the presence of Hazardous Materials in, on, under, or about the Project either (1) poses an immediate threat to the health, safety, welfare or property right of any individual, or (2) is of such a nature that an immediate remedial response is necessary under applicable laws, rules, regulations, or ordinances, and it is not possible to obtain the Trustee's consent prior to undertaking such action. In the event the Borrower undertakes any remedial action with respect to any Hazardous Materials on, under or about the Project, the Borrower shall immediately notify the Trustee of any such remedial action, and shall conduct and complete such remedial action (1) in compliance with all applicable federal, state and local laws, regulations, rules, ordinances and policies, (2) to the reasonable satisfaction of the Trustee and (3) in accordance with the orders and directives of all federal, state and local governmental authorities. As used herein, the term "Hazardous Materials" shall mean (unless, and only to the extent that, being used in compliance with all applicable federal, state and local laws, regulations, rules, ordinances and policies): (1) oil, flammable substances, explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances or any other substances, materials or pollutants which (A) pose a hazard to the Project, to adjacent premises or to Persons on or about the Project or adjacent premises, (B) cause the Project to be in violation of any local, state or federal law, rule, regulation, ordinance, or policy, or (C) are defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," or "toxic substances" or words of similar import under any applicable local, state or federal law or under the regulations, policy guidelines or other publications adopted or promulgated pursuant thereto, including, but not limited to: (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq.; (ii) the Hazardous Materials Transportation Act, as amended, 49 U.S.C. § 1601, et seq.; (iii) the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901, et seq.; (iv) the Clean Air Act, 42 U.S.C. § 7412; (v) the Toxic Substance Control Act, 15 U.S.C. § 2601 et seq.; (vi) the Clean Water Act, 33 U.S.C. § 1317 and 1321(b)(2)A and

(vii) rules, regulations, ordinances and other publications adopted or promulgated pursuant to the aforesaid laws; (2) asbestos in any form which is or could become friable, (3) urea formaldehyde foam insulation, and (4) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any governmental authority or may or could pose a hazard to the health and safety or property interests of the Borrower or its employees, the occupants of the Project or the owners or occupants of property adjacent to or surrounding the Project.

Section 5.11 Release of Real Property. The Borrower shall have the right, at any time and from time to time, to a release of any portion of the Project Premises from the Mortgage, but only as follows:

(1) Project Premises not containing any permanent structure necessary for the total operating unity and efficiency of the Project may be released for the purpose of selling the same to a third person or to facilitate the construction or financing of additions to the Project Buildings or additional structures not related to the Project on such portion of the Project Premises, but only upon receipt by the Trustee of the following:

(a) Certificate of a Borrower Representative setting forth in substance as follows:

(i) The address and legal description of the portion of the Project to be released;

(ii) The number of square feet of the property to be released,

(iii) A certification that (a) the portion of the Project to be released is not needed for the operation of the Facility and is not necessary for the total operating unity and efficiency of the Facility, and the release will not cause a reduction in the Net Revenues of the Facility; (b) the release will not impair the structural integrity of the Facility or the usefulness of the Facility; and (c) the release will not inhibit adequate means of ingress to or egress from the Facility;

(iv) No Default exists under this Loan Agreement, and

(v) All conditions precedent herein provided for relating to such release have been complied with;

(b) An ALTA survey prepared by a registered land surveyor describing and showing the Project Premises, after giving effect to such release;

(c) An Opinion of Counsel stating that the certificates, opinions and other instruments which have been or are therewith delivered to and deposited with the Trustee conform to the requirements of this Loan Agreement and that, upon the basis of such application, the property may be released from the lien of the Mortgage, and that all conditions precedent herein provided for relating to such release have been complied with and

(d) A Favorable Opinion of Bond Counsel.

(2) The Borrower may at any time or times grant to itself or others easements, licenses, rights of way and other rights or privileges in the nature of easements with respect to the Project Premises, free from the lien of the Mortgage, or the Borrower may release existing easements, licenses, rights of way and other rights or privileges with or without consideration, and the Trustee will execute and deliver any

instrument necessary or appropriate to confirm and grant or release any such easement, license, right of way or privilege, provided, however, that prior to any such grant or release, there shall have been supplied to the Trustee a Certificate of the Borrower Representative and, if requested by the Trustee, of an Independent Engineer to the effect (i) that such grant or release is not detrimental to the proper operation of the Facility and (ii) such grant or release will not impair the operating unity or the efficiency of the Facility on such Project Premises or materially and adversely affect the character thereof.

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ARTICLE 6
RESERVED

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ARTICLE 7

BORROWER'S COVENANTS

Section 7.1 Covenant for the Benefit of the Trustee and Bondholders. The Borrower recognizes the authority of the Issuer to assign its interest in and pledge moneys receivable under this Agreement (other than certain payments required to be made to the Issuer under Sections 3.2, 4.4, 7.4, 9.5, 10.8, 10.11, 10.12, and 10.13) to the Trustee as security for the payment of the principal and purchase price of and interest and redemption premiums, if any, on the Bonds, and the payment of all fees and expenses of the Trustee; and hereby agrees to be bound by, and joins with the Issuer in the grant of, a security interest to the Trustee in any right and interest the Borrower may have in sums held in the Funds described in Article 5 of the Indenture, pursuant to the terms and conditions thereof, to secure payment of the Bonds. Each of the terms and provisions of this Agreement is a covenant for the use and benefit of the Trustee and Holders of the Bonds, so long as any thereof shall remain Outstanding; but upon payment in full of the Bonds in accordance with Article 7 of the Indenture and of all fees and charges of the Trustee and Paying Agent, all references in this Agreement to the Bonds, the Holders thereof and the Trustee shall be ineffective, and neither the Trustee nor the Holders of any of the Bonds shall thereafter have any rights hereunder, save and except those that shall have theretofore vested or that arise from provisions hereunder which survive termination of this Agreement.

Section 7.2. Inspection and Access. The Borrower agrees that the Trustee and its duly authorized agents shall have the right at all reasonable times to examine and inspect, and for that purpose to enter upon, the Project Premises, and shall also have such right of access thereto as may be reasonably necessary to cause the Project to be properly maintained in accordance with Article 5 and the applicable provisions of the Mortgage in the event of failure by the Borrower to perform these obligations.

Section 7.3 Annual Statement, Audit, Certificate of Compliance and Other Reports.

(1) Commencing in 20__ for the fiscal year ending _____, 20__, the Borrower shall furnish to the Trustee and the Original Purchaser by no later than 120 days after the close of each fiscal year of the Borrower during the term hereof, a copy of annual audited financial statements of the Borrower for the preceding fiscal year, including a balance sheet and operating statements, audited by an Independent Accountant. The Borrower also agrees to furnish to the Trustee and the Original Purchaser of the Bonds by no later than 45 days after the close of each of its fiscal quarters commencing with the fiscal quarter ending _____, 20__, a copy of unaudited, internally-prepared financial statements of the Borrower presented in a manner similar to the annual audited financial statements, as well as physical and economic occupancy statistics for such quarter.

(2) At the time the Borrower causes to be furnished the annual financial statements, the Borrower shall also furnish the Trustee a certificate executed by Borrower Representative, declaring that during the same fiscal year covered by the statements and continuing to the date of execution of the certificate, the Borrower has fully complied with the terms and conditions of this Agreement.

(3) The Borrower will furnish the Issuer and the Trustee all reports required pursuant to law and regulations of the Act.

(4) The Borrower will, and at the request of the Issuer or Trustee at the Borrower's expense, furnish to the Trustee and Issuer at such times and in such form as the Issuer and Trustee, may reasonably require (A) a copy of such other reports containing such information as is necessary to comply with any lawful reporting or continuing registration requirements imposed by any agency of the State under the

Act, the Minnesota Blue Sky Laws or any other applicable state law as it now exists or may hereafter be amended or by any agency of any other state in which the Bonds have been sold, or (B) such information as is necessary to comply with federal securities law.

Section 7.4 Indemnity by Borrower. The Borrower releases the Issuer and the Trustee from, agrees that the Issuer and the Trustee shall not be liable for, and indemnifies, defends and holds the Issuer and the Trustee harmless from and against, all liabilities, claims, costs and expenses and attorneys' fees imposed upon, incurred or asserted against the Issuer or the Trustee on account of: (i) any loss or damage to property or injury to or death of or loss by any person that may be occasioned by any cause whatsoever pertaining to the acquisition, financing, construction, occupation, possession, management, equipping, furnishing, maintenance, operation and use of the Project or from any work or thing done in or about the Project site, or any sidewalks, passageways, driveways, curbs, vaults and vault space, streets or parking areas on the Project site or adjacent thereto; (ii) any breach or default on the part of the Borrower in the performance of any covenant or agreement of the Borrower under this Agreement, the Regulatory Agreement, the Note or any related document, or arising from any act or failure to act by the Borrower, or any of its agents, contractors, servants, employees or licensees; (iii) the Borrower's failure to comply with any requirement of this Agreement including the covenant in Section 5.4 hereof; (iv) any action taken or omitted to be taken by the Issuer or the Trustee under this Loan Agreement, the Indenture or the Regulatory Agreement; (v) the issuance of the Bonds; and (vi) any claim, action or proceeding brought with respect to any matter set forth in clause (i), (ii), (iii), (iv) or (v) above, provided, however, that the indemnification provided in this Section shall not apply to any matter arising or resulting from the gross negligence or willful misconduct of the party proposed to be indemnified hereunder.

The Borrower agrees to indemnify the Trustee for and to hold it harmless against all liabilities, claims, costs and expenses incurred without negligence or willful misconduct on the part of the Trustee, on account of any action taken or omitted to be taken by the Trustee in accordance with the terms of this Agreement, the Bonds, the Regulatory Agreement, the Note or the Indenture or any action taken at the request of or with the consent of the Borrower, including the costs and expenses of the Trustee in defending itself against any such claim, action or proceeding brought in connection with the exercise or performance of any of its powers or duties under this Agreement, the Bonds, the Indenture, the Regulatory Agreement or the Note.

In case any action or proceeding is brought against the Issuer or the Trustee in respect of which indemnity may be sought hereunder, the party seeking indemnity promptly shall give notice of that action or proceeding to the Borrower, and the Borrower upon receipt of that notice shall have the obligation and the right to assume the defense of the action or proceeding, provided that failure of a party to give that notice shall not relieve the Borrower from any of its obligations under this Section unless that failure prejudices the defense of the action or proceeding by the Borrower. The indemnified party shall have the right to employ separate counsel in any such action or proceedings and to participate in the defense thereof, but, unless such separate counsel is employed with the approval and consent of the Borrower, or because the indemnified party has been advised by counsel that there may be a conflict of interest between the Borrower and the indemnified party, the Borrower shall not be required to pay the fees and expenses of such separate counsel. The Borrower shall not be liable for any settlement made without its consent, which consent shall not be unreasonably withheld, conditioned or delayed.

The indemnification set forth above is intended to and shall include the indemnification of all affected officials, directors, officers, agents and employees of the Issuer and the Trustee, respectively. That indemnification is intended to and shall be enforceable by the Issuer and the Trustee, respectively, to the full extent permitted by law.

The provisions of this Section 7.4 shall survive the payment and discharge of the Bonds.

Section 7.5 Status of Borrower. Throughout the Term of this Agreement, the Borrower will maintain its existence as a limited partnership organized under the laws of the State of Minnesota and a Single Purpose Entity and will not wind up or otherwise dispose of all or substantially all of its assets, provided that subject to the sale restrictions in Section 5.2 and the assignment and transfer conditions in Section 8.1, the Borrower may, sell or otherwise transfer to another Person all or substantially all of its assets in its entirety and thereafter wind up if the transferee Person assumes all of the obligations of the Borrower under this Agreement, the Security Documents, the Mortgage and the Regulatory Agreement by written instrument delivered to the Issuer and the Trustee. Every such transferee shall be bound by all of the covenants and agreements of the Borrower herein with respect to any further sale or transfer.

Upon any change in the identity of its general partner by way of substitution, sale or otherwise of the Borrower, the Trustee shall be promptly informed and, if requested, each and every general partner of the Borrower as newly constituted shall deliver to the Trustee for the benefit of the Issuer and Bondholders an instrument in form satisfactory to the Trustee affirming the joint and several liability of all then existing general partners for the obligations of the Borrower hereunder for which the general partners are liable (subject, in all instances, to Section 9.13 of this Agreement).

The Issuer and Borrower agree that, upon any change in the status of the Borrower, including a change in the identity of its general partner, so long as the requirements, restrictions and conditions of Section 5.2, Section 8.1, and the Regulatory Agreement with respect to such change have been satisfied as provided therein, the general partner involved shall be discharged from liability hereunder. The Trustee by execution of the Indenture shall be deemed to have agreed to execute such documents as may be necessary or desirable to indicate such discharge upon receipt of evidence satisfactory to said parties that the requirements for this Section, Section 5.2, Section 8.1 and the Regulatory Agreement have been satisfied, and provided that no Event of Default under this Agreement shall have happened and be continuing on the date of the discharge.

The Borrower shall not effect such transfer or change if the result thereof would be to violate any sale restrictions set forth in Section 5.2 of this Agreement, or to subject the interest payable on the Bonds (in the hands of any Person who is not a “substantial user” of the Project or a “related person”) to federal income taxes under Section 103 of the Code.

Notwithstanding anything to the contrary contained herein or in any other loan document (1) the assignment of Special Limited Partner or Investor Limited Partner interests in the Borrower to an entity controlled, directly or indirectly, by _____ or (2) the removal of the general partner pursuant to the terms of the Partnership Agreement, shall not be deemed an Event of Default hereunder or under any other loan document and shall not require the consent of the Issuer or the Trustee.

Section 7.6 Filing of Financing Statements. The Borrower agrees that it will, at its sole expense, file or cause to be filed any financing statements and continuation statements required or requested by the Trustee to perfect the security interest granted to the Trustee under the Security Documents and under the Indenture in this Agreement and the payments to be made hereunder.

Section 7.7 Assurance of Tax Exemption. In order to assure that the interest on the Bonds shall at all times be excluded from gross income for the purposes of federal income taxation, the Borrower represents and covenants with the Issuer, Trustee and all Holders of the Bonds as follows:

(1) the Borrower will fulfill all continuing conditions specified in Section 142 of the Code and Regulation 1.103-8(b) promulgated thereunder, to qualify the Bonds as residential rental property bonds thereunder, and the Borrower shall fulfill its obligations under the Regulatory Agreement;

(2) the Borrower will not use (or permit to be used) the Project or use or invest (or permit to be used or invested) the proceeds of the Bonds or any other sums treated as “bond proceeds” under Section 148 of the Code and applicable federal income tax regulations, including “investment proceeds”, “invested sinking funds” and “replacement proceeds”, in such a manner as to cause the Bonds to be classified “arbitrage bonds” under Section 148 of the Code or “federally guaranteed obligations” under Section 149(b) of the Code;

(3) at least 95% of Net Bond Proceeds will be used to finance costs properly chargeable to the capital account of a qualified residential rental project within the meaning of Section 142(d) and functionally related and subordinate property thereto;

(4) the Borrower has not permitted and will not permit any obligation or obligations other than the Series A Bonds to be issued within the meaning of Section 103(b) of the Code so as to cause such obligations to become part of the same “issue of obligations” as the Bonds;

(5) no portion of the proceeds of the Bonds is to be used to provide any airplanes, skybox, or other private luxury box, health club facility, facility primarily used for gambling or liquor store;

(6) no portion of the proceeds of the Bonds will be used to acquire (a) property to be leased to the government of the United States of America or to any department, agency or instrumentality of the government of the United States of America, (b) any property not part of the residential rental housing portion of the Project, or (c) any private or commercial golf course, country club, massage parlor, tennis club, skating facility (including roller skating, skateboard and ice-skating), racquet sports facility (including any handball or racquetball court), hot tub facility, suntan facility or racetrack;

(7) no portion of the proceeds of the Bonds (including investment earnings thereon) shall be used (directly or indirectly) for the acquisition of land (or an interest therein) to be used for farming purposes, and less than 25% of the Bond proceeds (including investment earnings thereon) shall be used (directly or indirectly) for the acquisition of land to be used for purposes other than farming purposes;

(8) the Borrower understands that the Code imposes a penalty for failure to file with the Secretary of the Treasury an annual certification of compliance with low income occupancy requirements, and if the requirements for a “qualified residential rental project” are not met, does not allow deduction for interest paid on the Bonds which accrues during the period beginning on the first day of the taxable year in which the Project ceases to meet such requirements and ending on the date the Project again meets such requirements;

(9) the average maturity of the Bonds and the Series A Bonds (_____ years) does not and will not exceed 120% of the average reasonably expected remaining economic life of the Project (_____ years) within the meaning of Section 147(b) of the Code;

(10) the Borrower shall provide the Issuer at Bond Closing with all information required to satisfy the informational requirements set forth in Section 149(e) of the Code including the information necessary to complete IRS Form 8038;

(11) no money in the Bond Fund, Capitalized Interest Fund or Project Fund shall be invested in investments which cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code. If at any time the moneys in such funds exceed, within the meaning of Section 149(b), (i) amounts invested for an initial temporary period until the moneys are needed for the purpose for which the Bonds were issued, (ii) investments of a bona fide debt service fund, and (iii) investments of a reserve

which meet the requirement of Section 148(c) and (d) of the Code, such excess moneys shall be invested in only those Permitted Investments or Government Obligations, as otherwise appropriate, which are (a) obligations issued by the United States Treasury, (b) other investments permitted under regulations, or (c) obligations which are (a) not issued by, or guaranteed by, or insured by, the United States or any agency or instrumentality thereof or (b) not federally insured deposits or accounts, all within the meaning of Section 149(b)(3)(B) of the Code;

(12) the Borrower shall expend at least \$_____ in rehabilitating the Project (15% of the acquisition cost less land value as determined by an independent appraisal) on or before _____ 1, 20__;

(13) the Borrower on behalf of the Issuer shall pay to the United States, as a rebate, an amount equal to the sum of (a) the excess of (i) the aggregate amount earned on all nonpurpose investments (other than investments attributable to an excess described in this clause), over (ii) the amount which would have been earned if all nonpurpose investments were invested at a rate equal to the yield on the Bonds, plus (b) any income attributable to the excess described in clause (a), at the times and in the amounts required by Section 148(f) of the Code, all within the meaning of Section 148(f) of the Code. The Borrower and the Trustee shall maintain detailed records of the interest rate borne by the Bonds and the investments of the Project Fund, Capitalized Interest Fund and Bond Fund (and any other fund created under the Indenture) and earnings thereon. The Borrower shall engage a qualified firm selected by the Borrower (the "Rebate Consultant") to calculate the amount of any rebate required to be made to the United States at times and in installments which satisfy Section 148(f) of the Code and the Regulations, at least once every 5 years and within 60 days after the day on which the last of the Bonds is redeemed, and the Trustee shall be immediately furnished with such calculations. If the Trustee is not furnished with such calculations, the Trustee may undertake to have such calculations made by the Rebate Consultant at the expense of the Borrower. Such calculations shall be retained until 6 years after the retirement of the last Bond. The rebate shall be calculated as provided in Section 148(f) of the Code and Sections 1.148-0 through 1.148-9 of the Treasury Regulations, including taking into account the gain or loss on the disposition of nonpurpose investments but not gross earnings of up to \$100,000 on the portion, if any, of the Bond Fund constituting a bona fide debt service fund. The Borrower shall acquire, and shall cause the Trustee to acquire all nonpurpose investments at their fair market value in arm's length transactions;

(14) the Borrower will not permit more than 2.00% of the proceeds of the Bonds and the Series A Bonds (\$_____) to be expended (or to be used to reimburse any person for an expenditure) to pay Issuance Expenses as provided by Section 147(g) of the Code;

(15) In order to qualify the Bonds and this Agreement under the "program investment" provisions of Section 1.148-2(d)(2)(iii) of the Treasury Regulations, the Borrower (and any "related person" thereto) will take no action the effect of which would be to disqualify this Agreement as a "program investment" as defined in Section 1.148-1(b) of the Treasury Regulations, including but not limited to entering into any arrangement, formal or informal, for the Borrower to purchase bonds or notes of the Issuer in an amount related to the amount of the Bonds; and

(16) the Borrower will not otherwise use Bond proceeds, including expenses, earnings thereon, or take, or permit or cause to be taken, any action that would adversely affect the exclusion from gross income of the interest on the Bonds, nor otherwise omit to take or cause to be taken any action necessary to maintain such exclusion from gross income; and, if it should take or permit, or omit to take or cause to be taken, as appropriate, any such action, the Borrower shall take all lawful actions necessary to rescind or correct such actions or omissions promptly upon having knowledge thereof.

Section 7.8 Determination of Taxability.

(1) Promptly after the occurrence of a Determination of Taxability, the Borrower shall give written notice to the Issuer and Trustee of the Determination of Taxability.

(2) Neither the Borrower nor any Holder shall be required to contest or appeal any notice of deficiency, ruling, decision or legislative enactment which may give rise to a Determination of Taxability; and the expenses of any such contest or appeal shall be paid by the party initiating the contest or appeal.

Section 7.9 Subordination of Management Fees. If, and during any period that, an affiliate of the Borrower or the Sponsor is the manager of the Project, any management fees payable by the Borrower with respect to the Project will be wholly subordinate and junior in right of payment to all sums payable under this Agreement. Without limiting the foregoing, during the continuance of an Event of Default hereunder, no payment of such management fees shall be made by the Borrower. Further, the Borrower will not pay any such management fees if such payment will cause an Event of Default hereunder.

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ARTICLE 8

BORROWER'S OPTIONS

Section 8.1 Assignment and Transfer. The Borrower may assign its rights and obligations under this Agreement and, as an incident thereto, transfer its interest in the Project without prior consent of the Issuer or the Trustee, but subject to the provisions of Sections 5.2 and 7.5 hereof.

Section 8.2 Prepayment.

(1) The Borrower shall have the option to direct the Trustee to call for redemption and prepayment of the Outstanding Bonds in whole or in part as provided in Section 3.1 of the Indenture. The Bonds to be redeemed shall be redeemed at a price equal to their principal amount plus accrued interest set forth in Section 3.1 of the Indenture. In the event the Bonds are called for redemption in whole or in part, the Borrower shall make a Basic Payment as provided in Section 4.2 hereof on such Redemption Date.

(2) The Borrower shall prepay the Loan in whole or in part to the extent of the mandatory redemption of the Bonds under Article III of the Indenture and will at any time transmit directly to the Trustee, for deposit in the Bond Fund, funds in the required amount in addition to any other amounts required to be paid at that time pursuant to this Loan Agreement. The principal amount of the Loan to be prepaid from moneys remaining on deposit in the Project Fund following the Completion Date will be determined in accordance with Section 3.1(2) of the Indenture. [The principal amount of the Loan to be prepaid upon the Borrower's receipt of the proceeds of the Assigned Capital Contributions, the HOME Loan Proceeds, the GP Capital Contributions, and the Sponsor Loan Proceeds will be determined in accordance with Section 3.1(3) of the Indenture.]

(3) If, after the Borrower exercises its option to redeem all Bonds, no Bonds remain Outstanding, the Indenture is discharged, and the Borrower has satisfied all of its obligations hereunder, the Trustee and the Issuer shall execute and deliver to the Borrower such release and other instruments as the Borrower reasonably determines are necessary to terminate this Agreement. All further obligations of the Borrower hereunder, except as set forth in Section 10.10, shall thereupon terminate.

Section 8.3 Direction of Investments. Except during the continuance of an Event of Default, the Borrower shall have the right during the Term of this Agreement to direct the Trustee to invest or reinvest all money held for the credit of Funds established by Article 5 of the Indenture in such securities as are authorized by law for such funds, subject, however, to the further conditions of Article 6 of the Indenture and Section 7.7 hereof.

ARTICLE 9

EVENTS OF DEFAULT AND REMEDIES

Section 9.1 Events of Default. Any one or more of the following events is an Event of Default under this Agreement, and the term “Event of Default,” wherever used herein, means any one of the following events, whatever the reason for such default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body:

(1) if the Borrower shall fail to pay any Basic Payments on the date due under this Agreement, and such failure continues for five days after mailing of a notice to it by the Trustee;

(2) if the Borrower shall fail to pay any Additional Charges on or before the date that the payment is due, and shall continue to be in arrears for 30 days after mailing of a notice to it by the Issuer or the Trustee that said Additional Charges have not been received on the due date;

(3) if the Borrower shall fail to observe and perform or shall breach any other covenant, condition or agreement on its part under this Agreement for a period of 60 days after mailing of a notice to it by the Issuer or the Trustee, stating that it is a “Notice of Default” hereunder and specifying such default or breach and requesting that it be remedied;

(4) if the Borrower shall be dissolved or liquidated (other than when a new entity assumes the obligations of the Borrower under the conditions permitting such action contained in Section 7.5) or the Partnership Agreement shall expire or be annulled;

(5) if any representation or warranty made by the Borrower herein, or by a general partner or Representative of the Borrower in any document or certificate furnished the Trustee or the Issuer or the Underwriter in connection herewith or therewith or pursuant hereto or thereto, shall prove at any time to be, in any material respect, incorrect or misleading as of the date made; or

(6) if an event of default occurs and is continuing under the Indenture or any Related Document, subject to applicable notice and cure periods.

The Investor Limited Partner or Special Limited Partner in the Borrower shall have the right, but not the obligation, to cure Events of Default on behalf of the Borrower.

Section 9.2 Remedies.

(1) Whenever any Event of Default shall have happened and be subsisting the Trustee may, by written notice to the Borrower, declare all the Basic Payments payable for the remainder of the Term of this Agreement (an amount equal to that necessary to pay in full all Outstanding Bonds and the interest thereon assuming acceleration of the Bonds under the Indenture and to pay all other indebtedness thereunder) to be immediately due and payable whereupon the same shall become immediately due and payable by the Borrower.

(2) Upon the occurrence of an Event of Default, the Trustee may also take whatever action at law or in equity may appear necessary or appropriate to collect all sums then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement, covenant, representation or

warranty of the Borrower, under this Agreement, or any Collateral Documents; or to otherwise compensate the Issuer, Trustee or Bondholders for any damages on account of such Event of Default.

(3) The Issuer (without the prior written consent of the Trustee if the Trustee is not enforcing the Issuer's right in a manner to protect the Issuer or is otherwise taking action that brings adverse consequences to the Issuer) may take whatever action at law or in equity may appear necessary or appropriate to enforce its rights of indemnification under Section 7.4 and to collect all sums then due and thereafter to become due to the Issuer under Sections 3.2, 4.4, 7.4, 9.5, 10.11, 10.12, and 10.13 of this Agreement. Notwithstanding the foregoing, the Issuer is not precluded from exercising any of its rights reserved to it as set forth in this Section, even if the Trustee is exercising the rights of the Issuer hereunder.

Section 9.3 Disposition of Funds. Any amounts collected pursuant to action taken under Section 9.2 (other than sums collected for the Issuer on account of its rights to indemnification and certain direct payments to be made to the Issuer under Sections 3.2, 4.4, 7.4, 9.5, 10.8, 10.11, 10.12, and 10.13 which sums shall be paid directly to the Issuer) shall be applied in accordance with the provisions of the Indenture.

Section 9.4 Nonexclusive Remedies. No remedy herein conferred upon or reserved to the Issuer or Trustee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer (or Trustee) to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required or as may be required by law.

Section 9.5 Attorneys' Fees and Expenses. If an Event of Default shall exist under this Agreement and the Issuer or Trustee should employ attorneys or incur other expenses for the collection of any amounts due hereunder, or for the enforcement of performance of any obligation or agreement on the part of the Borrower, the Borrower will upon demand pay to the Issuer or Trustee the reasonable fees of such attorneys and such other expenses so incurred.

Section 9.6 Effect of Waiver. In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 9.7 Waiver of Stay or Extension. The Borrower covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any appraisal, valuation, stay, or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants in, or the performance of, this Agreement; and the Borrower (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Issuer or Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

Section 9.8 Issuer May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Borrower or the property of the Borrower, the Trustee, or the Issuer

with the prior consent of the Trustee, shall be entitled and empowered, by intervention in such proceeding or otherwise,

(1) to file and prove a claim and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Issuer and Trustee (for themselves and on behalf of Bondholders) (including any claim for the reasonable compensation, expenses, disbursements and advances of the Issuer and Trustee, their agents and counsel) allowed in such judicial proceeding, and

(2) to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute the same.

Section 9.9 Restoration of Positions. If the Issuer or Trustee have instituted any proceeding to enforce any right or remedy under this Agreement, and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Issuer or Trustee, then and in every such case the Borrower, Trustee and Issuer shall, subject to any determination in the proceeding, be restored to the positions they held prior to commencement of such proceedings, and thereafter all rights and remedies of the Issuer shall continue as though no such proceeding had been instituted.

Section 9.10 Suits to Protect the Project. If the Borrower shall fail to do so after thirty (30) days prior written notice from the Issuer or Trustee, the Issuer shall have power to institute and to maintain such proceedings as it may deem expedient to prevent any impairment of the Project or any portion thereof, by any acts which may be unlawful or in violation of this Agreement, and such suits and proceedings as the Issuer may deem expedient to protect its interests in the Project or any portion thereof, including power to institute and maintain proceedings to restrain the enforcement of or compliance with any governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of, or compliance with, such enactment, rule or order would impair or adversely affect the Project or be prejudicial to the interests of the Bondholders.

Section 9.11 Performance by Third Parties. The Issuer may permit third parties to perform any and all acts or take such action as may be necessary for and on behalf of the Borrower to cure any Event of Default hereunder. The acceptance by the Issuer or the Trustee of any such performance by third parties shall not in any way diminish or absolve the Borrower of primary liability hereunder.

Section 9.12 Exercise of the Issuer's Remedies by Trustee. Whenever any Event of Default shall have happened and be subsisting the Trustee may, but except as otherwise provided in the Indenture shall not be obliged to, exercise any or all of the rights of the Issuer under this Article 9, without notice to the Issuer.

Section 9.13 Limited Recourse. Notwithstanding any provision or obligation to the contrary set forth in this Agreement, (1) the liability of the Borrower and any partner, trustee, director, officer, employee, or agent thereof (collectively, "Borrower Parties") under this Agreement, the Security Documents or the Mortgage shall be limited to the property subject to the Mortgage, the Security Documents or to such other security as may from time to time be given or have been given for payment of the Borrower's obligations under this Agreement and Bonds, and any judgment rendered against the Borrower Parties under this Agreement, the Security Documents or the Mortgage and the Bonds shall be limited to the property subject to the Mortgage, the Security Documents and any other security so given for satisfaction thereof; and (2) no deficiency or other personal judgment nor any order or decree of specific performance shall be sought or rendered against the Borrower Parties, their successors, transferees or assigns, in any action or proceeding arising out of the Mortgage, the Security Documents, this Agreement, the Bonds, or any judgment, order or decree rendered pursuant to any such action or proceeding, provided, however, that nothing in this Agreement, the Security Documents, the Mortgage or

the Bonds shall limit the Issuer's or Trustee's ability to exercise any right or remedy that it may have with respect to any property pledged or granted to the Issuer or the Trustee, or both of them, or to exercise any right against the Borrower Parties or any other person or entity on account of any damage caused by fraud or intentional misrepresentation by the Borrower or any intentional damage of the property subject to the Mortgage. Furthermore, the Borrower shall be fully liable for the misapplication of (1) proceeds paid prior to any foreclosure under any and all insurance policies, under which the Trustee and/or the Issuer is named as insured, by reason of damage, loss or destruction to any portion of the property subject to the Mortgage, to the full extent of such misapplied proceeds and awards, (2) proceeds or awards resulting from the condemnation, or other taking in lieu of condemnation, prior to any foreclosure of the property subject to the Mortgage, to the full extent of such misapplied proceeds and awards (3) rents, issues, profits and revenues received or applicable to a period subsequent to the occurrence of a default under this Agreement, the Mortgage, the Security Documents and the Bonds but prior to foreclosure, and (4) proceeds from the sale of all or any part of the property subject to the Mortgage, the Security Documents and any other proceeds that, under the terms hereof, should have been paid to the Issuer or the Trustee. Furthermore, the Borrower shall be fully liable for the breach of the Borrower's covenants contained in Sections 3.2, 4.4(1), (2) and (3), 7.4, 9.5, 10.8, 10.11, 10.12, and 10.13 of this Agreement, provided, however, that in no event shall the Borrower or any Borrower Parties be personally liable for payment of the principal of, premium, if any, or interest on the Bonds. The limit on the Borrower's liability set forth in this paragraph shall not, however, be construed, and is not intended in any way, to constitute a release, in whole or in part, of the Borrower's obligations under this Agreement or a release, in whole or in part, or an impairment of the lien and security interest of the Mortgage, the Security Documents, this Agreement and the Bonds upon the properties described therein, or to preclude the Issuer or the Trustee from foreclosing the Mortgage in case of any default or enforcing any other right of the Issuer or the Trustee, or to alter, limit or affect the liability of any person or party who may now or hereafter or prior hereto guarantee, or pledge, grant or assign its assets or collateral as security for, the obligations of the Borrower under the Mortgage, the Security Documents, this Agreement and the Bonds.

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ARTICLE 10

GENERAL PROVISIONS

Section 10.1 Amounts Remaining in Funds. Except during the continuance of an Event of Default, any amounts remaining in the funds created under Article 5 of the Indenture upon expiration or earlier termination of this Agreement, as provided herein, and after adequate provision has been made for payment in full of the Bonds, in accordance with Article 7 of the Indenture, any Additional Charges payable to the Trustee and Issuer, including Paying Agent's fees and expenses, and all other amounts required to be paid under this Agreement and the Indenture, shall forthwith be paid to the Borrower.

Section 10.2 Notices. All notices, certificates or other communications hereunder shall be in writing (except as otherwise expressly provided herein) and shall be sufficiently given and shall be deemed given when mailed by first class mail, postage prepaid, with proper address as indicated below. The Issuer, the Borrower, and Trustee may, by written notice given by each of them to the others, designate any address or addresses to which notices, certificates or other communications to them shall be sent when required as contemplated by this Agreement. Until otherwise provided by the respective parties, all notices, certificates and communications to each of them shall be addressed as follows:

To the Issuer: City of Edina
4801 West 50th Street
Edina, MN 55424
Attn: Finance Director

To the Borrower: _____

Attn: _____

With a copy to: Winthrop & Weinstine P.A.
222 South Sixth Street, Suite 3500
Minneapolis, MN 55402-4629
Attn: Norman Jones, Esq.

And: _____

Attn: _____

To the Trustee: _____

Attn: _____

Section 10.3 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Issuer and Borrower and their respective successors and assigns.

Section 10.4 Severability. In the event any provisions of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 10.5 Amendments, Changes, and Modifications. Except as otherwise provided in this Agreement or in the Indenture, subsequent to the issuance of the Bonds and before the lien of the Indenture is satisfied and discharged in accordance with its terms, this Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the Trustee.

Section 10.6 Execution Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 10.7 Required Approvals. Consents and approvals required by this Agreement to be obtained from the Borrower, the Issuer or the Trustee shall be in writing and shall not be unreasonably withheld or delayed.

Section 10.8 Limitation on Issuer's Liability. No agreements or provisions contained in this Agreement nor any agreement, covenant or undertaking by the Issuer contained in any document executed by the Issuer in connection with the Project shall give rise to any pecuniary liability of the Issuer or a charge against their general credit or taxing powers, or shall obligate the Issuer financially in any way except with respect to the Project and the application of revenues therefrom and the proceeds of the Bonds. No failure of the Issuer to comply with any term, condition, covenant or agreement herein shall subject the Issuer to liability for any claim for damages, costs or other financial or pecuniary charge except to the extent that the same can be paid or recovered from the Project or revenues therefrom or from proceeds of the Bonds; and no execution of any claim, demand, cause of action or judgment shall be levied upon or collected from the general credit, general funds or taxing powers of the Issuer. Nothing herein shall preclude a proper party in interest from seeking and obtaining specific performance against the Issuer for any failure to comply with any term, condition, covenant 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 Project or its revenues.

Section 10.9 Representations of Borrower. All representations made in this Agreement by the Borrower are based on the best of the Borrower's knowledge of the facts and law, and no such representations are made in reliance upon any representations made or legal advice given by the Issuer, its Bond Counsel, or any of its agents, officers or employees.

Section 10.10 Termination. At any time when no Bonds remain Outstanding and arrangements satisfactory to the Issuer and Trustee have been made for the discharge of all liabilities under this Agreement, this Agreement shall terminate. All obligations of the Borrower under Sections 7.4, 7.7, 7.8, 10.11 and 10.12 shall survive termination of this Agreement.

Section 10.11 Administrative Fees, Attorneys' Fees and Costs. The Borrower shall reimburse the Issuer, upon demand, for all costs and expenses, including without limitation attorneys' fees, paid or incurred by the Issuer in connection with (i) the discussion, negotiation, preparation, approval, execution and delivery of the Bonds, the Indenture, this Agreement, and the documents and instruments related hereto or thereto; (ii) any amendments or modifications to any of the foregoing documents, instruments or agreements and the discussion, negotiation, preparation, approval, execution and delivery of any and all documents necessary or desirable to effect such amendments or modifications; (iii) the servicing and administration of the Loan during the Term of this Agreement or thereafter; and (iv) the enforcement by the Issuer during the term hereof or thereafter of any of the rights or remedies of the Issuer hereunder or

under the foregoing documents, or any document, instrument or agreement related hereto or thereto, including, without limitation, costs and expenses of collection in the Event of Default, whether or not suit is filed with respect thereto.

Section 10.12 Release. The Borrower hereby acknowledges and agrees that the Issuer, its officers, employees and agents shall not be liable to the Borrower, and hereby releases and discharges the Issuer, its officers, employees and agents from any liability, for any and all losses, costs, expenses (including attorneys' fees), damages, judgments, claims and causes of action, paid, incurred or sustained by the Borrower as a result of or relating to any action, or failure or refusal to act, on the part of the Trustee or any other party with respect to the Bonds, the Indenture, this Agreement, or the documents and transactions related hereto or thereto or contemplated hereby or thereby, including, without limitation, the exercise by the Trustee or any third party (other than the Trustee) of any of its rights or remedies pursuant to any of such documents.

Section 10.13 Audit Expenses. The Borrower agrees to pay any costs incurred by the Issuer, including fees of Issuer's counsel, as a result of the Issuer's compliance with an audit or inquiry of any kind, random or otherwise, by the Internal Revenue Service, the Minnesota Department of Revenue, the Minnesota Office of the State Auditor, or any other governmental agency with respect to the Bonds, the Series A Bonds, or the Project.

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IN WITNESS WHEREOF, the Issuer and the Borrower have caused this Loan Agreement to be executed by their duly authorized officers.

CITY OF EDINA, MINNESOTA

By _____
Its Mayor

By _____
Its City Administrator

Loan Agreement between the the City of Edina, Minnesota and Yorktown Continental, LP.

**YORKTOWN CONTINENTAL, LP, a Minnesota
limited partnership**

By: _____,
a Minnesota limited liability company
Its: General Partner

By: _____
Its: Vice President

EXHIBIT A
Legal Description

**COMBINATION MORTGAGE, SECURITY AGREEMENT,
ASSIGNMENT OF LEASES AND RENTS AND
FIXTURE FINANCING STATEMENT**

MADE BY

**YORKTOWN CONTINENTAL, LP,
as Mortgagor**

IN FAVOR OF

**THE CITY OF EDINA, MINNESOTA,
as Mortgagee**

Dated as of July 1, 2014

Relating to:

\$ _____

**CITY OF EDINA, MINNESOTA
MULTIFAMILY HOUSING REVENUE BONDS
(YORKTOWN CONTINENTAL, LP PROJECT)
SERIES 2014B**

The maximum principal indebtedness secured by this Combination Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Financing Statement (the "Mortgage") is \$_____ and the debt secured by this Mortgage matures no later than _____ 1, 20___. This Mortgage contains after-acquired property provisions and constitutes a fixture financing statement under Minnesota Statutes, Section 336.9-502. This Mortgage Is Exempt from Registry Tax Pursuant to Minnesota Statutes, Section 287.04(f).

This instrument drafted by:

Dorsey & Whitney LLP (J. Hanson)
50 South Sixth Street
Minneapolis, Minnesota 55402

**COMBINATION MORTGAGE, SECURITY AGREEMENT,
ASSIGNMENT OF LEASES AND RENTS AND
FIXTURE FINANCING STATEMENT**

This COMBINATION MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FINANCING STATEMENT dated as of July 1, 2014 (the "Mortgage" or "Assignment"), is executed and delivered by YORKTOWN CONTINENTAL, LP, a Minnesota limited partnership (the "Mortgagor" or the "Assignor") to the CITY OF EDINA, MINNESOTA, a political subdivision of the State of Minnesota (the "Issuer," and together with its successors and assigns as mortgagee hereunder, the "Mortgagee" or the "Assignee").

WHEREAS, the Mortgagor and the Mortgagee are entering into a Loan Agreement, dated as of July 1, 2014 (the "Loan Agreement"), pursuant to which the Mortgagee will lend to the Mortgagor the gross proceeds of its Multifamily Housing Revenue Bonds (Yorktown Continental, LP Project), Series 2014B (the "Bonds"), in the original aggregate principal amount of \$_____; and

WHEREAS, the Mortgagee and [U.S. Bank National Association, as trustee] (the "Trustee") are entering into an Indenture of Trust, dated as of July 1, 2014 (the "Indenture"), pursuant to which the Mortgagee will assign to the Trustee, as security for the owners of the Bonds, the Basic Payments and covenants and all other rights and interests of the Mortgagee in the Loan Agreement (except for the rights of the Mortgagee thereunder relating to expenses, indemnity and advances of the Mortgagee); and

WHEREAS, the Trustee is authorized by the Indenture to receive as part of the Trust Estate any and all other property conveyed, mortgaged, assigned or transferred, or in which a security interest is granted, by (among others) the Mortgagor, and to hold and apply the Trust Estate pursuant to the provisions of the Indenture; and

WHEREAS, the Mortgagor has agreed to mortgage and grant a security interest in the Mortgaged Property, as defined herein and as further described in Exhibit A hereto, to secure its obligations under the Loan Agreement, including its obligation to make Basic Payments at times and in amounts sufficient to pay when due the principal of, premium (if any) on and interest on the Bonds.

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged; in consideration of the purchase and acceptance of the Bonds by the persons who, from time to time, may become the owners thereof; and to secure the due and punctual payment of any and all liabilities of the Mortgagor under the Loan Agreement and all covenants and agreements of the Mortgagor therein, including (without limitation) all Basic Payments payable thereunder in respect of the Bonds, and the payment of all fees and expenses and advances of the Issuer and the Trustee under the Loan Agreement, the Indenture and this Mortgage, the Mortgagor does hereby grant, bargain, sell, convey, and warrant and assign to the Mortgagee, its permitted successors and assigns a lien on and security interest in, and does hereby mortgage and pledge unto the Mortgagee, its successors and assigns, forever, with power of sale, the following:

I.

All of its right, title and interest in and to the tracts, parcels and interests in land described in Exhibit A hereto (the "Land") and the buildings, structures and other improvements now standing or at any time hereafter constructed or placed upon the Land (the "Buildings"), including but not limited to (i) all building materials, supplies and equipment now or hereafter located on the Land and suitable or intended to be incorporated in any building, structure, or other improvement located or to be erected on the Land, (ii) all heating, plumbing and lighting apparatus, motors, engines and machinery, electrical equipment, incinerator apparatus, air conditioning equipment, water and gas apparatus, pipes, faucets, and all building service equipment and other fixtures of every description which are now or may hereafter be placed or used upon the Land or in any building or improvement now or hereafter located thereon, (iii) all additions, accessions, increases, parts, fittings, accessories, replacements, substitutions, betterments, repairs and proceeds to and of any and all of the foregoing, and (iv) all hereditaments, easements, appurtenances, estates, and other rights and interests now or hereafter belonging to or in any way pertaining to the Land or to any building or improvement now or hereafter located thereon.

II.

All furnishings, furniture, equipment and all other tangible personal property of any nature whatever now or hereafter located in the Buildings or elsewhere on the Land (the "Equipment"), including all additions, accessions, increases, parts, fittings, accessories, replacements, substitutions, betterments, repairs and proceeds to and of any and all such property, excluding any items released or disposed of in accordance with the Loan Agreement and excluding personal property owned by tenants occupying rental units in the Buildings.

III.

All rents, issues, condemnation awards, insurance proceeds, and similar revenues and income arising from the ownership of the Land, the Buildings and the Equipment and all proceeds and products thereof (collectively, the "Revenues and Income").

To have and to hold, the Land, Buildings and Equipment (the "Mortgaged Property"), and the Revenues and Income thereof, together with all privileges, hereditaments and appurtenances thereunto now or hereafter belonging, or in anyway appertaining, and the proceeds thereof, unto the Mortgagee, its successors and assigns forever,

In trust nevertheless, upon the terms and trust as part of the Trust Estate set forth in the Indenture, for the equal and proportionate benefit, security and protection of all owners of the Bonds, without preference, priority or distinction as to lien or otherwise of any of the Bonds over any of the others,

Provided, nevertheless, that these presents are upon the express condition that if the Mortgagor shall pay all Basic Payments under the Loan Agreement and cause to be paid the principal of, premium (if any) on and interest on the Bonds, and if the Mortgagor shall strictly observe and perform all of the terms, covenants and conditions contained in the Loan Agreement and this Mortgage, then this Mortgage and the estate, right and interest of the Mortgagee in and to the Mortgaged Property, and the Revenues and Income thereof, shall cease and be and become void and of no force and effect, and shall be satisfied at the Mortgagor's expense, otherwise to remain in full force and effect.

The Mortgagor and the Mortgagee further agree as follows:

1. Definitions. Terms used in this Mortgage not otherwise defined in this Mortgage, but defined in the Loan Agreement or the Indenture, shall have the same meaning as in the Loan Agreement or Indenture unless the context clearly indicates a contrary meaning.

2. Amount and Maturity of Bonds; Basic Payments. The parties represent and agree as follows:

(a) The Bonds shall be in the aggregate principal amount of \$_____ and the final maturity thereof shall be _____ 1, 20__, subject to the optional or mandatory redemption of the Bonds, including mandatory sinking fund redemption, all as further set forth in the Indenture.

(b) Basic Payments are required to be made monthly by the Mortgagor in order to pay principal of, premium (if any) and interest on the Bonds when and as the same shall become due, or when required to be redeemed, as more fully provided in the Loan Agreement and Indenture.

3. Additional Payments. Under the Loan Agreement, the Mortgagor will be obligated, in addition to the Basic Payments described above, to pay all required rebate payments to the United States in respect of the Bonds, the reasonable fees and expenses of the Trustee and any paying agent of the Bonds, fees and expenses of the Issuer and any advances by the Issuer or the Trustee to meet obligations of the Mortgagor for (among other things) taxes, special assessments, utility charges, insurance premiums, and liens in connection with the Mortgaged Property and also to provide indemnity to the Issuer, all as more fully provided in the Loan Agreement, which obligations are additional indebtedness intended to be secured by this Mortgage.

4. Release of Property. Property included in the Mortgaged Property may be released from the lien of this Mortgage as provided in the Loan Agreement and Indenture.

5. Warranty of Title; Permitted Encumbrances. The Mortgagor does hereby covenant, represent and warrant that it is the lawful owner of and has good right and lawful authority to grant, bargain, sell, convey, warrant, mortgage, assign and pledge the Mortgaged Property and Revenues and Income thereof as provided herein; that the Mortgagor is and will continue to be well and truly seized of good and marketable title to the Mortgaged Property; that the Mortgaged Property and Revenues and Income thereof are and shall remain free and clear of all mortgages, liens, pledges, charges and encumbrances, excepting, with respect to the Land, Permitted Encumbrances, and excepting, with respect to any equipment, furnishings or other personal property, liens or security interests existing on the date hereof or hereafter arising with respect to any security interest granted in connection with purchase money acquisitions of such personal property the lien of which extends only to such purchased personal property; and that the Mortgagor does warrant and will defend the title to the Mortgaged Property and Revenues and Income thereof against all claims and demands whatsoever not permitted hereunder or under the Loan Agreement. "Permitted Encumbrances" shall mean the following:

(a) liens for taxes and special assessments which are not then delinquent;

(b) utility, access and other easements and rights-of-way, restrictions, restrictive covenants and exceptions that the Mortgagor certifies to the Mortgagee will not interfere with or impair the operation of the Mortgaged Property, or, if it is not being operated, the operation for which it was designed or last modified;

(c) any mechanic's, laborer's, materialman's, supplier's, or vendor's lien or right in respect thereof if payment is not yet due under the contract in question;

(d) such minor defects, irregularities, encumbrances, easements, rights-of-way and clouds on title as normally exist with respect to properties similar in character to the Land and which the Mortgagor certifies to the Mortgagee do not materially impair the property affected thereby for the purpose for which it was intended;

(e) zoning laws;

(f) liens arising in connection with workers' compensation, unemployment insurance, taxes, assessments, statutory obligations or liens, social security legislation, undetermined liens and charges incidental to construction, or other similar charges arising in the ordinary course of operation and not overdue, and such other liens and charges at the time required by law as a condition precedent to the transaction of the multifamily housing activities of the Mortgagor or the exercise of any privileges or licenses necessary to the Mortgagor;

(g) purchase money liens on personalty as provided above in this Section 5; and

(h) exceptions, easements, restrictions and encumbrances shown as of the date of this Mortgage on Exhibit B hereto.

6. Events of Default; Remedies. If any Event of Default as defined in the Loan Agreement shall occur and be continuing, or if any Event of Default as defined in the Indenture shall occur and be continuing, the Mortgagee shall have authority (i) to accelerate the Basic Payments and to declare the Bonds immediately due and payable as provided in the Loan Agreement and Indenture, and (ii) to pursue one or more of the remedies provided for in the Loan Agreement and Indenture respectively, and in lieu thereof or addition thereto, one or more of the following remedies and provisions for foreclosure or enforcement of this Mortgage:

(a) The Mortgagee may proceed to protect and enforce its rights by a suit or suits in equity or at law, either for the specific performance of any covenant or agreement contained herein or in aid of the execution of any power herein granted, or for the foreclosure of this Mortgage, or for the enforcement of any other appropriate legal or equitable remedy.

(b) The Mortgagee shall have and may exercise with respect to all personal property and fixtures which are part of the Mortgaged Property all the rights and remedies accorded upon default to a secured party under the Uniform Commercial Code, as in effect in the State of Minnesota. If notice to the Mortgagor of intended disposition of such property is required by law in a particular instance, such notice shall be deemed commercially reasonable if given (in the manner specified in the Loan Agreement and Indenture) at least 10 calendar days prior to the date of intended disposition.

(c) The Mortgagee shall be entitled, without notice, except that which is required by law, and without any showing of waste of the Mortgaged Property, inadequacy of the Mortgaged Property as security, or insolvency of the Mortgagor, to the appointment of a receiver of the rents and profits of the Mortgaged Property including those past due, as permitted by Minnesota Statutes, Section 576.01. The Mortgagee or any receiver shall be entitled to receive and dispose of the Revenues and Income of the Mortgaged Property and to sue for and recover any account or other item of Revenues and Income from the Mortgagor or any account debtor or other third person. Subject to any order of a court appointing a receiver or otherwise having jurisdiction of the Trust Estate, the Mortgagee in its discretion may apply the Revenues and Income received by it as provided in Minnesota Statutes, Section 576.01, Subdivision 2, as follows: (i) to the

application of tenant security deposits as required by Minnesota Statutes Section 504.20, (ii) to the payment when due of prior or current real estate taxes or special assessments with respect to the Mortgaged Property, or the periodic escrow for the payment of the taxes or special assessments, (iii) to the payment when due of premiums for insurance of the types required by the Loan Agreement or this Mortgage, or the periodic escrow for the payment of the premiums, (iv) to the just and reasonable compensation of the Mortgagee for its own services and for the services of counsel, agents and employees by it properly engaged and employed, (v) to the reimbursement of advances made by the Mortgagee pursuant to the provisions of the Loan Agreement or this Mortgage, (vi) to the payment of the indebtedness secured hereby, (vii) to the expenses of operating the Mortgaged Property and conducting the business thereof, and (viii) to the repair, maintenance, renewal, replacement or alteration of the Mortgaged Property.

(d) The Mortgagee may (and is hereby authorized and empowered to) foreclose this Mortgage by action or advertisement, pursuant to the statutes of the State of Minnesota in such case made and provided, power being expressly granted to sell the Mortgaged Property at public auction and convey the same to the purchaser in fee simple and to apply the proceeds arising from such sale, first, as provided in the Indenture, to the payment of the indebtedness secured thereby and hereby, including all reasonable expenses, liabilities and advances of the Mortgagee and the Bonds and interest thereon and Basic Payments relating thereto, and all legal costs and charges of such foreclosure, which costs, charges and fees the Mortgagor agrees to pay, and, second, to the payment of any obligations of the Mortgagor to the Issuer under the Loan Agreement, and, third, to return any surplus to the Mortgagor or such other person as may be entitled thereto. Such sale shall be made at public auction and at such place or places and at such time or times and upon such notice as the Mortgagee may be advised by counsel to be consistent with the laws applicable thereto, and upon such terms as the Mortgagee or the public officer conducting such sale may fix. Any such sale made pursuant to judicial proceedings or advertisement shall be made either as an entirety or in such parcels as may be directed by the court or as the Mortgagee in its sole discretion may determine. The Mortgagor, for it and all persons and corporations hereafter claiming through or under it, does hereby expressly waive and release all right to have the properties and rights comprised in the Mortgaged Property or in the Trust Estate marshaled upon any foreclosure or other enforcement hereof. The Mortgagee or public officer conducting such sale from time to time may adjourn any such sale to be made by it by announcement at the time and place appointed for such sale or for such adjourned sale or sales, and without further notice or publication it may make such sale at the time to which the same shall be so adjourned, but in the event of such adjournment or adjournments, sale shall be made within any limitation of time or number of adjournments prescribed by law and, in any event, within six months from the date of sale fixed in the advertisement or court order, unless notice of sale on some later date shall be given again in the manner provided by law.

(e) Upon any foreclosure sale, the owners of any Bonds outstanding, or the Trustee, may bid for and purchase the Trust Estate or any part thereof and upon compliance with the terms of sale may hold, retain and possess and dispose of such property in their or its own absolute right without further accountability, and any purchaser at any such sale may, in paying the purchase money, turn in any of such Bonds or claims for interest in lieu of cash to the amount which shall, upon distribution of the net proceeds of such sale, be payable thereon.

(f) Upon the completion of any sale or sales made under or by virtue of this Mortgage and the Indenture, the Mortgagee shall execute and deliver, or cause to be executed and delivered, to the accepted purchaser or purchasers the property sold with good and sufficient transfers, assigning and transferring all its right, title and interest in and to the properties sold. The Mortgagee and its successor or successors are hereby appointed the true and lawful attorney

or attorneys irrevocable of the Mortgagor in its name and stead or in the name of the Mortgagee to make all necessary assignments, transfers and deliveries of the property thus sold, and for that purpose, the Mortgagee and its successors may execute all necessary instruments of assignment and transfer, and may substitute one or more persons with like power, the Mortgagor hereby ratifying and confirming all that said attorney or attorneys or such substitute or substitutes shall lawfully do by virtue hereof. Nevertheless, the Mortgagor, if so requested in writing by the Mortgagee, shall ratify and confirm any such sale or sales by executing and delivering to the Mortgagee or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of the Mortgagee, for the purpose and as may be designated in such request.

(g) Upon any sale made under the power of sale hereby granted or under judgment or decree in any judicial proceedings for the foreclosure or otherwise for the enforcement of this Mortgage or the Indenture, the receipt of the Mortgagee or of the officer making such sale shall be a sufficient discharge to the purchaser or purchasers at any sale for the purchase money, and such purchaser or purchasers, their assigns or personal representatives shall not, after paying such purchase money and receiving such receipt of the Mortgagee or of such officer therefor, be obliged to see to the application of such purchase money, or be in anyway answerable for any loss, misapplication, or nonapplication thereof.

(h) The Mortgagor does hereby expressly consent to sale of the Mortgaged Property by advertisement pursuant to Minnesota Statutes, Chapter 580, which provides for sale after service of notice thereof upon the occupant of the Mortgaged Property and publication of said notice for six weeks in the county in which the Mortgaged Property is located, notwithstanding that service might not be made upon the Mortgagor personally, and that no hearing of any type is required in connection with the sale. Except as required by the aforesaid statutory provision, the Mortgagor hereby expressly waives any and all rights to notice of sale of the Mortgaged Property and any and all rights to a hearing of any type in connection with the sale of the Mortgaged Property.

(i) In case of any Event of Default as aforesaid, to the extent that such rights may then lawfully be waived, neither the Mortgagor nor anyone claiming through or under it shall or will set up, claim, or seek to take advantage of any appraisal, valuation, stay, extension or redemption laws now or hereafter in force in any locality where any of the Mortgaged Property may be situated, in order to prevent or hinder the enforcement or foreclosure of this Mortgage or the Indenture, or the absolute sale of the Mortgaged Property, or the final and absolute putting into possession thereof, immediately after such sale, of the purchaser or purchasers thereat.

(j) Any sale made under the power of sale granted hereby or under judgment or decree in any judicial proceedings for foreclosure or otherwise for the enforcement of this Mortgage or the Indenture shall, if and to the extent then permitted by law, operate to divest all right, title, interest, claims and demand whatsoever, either at law or in equity, of the Mortgagor of, in and to the property so sold, and be a perpetual bar both at law and in equity against the Mortgagor and against any and all persons, firms or corporations claiming or who may claim the property sold, or any part thereof, from, through or under the Mortgagor.

7. Possession of Mortgagor. Unless a default on the part of the Mortgagor shall exist under the Loan Agreement or an Event of Default shall exist under the Indenture, the Mortgagor shall be entitled to the possession and disposition of the Mortgaged Property and the Revenues and Income thereof subject, however, to the rights of the Trustee to the possession and disposition of the funds and accounts provided for in the Loan Agreement and Indenture.

8. Further Assurances. As provided in the Loan Agreement, the Mortgagor shall execute, deliver, file and record at its expense such supplements to this Mortgage, financing statements or other documents as may be required in the opinion of counsel, including (without limitation) any supplement to this Mortgage to particularly describe any properties which have been or are intended to become subject to the lien hereof.

9. Amendments. This Mortgage may be amended only as provided in the Loan Agreement and Indenture.

10. Loan Agreement and Indenture Control. Any provision in this Mortgage which is inconsistent with the Loan Agreement or the Indenture or any provision thereof shall be interpreted as if such provision were not contained herein and as if the provisions of the Loan Agreement and Indenture had been fully incorporated herein. In all cases of inconsistency, and in case of any amendment of or supplement to the Loan Agreement or Indenture, entered into in accordance with the provisions thereof, the provisions of the Loan Agreement (as amended and supplemented) and Indenture (as amended and supplemented) shall control. Reference is hereby made to copies of the Loan Agreement and Indenture to be placed on file at the offices of the Mortgagor and the Trustee and at the office of the Executive Director of the Issuer.

11. Fixture Filing. From the date of its recording, this Mortgage shall be effective as a financing statement filed as a fixture filing with respect to all goods constituting part of the Mortgaged Property which are or are to become fixtures related to the real estate described herein on Exhibit A. For this purpose, the following information is set forth:

(a) Name and Address of Debtor:

Yorktown Continental, LP

Attn: David Dye
Organization Identification No. _____

(b) Name and Main Office Address of Secured Party:

City of Edina, Minnesota
4801 West 50th Street
Edina, Minnesota 55424
Attn: City Manager

(c) Name and Main Office Address of Assignee of Secured Party:

[U.S. Bank National Association
60 Livingston Avenue
St. Paul, MN 55107-2292
Attn: Corporate Trust Department]

(d) This document covers goods which are or are to become fixtures.

12. Assignment of Leases and Rents. The Assignor does hereby grant, transfer and assign to the Assignee (the "Assignment") all of the right, title and interest of the Assignor in and to (i) any and all present or future leases or tenancies, whether written or oral, covering or affecting any or all of the

Mortgaged Property (all of which, together with any and all extensions, modifications and renewals thereof, are hereinafter collectively referred to as the “Leases” and each of which is referred to as a “Lease”), and (ii) all rents, profits and other income or payments of any kind due or payable or to become due or payable to or by the Assignor as the result of any use, possession or occupancy of all or any portion of the Mortgaged Property or as the result of the use of or lease of any personal property constituting a part of the Mortgaged Property (all of which are hereinafter collectively referred to as “Rents”), but not including any general revenues, income or accounts receivable of the Assignor, and whether the Rents accrue before or after foreclosure of the Mortgage or during the periods of redemption thereof, all for the purpose of securing:

(a) All indebtedness under the Loan Agreement and all other sums secured by this Mortgage and Assignment pertaining to the Bonds; and

(b) Performance and discharge of each and every obligation, covenant and agreement of the Assignor contained herein and in the Loan Agreement.

13. Covenant. The Assignor warrants and covenants that it is and will remain the absolute owner of the Rents and Leases free and clear of all liens and encumbrances other than the lien granted herein and Permitted Encumbrances; that it has not heretofore assigned or otherwise encumbered its interest in any of the Rents or Leases to any person other than as set forth in the Permitted Encumbrances; that it has the right under applicable law, under the Leases, and otherwise to execute and deliver this Assignment and keep and perform all of its obligations hereunder; that it will warrant and defend the Leases and Rents against all adverse claims, whether now existing or hereafter arising.

14. Performance of Leases. The Assignor will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which it is now or hereafter becomes liable to observe or perform under any present or future Lease, and, at its sole cost and expense, enforce or secure the performance of each and every obligation, covenant, condition and agreement to be performed by the tenant under each and every Lease, subject to such waivers or extensions of time as may be granted by Assignee, provided that Assignee shall have the right, at any time, to rescind any such waiver or extension of time. The Assignor will observe and comply with all provisions of law applicable to the operation and ownership of the Mortgaged Property. The Assignor will at its sole cost and expense, appear in and defend any action or proceeding arising under, growing out of or in any manner connected with any Lease or the obligations, duties or liabilities of the Assignor or any tenant thereunder.

15. Collection of Rents. Unless permitted by the Mortgagee, the Assignor will not collect or accept any Rents for the use or occupancy of the Mortgaged Property for more than one month in advance. Security deposits shall not be deemed Rents for purposes of this paragraph.

16. Protecting the Security of This Assignment. Should the Assignor fail to perform or observe any covenant or agreement contained in this Assignment, then the Assignee, but without obligation to do so and without releasing the Assignor from any obligation hereunder, may make or do the same in such manner and to such extent as the Assignee may deem appropriate to protect the security hereof, including, specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of the Assignee, and also the right to perform and discharge each and every obligation, covenant and agreement of the Assignor contained in the Leases and in exercising any such powers to pay necessary costs and expenses, employ counsel and pay reasonable attorneys’ fees. The Assignor will pay immediately upon demand all sums expended by the Assignee under the authority of this Assignment, together with interest thereon, and the same shall be added to said indebtedness and shall be secured hereby.

17. Present Assignment. This Assignment shall constitute a perfected, absolute and present assignment, provided that the Assignor shall have the right to collect, but not prior to accrual (except as permitted by paragraph 15 above), all of the Rents, and to retain, use and enjoy the same unless and until an Event of Default shall occur under the Loan Agreement, this Mortgage or the Indenture or the Assignor shall have breached any warranty or covenant in this Assignment. Any Rents which accrue prior to an Event of Default under the Loan Agreement or this Mortgage or the Indenture but are paid thereafter shall be paid to the Assignee.

18. Survival of Obligation to Comply with Mortgage and This Assignment. All of the Assignor's obligations under this Mortgage and Assignment shall survive foreclosure of this Mortgage and the Assignor covenants and agrees to observe and comply with all terms and conditions of this Mortgage and Assignment and to preclude any Event of Default from occurring under the Loan Agreement, this Mortgage or Indenture throughout any period of redemption after foreclosure of the Mortgage.

19. Additional Remedies. Upon the occurrence of any Event of Default specified in the Loan Agreement, the Indenture or herein, the Assignee may, at its option, in addition to any remedies set forth in Section 6, at any time:

(a) in the name, place and stead of the Assignor and without becoming a mortgagee in possession (i) enter upon, manage and operate the Mortgaged Property or retain the services of one or more independent contractors to manage and operate all or any part of the Mortgaged Property; (ii) make, enforce, modify and accept surrender of the Leases; (iii) obtain or evict tenants, collect, sue for, fix or modify the Rents and enforce all rights of the Assignor under the Leases; and (iv) perform any and all other acts that may be necessary or proper to protect the security of this Assignment.

(b) with or without exercising the rights set forth in subparagraph (a) above, give or require the Assignor to give, notice to any or all tenants under the Leases authorizing and directing the tenants to pay all Rents under the Leases directly to the Assignee.

(c) without regard to waste, adequacy of the security or solvency of the Assignor, apply for, and the Assignor hereby consents to, the appointment of a receiver of the Mortgaged Property, whether or not foreclosure proceedings have been commenced under the Mortgage, and if such proceedings have been commenced, whether or not a foreclosure sale has occurred.

The exercise of any of the foregoing rights or remedies and the application of the rents, profits and income pursuant to paragraph 20 shall not cure or waive any Event of Default (or notice of default) under the Mortgage or invalidate any act done pursuant to such notice.

20. Application of Rents, Profits and Income. All Rents collected by the Assignee or the receiver each month pursuant to subsection (b) of Section 19 above shall be applied for the purposes referred to in subsection (a) of Section 19 hereinabove. The rights and powers of the Assignee under this Assignment and the application of Rents under this paragraph 20 shall continue until expiration of the redemption period from any foreclosure sale, whether or not any deficiency remains after a foreclosure sale.

21. No Liability for Assignee. The Assignee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability of the Assignor under the Leases. This Assignment shall not operate to place upon the Assignee responsibility for the control, care, management or repair of the Mortgaged Property or for the carrying out of any of the terms

and conditions of the Leases. The Assignee shall not be responsible or liable for any waste committed on the Mortgaged Property, for any dangerous or defective condition of the Mortgaged Property, for any negligence in the management, upkeep, repair or control of said Mortgaged Property or for failure to collect the Rents.

22. Assignor's Indemnification. The Assignor shall and does hereby agree to indemnify and to hold the Assignee harmless of and from any and all claims, demands, liability, loss or damage (including all costs, expenses, and reasonable attorney's fees in the defense thereof) asserted against, imposed on or incurred by the Assignee in connection with or as a result of this Assignment or the exercise of any rights or remedies under this Assignment or under the Leases or by reason of any alleged obligations or undertakings of the Assignee to perform or discharge any of the terms, covenants or agreements contained in the Leases which do not result from Assignee's own gross negligence or willful misconduct. Should the Assignee incur any such liability, the amount thereof, together with interest thereon, shall be secured hereby and the Assignor shall reimburse the Assignee therefor immediately upon demand.

23. Authorization to Tenants. Upon notice from the Assignee that it is exercising the remedy set forth in paragraph 19(b) of this Assignment, the tenants under the Leases are hereby irrevocably authorized and directed to pay to the Assignee all sums due under the Leases, and the Assignor hereby consents and directs that said sums shall be paid to the Assignee without the necessity for a judicial determination that an Event of Default has occurred hereunder or that the Assignee is entitled to exercise its rights hereunder, and to the extent such sums are paid to the Assignee, the Assignor agrees that the tenant shall have no further liability to the Assignor for the same. The signature of the Assignee alone shall be sufficient for the exercise of any rights under this Assignment and the receipt of the Assignee alone for any sums received shall be a full discharge and release therefor to any such tenant or occupant of the Mortgaged Property. Checks for all or any part of the Rents collected under this Assignment shall upon notice from the Assignee be drawn to the exclusive order of the Assignee.

24. Assignee an Attorney-In-Fact. The Assignor hereby irrevocably appoints the Assignee, and its successors and assigns, as its agent and attorney-in-fact, which appointment is coupled with an interest, with the right but not the duty to exercise any rights or remedies hereunder and to execute and deliver during the term of this Assignment such instruments as the Assignee may deem appropriate to make this Assignment and any further assignment effective, including without limiting the generality of the foregoing, the right to endorse on behalf and in the name of the Assignor all checks from tenants in payment of Rents that are made payable to the Assignor.

25. Assignee Not a Mortgagee in Possession. Nothing herein contained and no actions taken pursuant to this Assignment shall be construed as constituting the Assignee a mortgagee in possession.

26. Specific Assignment of Leases. The Assignor will transfer and assign to the Assignee, upon written notice by Assignee, any and all specific Leases that the Assignee requests. Such transfer or assignment by the Assignor shall be upon the same or substantially the same terms and conditions as are herein contained, and the Assignor will properly file or record such assignments, at the Assignor's expense, if requested by the Assignee.

27. Unenforceable Provisions Severable. All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any applicable law, and are intended to be limited to the extent necessary so that they will not render this Assignment invalid, unenforceable or not entitled to be recorded, registered or filed under any applicable law. If any term of this Assignment shall be held to be invalid, illegal or unenforceable, the validity of other terms hereof shall in no way be affected thereby. It is the intention of the parties hereto, however, that this Assignment

shall confer upon the Assignee the fullest rights, remedies and benefits available pursuant to Minnesota Statutes, Section 559.17 and Section 576.01, Subdivision 2.

28. Limited Recourse. Notwithstanding any provision or obligation to the contrary set forth in this Mortgage, (a) the liability of the Mortgagor and any partner, trustee, director, officer, employee, or agent thereof (collectively, "Mortgagor Parties") under this Mortgage or the Loan Agreement shall be limited to the property subject to this Mortgage or to such other security as may from time to time be given or have been given for payment of the Mortgagor's obligations under the Loan Agreement and Bonds, and any judgment rendered against the Mortgagor Parties under this Mortgage or the Loan Agreement and Bonds shall be limited to the property subject to this Mortgage and any other security so given for satisfaction thereof; and (b) no deficiency or other personal judgment nor any order or decree of specific performance shall be sought or rendered against the Mortgagor Parties, their successors, transferees or assigns, in any action or proceeding arising out of this Mortgage, the Loan Agreement, the Bonds, or any judgment, order or decree rendered pursuant to any such action or proceeding; provided, however, that nothing in this Mortgage, the Loan Agreement or the Bonds shall limit the Issuer's or Trustee's ability to exercise any right or remedy that it may have with respect to any property pledged or granted to the Issuer or the Trustee, or both of them, or to exercise any right against the Mortgagor or any other person or entity on account of any damage caused by fraud or intentional misrepresentation by the Mortgagor or any intentional damage of the property subject to the Mortgage. Furthermore, the Mortgagor shall be fully liable for the misapplication of (i) proceeds paid prior to any foreclosure under any and all insurance policies, under which the Trustee and/or the Issuer is named as insured, by reason of damage, loss or destruction to any portion of the property subject to this Mortgage, to the full extent of such misapplied proceeds and awards, (ii) proceeds or awards resulting from the condemnation, or other taking in lieu of condemnation, prior to any foreclosure of the property subject to this Mortgage, to the full extent of such misapplied proceeds and awards (iii) rents, issues, profits and revenues received or applicable to a period subsequent to the occurrence of a default under this Mortgage, the Loan Agreement and the Bonds but prior to foreclosure, and (iv) proceeds from the sale of all or any part of the property subject to this Mortgage and any other proceeds that, under the terms hereof, should have been paid to the Issuer or the Trustee. Furthermore, the Mortgagor shall be fully liable for the breach of the Mortgagor's covenants contained in Sections 3.2, 4.4 (1), (2) and (3), 7.4, 9.5, 10.11 and 10.12 of the Loan Agreement; provided, however in no event shall the Mortgagor Parties be personally liable for payment of the principal of, premium, if any, or interest on the Bonds. The limit on the Mortgagor's liability set forth in this paragraph shall not, however, be construed, and is not intended in any way, to constitute a release, in whole or in part, of the Mortgagor's obligations under the Loan Agreement or a release, in whole or in part, or an impairment of the lien and security interest of this Mortgage, the Loan Agreement and the Bonds upon the properties described therein, or to preclude the Issuer or the Trustee from foreclosing this Mortgage in case of any default or enforcing any other right of the Issuer or the Trustee, or to alter, limit or affect the liability of any person or party who may now or hereafter or prior hereto guarantee, or pledge, grant or assign its assets or collateral as security for, the obligations of the Mortgagor under this Mortgage, the Loan Agreement and the Bonds.

29. Extended Use Agreement. The Mortgagor and Mortgagee agree that the lien of this Mortgage shall be subordinate to the portion of an extended low-income housing commitment (as such term is defined in Section 42(h)(6)(B) of the Internal Revenue Code of 1986, as amended) (the "Extended Use Agreement") to be recorded against the Land that restricts the operation of the Buildings for a period of three years following foreclosure or transfer by instrument in lieu of foreclosure. All other provisions of such Extended Use Agreement may terminate upon foreclosure under this Mortgage or transfer of the Mortgaged Property by instrument in lieu of foreclosure (or comparable conversion of the Bonds, in accordance with Section 42(h)(6)(E) of the Internal Revenue Code of 1986, as amended).

30. Successors and Assigns. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to the respective successors and assigns of the Assignor and the Assignee, including any purchaser at a foreclosure sale.

31. Captions. The captions and headings of the paragraphs of this Mortgage are for convenience only and shall not be used to interpret or define the provisions of this Mortgage.

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EXHIBIT A
to
Combination Mortgage, Security Agreement,
Assignment of Leases and Rents
and Fixture Financing Statement

LEGAL DESCRIPTION

EXHIBIT B
to
Combination Mortgage, Security Agreement,
Assignment of Leases and Rents and Fixture Financing Statement

(Permitted Encumbrances)

Those encumbrances shown on Schedule B of Commitment No. _____ with respect to the mortgaged property.

DRAFT 6/20/14

REGULATORY AGREEMENT

between

**THE CITY OF EDINA, MINNESOTA
as City**

**U.S. BANK NATIONAL ASSOCIATION,
as Trustee**

and

**YORKTOWN CONTINENTAL, LP
as Borrower**

Dated as of July 1, 2014

This Instrument Drafted by:

Dorsey & Whitney LLP
50 South Sixth Street
Minneapolis, Minnesota 55402

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REGULATORY AGREEMENT

THIS REGULATORY AGREEMENT, dated as of July 1, 2014 (this “Regulatory Agreement”), is made and entered into between the City of Edina, Minnesota, a body corporate and politic of the State of Minnesota (the “City”), U.S. Bank National Association, a national banking association, as trustee (the “Trustee”) under that certain Trust Indenture, dated as of July 1 (the “Indenture”), and Yorktown Continental, LP, a Minnesota limited partnership (the “Borrower”), as the owner of the property described in EXHIBIT A hereto.

RECITALS

WHEREAS, the City is authorized to issue bonds to provide financing for multifamily housing developments in accordance with the terms of Minnesota Statutes, Chapter 462C, as amended.

WHEREAS, for the purpose of financing the acquisition, rehabilitation, and equipping by Borrower of an existing 264-unit building containing 262 one-bedroom units and two two-bedroom units as a senior low-income housing project located at 7151 York Avenue South in the City (the “Project”), the City will issue its \$_____ Multifamily Housing Revenue Bonds (Yorktown Continental, LP Project), Series 2014A (the “Series 2014A Bonds”) and its Multifamily Housing Revenue Bonds (Yorktown Continental, LP Project), Series 2014B (the “Series 2014B Bonds”; together with the Series 2014A Bonds, the “Bonds”), in the original aggregate principal amount of \$_____ pursuant to the Indenture.

WHEREAS, the City will loan the proceeds derived from the sale of the Bonds to the Borrower pursuant to a Loan Agreement dated as of July 1, 2014 (the “Loan Agreement”) between the Borrower and the City.

WHEREAS, for good and valuable consideration, the City, the Trustee and the Borrower have determined to enter into this Regulatory Agreement in order to impose on the Project certain requirements of the Code (as hereinafter defined) and of the Act (as hereinafter defined) applicable to thereto.

NOW, THEREFORE, the City, the Trustee and the Borrower do hereby impose upon the Project the following covenants, restrictions, charges, and easements, which shall run with the land and shall be binding and a burden upon the Project and all portions thereof, and upon any purchaser, grantee, owner, or lessee of any portion of the Project and any other person or entity having any right, title, or interest therein and upon the respective heirs, executors, administrators, devisees, successors, and assigns of any purchaser, grantee, owner, or lessee of any portion of the Project and any other person or entity having any right, title, or interest therein, for the length of time that this Regulatory Agreement shall be in full force and effect.

Section 1. Federal Tax Covenants Relating to the Project

The Borrower represents, warrants and covenants with respect to the Project as follows:

a) The Project will be acquired, rehabilitated and equipped for the purpose of providing multifamily residential rental property, and the Project constitutes and will constitute a “qualified residential rental project,” as such term is used in Section 142(a)(7) of the Code.

b) At no time will either the Borrower or any related party occupy a unit in the Project other than units occupied or to be occupied by agents, employees or representatives of the Borrower and reasonably required for the proper maintenance or management of the Project. In the event a unit within the Project is occupied by the Borrower, the Project must include no fewer than four units not occupied by the Borrower.

c) The Project consists of one "development" and, for this purpose, proximate buildings or structures are part of the same development only if owned for federal income tax purposes by the same person and if the buildings are financed pursuant to a common plan. Buildings or structures are proximate if they are all located on a single parcel of land or several parcels of land which are contiguous except for the interposition of a road, street, stream or similar property.

d) All of the units in the Project will contain complete living, sleeping, eating, cooking, and sanitation facilities for a single person or a family.

e) None of the units in the Project will at any time be utilized on a transient basis, or used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, hospital, sanitarium or rest home.

f) The Borrower shall not restrict Qualifying Tenants (as defined in Section 3(a) hereof) from the enjoyment of unrestricted access to all common facilities and common areas of the Project.

g) The Borrower shall not discriminate on the basis of race, creed, color, sex, or national origin in the lease, use or occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project.

h) No part of the Project constitutes commercial property, and no health care services will be furnished by the Borrower to residents of the Project.

i) All records of the Borrower relating to the Project, including all tenant lists and applications, shall be maintained in the State of Minnesota (the “State”) in a reasonable condition for proper audit and subject to examination during business hours by representatives of the City or Trustee, upon reasonable notice provided to the Borrower.

j) The proceeds of the Bonds will be used in accordance with the representations, warranties and covenants of Section ___ of the Loan Agreement.

k) All tenant leases shall be expressly subordinate to any mortgage on the Project, with the exception of any restrictions imposed under Section 42(h)(6) of the Code, and all leases

of units to Qualifying Tenants shall contain clauses, among others, wherein each individual lessee

1. certifies the accuracy of the statements made in its application and Certification of Tenant Eligibility (as defined in Section 3(b) hereof);

2. agrees that the family income, family composition and other eligibility requirements at the time the lease is executed shall be deemed substantial and material obligations of his or her tenancy; that he or she will comply promptly with all requests for income, family composition and other information relevant to determining low- or moderate-income status from the Borrower or Trustee; and that his or her failure or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of his or her tenancy; and

3. agrees that his or her lease may be terminated on thirty (30) days' notice after any noncompliance by such tenant if such noncompliance would adversely affect the federal tax-exempt status of interest on the Bonds.

Section 2. State Law Covenants of Borrower Relating to the Project; Maximum Rent

The Borrower represents, warrants and covenants with respect to the Project as follows:

a) The Borrower understands that the City is authorized to issue the Bonds to finance the Project only if the Project complies with the restrictions set forth in Minnesota Statutes, Section 474A.047, and that the Project is a "project" as described in Subdivision 1(a) of such Section.

b) Consistent with the requirements of Minnesota Statutes, Section 474A.047, Subdivision 2, for fifteen (15) years after the date hereof, the maximum rental rates of at least twenty percent (20%) of the units in the Project will not exceed the area fair market rent or exception fair market rents for existing housing, if applicable, as established by the federal Department of Housing and Urban Development. The Borrower shall annually certify for said fifteen (15) years that the rental rates are within these limitations and provide a copy of the annual certification to the State Commissioner of Finance, the City and the Trustee.

c) The Borrower understands that Minnesota Statutes, Section 474A.047, Subdivision 3, requires that the Borrower's compliance with the rental rate requirements of the Section be monitored. The City, the Trustee or one or more agents acting on its or their behalf (the "Monitor") may monitor such compliance and issue an order of noncompliance if the Project is found to be out of compliance with these requirements. If the Monitor issues an order of noncompliance, the Borrower shall pay an initial penalty to the City equal to one-half of one percent (0.5%) of the total amount of bonds issued for the Project under Minnesota Statutes, Chapter 474A. For each additional year the Project is out of compliance, as evidenced by an order of noncompliance issued by the Monitor, the Borrower shall pay an additional penalty, which penalty must be increased in each instance by one-half of one percent (0.5%) of the total amount of such bonds. Insubstantial violations may be waived. No order of noncompliance shall become final and effective until thirty (30) days after its dated date, or longer if the Borrower, in good faith, contests the validity or accuracy of the order.

This Section 2 is limited in its entirety to applicable provisions of Minnesota Statutes, Chapters 462C and 474A, but does not limit any other obligations of the Borrower under this Regulatory Agreement.

Section 3. Occupancy Restrictions

For the period specified in Section 5 hereof, the Borrower represents, warrants and covenants as follows:

a) Federal Tax Requirements. "Qualifying Tenants" means those persons and families (treating all occupants of a unit as a single family) who shall be determined from time to time by the Borrower to be eligible as "...individuals whose income is sixty percent (60%) or less of area median gross income..." within the meaning of Section 142(d)(2)(A) of the Code. For purposes of this definition, the occupants of a residential unit shall not be deemed to be Qualifying Tenants if all the occupants of such residential unit at any time are "students," as defined in Section 151(c)(4) of the Code, no one of whom is entitled to file a joint return under Section 6013 of the Code.

At least forty percent (40%) of the completed units in the Project shall be occupied (or treated as occupied as provided herein) by Qualifying Tenants and such units will be of comparable quality and will be a range of sizes and numbers of bedrooms comparable to those units which are available to other tenants. In determining the applicable income limit, the Borrower shall apply the provisions of Revenue Ruling 89-24. "Income" shall be determined in a manner consistent with determinations of lower-income families under Section 8 of the United States Housing Act of 1937 (and as presently set forth in 24 CFR 813.106).

The determination of whether an individual or family is of low- or moderate-income shall be made at the time the tenancy commences and on an ongoing basis thereafter, determined at least annually. Any unit occupied by an individual or family who is a Qualifying Tenant at the commencement of occupancy shall not continue to be treated as if occupied by a Qualifying Tenant during their tenancy in such unit if such individual or family subsequently ceases to be of low- or moderate-income unless such individual's or family's income does not exceed 140% of the maximum income qualifying as low- or moderate-income for a family of its size. In the event that a unit does cease to be treated as occupied by a Qualifying Tenant for such reason, and thereupon less than forty percent (40%) of the completed units in the Project would not be occupied (or treated as occupied) by Qualifying Tenants, the next vacant unit of comparable or smaller size not previously occupied by a Qualifying Tenant must be rented to a Qualifying Tenant.

Any completed unit vacated by a Qualifying Tenant shall be treated as occupied by a Qualifying Tenant until reoccupied (on other than a temporary basis not in excess of 31 days), at which time a redetermination shall be made as to whether the unit is occupied by a Qualifying Tenant. The Borrower shall make reasonable efforts to rent the vacated unit, or the next available unit of comparable or smaller size, to a Qualifying Tenant before any similar units in the Project are rented to tenants not constituting Qualifying Tenants.

b) Certification of Tenant Eligibility. As a condition to initial and continuing occupancy, each person who is intended to be a Qualifying Tenant on and after the date of this Regulatory Agreement shall be required annually to sign and deliver to the Borrower a

Certification of Tenant Eligibility in the general form attached hereto as Exhibit B (the "Certification of Tenant Eligibility"), in which the prospective Qualifying Tenant certifies that he or she or his or her family qualifies as being of low- or moderate-income. In addition, such person shall be required to provide whatever other information, documents or certifications are deemed necessary by the Trustee to substantiate the eligibility certification, on an ongoing annual basis.

c) Lease. The form of lease to be utilized by the Borrower in renting any units in the Project on and after the date of this Regulatory Agreement to any person who is intended to be a Qualifying Tenant shall provide for termination of the lease and consent by such person to immediate eviction in accordance with applicable law for failure to qualify as a Qualifying Tenant as a result of any material misrepresentation made by such person with respect to the Certification of Tenant Eligibility.

d) Retention. Certifications of Tenant Eligibility will be maintained on file by the Borrower with respect to each Qualifying Tenant who resides in a Project unit or resided therein during the immediately preceding calendar year, commencing with the calendar year ending December 31, 2014, and the Borrower will file a copy thereof with the Trustee.

e) Annual Certification to United States Treasury Department. During the term of this Regulatory Agreement, on or before June 30 of each calendar year (or on or before such other date as may hereafter be prescribed by the Code), the Borrower shall

1. certify to the United States Treasury Department (on Form 8703 or such other form as may hereafter be prescribed by the Code or the Treasury Department) that the Project continues to meet the requirements of Section 142(d) of the Code, and

2. provide a copy of such annual certification to the Trustee. The Borrower shall provide a similar certification to the Trustee more frequently than annually (but not more frequently than quarterly), upon request by the Trustee.

Section 4. [Reserved]

Section 5. Term of Restrictions

a) Occupancy Restrictions. The Occupancy Restrictions set forth in Section 3 hereof take effect on the first day on which ten percent (10%) of the residential units in the Project are occupied and end on the latest of the following:

1. the date which is 15 years after the date on which at least 50% of the units in the Project were first occupied;

2. the first day on which none of the Bonds are Outstanding; or

3. the date on which any assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937 terminates.

b) [Reserved].

c) Earlier Termination of Restrictions. Notwithstanding the provisions of (a) and (b) of this Section 5, this Regulatory Agreement and all other restrictions hereunder shall terminate upon foreclosure of a mortgage or transfer of title to the Project by deed in lieu of foreclosure and retirement of the Bonds; provided, however, that the restrictions pursuant to Section 42(h)(6) of the Code shall survive foreclosure for three (3) years.

In addition, this Regulatory Agreement and the restrictions hereunder shall also cease to apply in the event of an involuntary noncompliance caused by unforeseen events such as fire, seizure, requisition, a change in federal law or an action of a federal agency after the date of issue of the Bonds which prevents the Trustee from enforcing the requirements of this Regulatory Agreement or condemnation or similar event; provided in all such cases that

1. the Bonds are retired as soon as reasonably practicable, or
2. any insurance proceeds or condemnation award or other amounts received as a result of such loss or destruction are used to provide a project which meets the requirements of Section 142(d) or any successor provision of the Code and applicable Treasury Regulations, or any successor law or regulation, in which case this Regulatory Agreement shall be automatically reinstated as to such successor project.

However, the foregoing provisions of this paragraph shall cease to apply in the event of foreclosure, transfer of title by deed in lieu of foreclosure or similar event if, at any time subsequent to such event and during the period set forth in paragraph (a) of this Section 5, the Borrower or a related person obtains an ownership interest in the Project for federal tax purposes.

d) Termination of Regulatory Agreement. Unless earlier terminated pursuant to the provisions of paragraph (c) of this Section 5, this Regulatory Agreement shall terminate upon the later of the termination of the Occupancy Restrictions as provided in paragraph (a) of this Section 5.

e) Removal from Real Estate Records. Upon delivery by the Borrower to the Trustee of an opinion of independent counsel that the conditions to termination of this Regulatory Agreement have been met, the Trustee shall, upon request by the Borrower or its assigns, file any documentation prepared by the Borrower and approved by independent counsel as necessary to remove this Regulatory Agreement from the real estate records of Hennepin County, Minnesota.

Section 6. Transfer Restrictions

The Borrower shall cause or require as a condition precedent to any conveyance, transfer, assignment or any other disposition of the Project prior to the termination of the [Rental Restrictions and] Occupancy Restrictions provided herein (the "Transfer") that the transferee of the Project, pursuant to the Transfer, will assume in writing, in a form acceptable to Dorsey & Whitney LLP, or any other attorney at law or firm of attorneys, of nationally-recognized standing in matters pertaining to the federal tax exemption of interest on bonds and other obligations issued by states and political subdivisions thereof, duly admitted to practice law before the highest court of any state of the United States of America ("Bond Counsel"), all duties and obligations of the Borrower under this Regulatory Agreement, including this Section 6.

Section 7. Enforcement

a) The Borrower shall, upon reasonable notice and during normal business hours, permit any duly authorized representative of the Trustee to inspect any books and records of the Borrower regarding the Project and the operation thereof, including the incomes of Qualifying Tenants.

b) The Borrower shall submit upon request any information, documents or certificates which the Trustee or City deem reasonably necessary to substantiate the Borrower's continuing compliance with the provisions of this Regulatory Agreement or the Code.

c) The Borrower covenants that it will not knowingly take or permit any action that would adversely affect the exclusion of interest on the Bonds from gross income of the owners thereof for purposes of federal income taxation. Moreover, the Borrower covenants to take any lawful action (including amendment of this Regulatory Agreement as may be necessary, in the opinion of bond counsel reasonably acceptable to the Trustee) to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service from time to time pertaining to obligations the interest on which is tax-exempt under Section 142(d) or any successor provision of the Code and affecting the Project.

d) If the Borrower defaults in the performance or observance of any covenant, agreement or obligation of the Borrower set forth in this Regulatory Agreement and such default remains uncured for a period of 30 days after written notice thereof is given by the Trustee to the Borrower, or within such further time as Bond Counsel determines is necessary to correct the violation without loss of tax exemption of interest on the Bonds, but not to exceed any limitations set by applicable regulations, then the Trustee may

1. institute and prosecute any proceeding at law or in equity to abate, prevent or enjoin such default, or to recover money damages caused by such default (including, without limitation, issuing an order of noncompliance for substantial violations pursuant to Minnesota Statutes, Section 474A.047, Subdivision 3, and assessing the annual penalty authorized thereby, but not to accelerate repayment of amounts due under the Loan Agreement except as may be permitted by the Loan Agreement), and

2. exercise any remedies available pursuant to the Loan Agreement, Indenture or any mortgage on the Project.

Any default may be cured by the Borrower's limited partners, and any such cure shall be accepted or rejected on the same basis as any cure by the Borrower. The Borrower agrees that an action to recover money damages for default will not be an adequate remedy at law, and the Trustee shall have the right to institute an action for and seek specific performance by the Borrower to remedy such default. The Monitor agrees, before issuing a notice of noncompliance pursuant to Minnesota Statutes, Section 474A.047, Subdivision 3, to give the Borrower a draft of the notice and to give the Borrower 90 days to respond to said draft. The provisions hereof are imposed upon and made applicable to the Project and shall run with the Project and shall be enforceable against the Borrower, each purchaser, grantee, owner or lessee of the Project, and the respective heirs, legal representatives, successors and assigns of the Borrower and each such purchaser, grantee, owner or lessee.

No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right of any party entitled to enforce the same or to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time or time.

e) The Borrower acknowledges that the primary purpose for requiring compliance by the Borrower with the restrictions provided in this Regulatory Agreement is to comply with the Code and to preserve the federal income tax exemption of interest on the Bonds to the owners thereof, and that the Trustee, on behalf of the owners of the Bonds, who are declared to be third-party beneficiaries of this Regulatory Agreement, shall be entitled, for any breach of the provisions hereof, to all remedies both at law and in equity in the event of any default hereunder.

Section 8. Indemnification

The Borrower hereby indemnifies, and agrees to defend and hold harmless, the Trustee from and against all liabilities, losses, damages, costs, expenses (including attorneys' fees and expenses), causes of action, suits, allegations, claims, demands and judgments of any nature arising from the consequences of a legal or administrative proceeding or action brought against it, on account of any failure by the Borrower to comply with the terms of this Regulatory Agreement, or on account of any representation or warranty of the Borrower contained herein being untrue, including, without limitation, any action for damages, or for payment or reimbursement of taxes, penalties and interest, brought by the owners of the Bonds or state or federal taxing authorities as a result of the interest on the Bonds becoming includable in gross income of the owners thereof for federal and State income tax purposes; provided, however, that the Borrower shall not be required to indemnify the Trustee for any claims which arise from the negligence or malfeasance of the Trustee. These provisions shall survive payment of the Bonds and termination of this Regulatory Agreement and the Indenture.

Section 9. Amendment

It is agreed that the parties hereto shall promptly amend this Regulatory Agreement (in a form suitable for recording)

a) to the extent and when necessary or advisable, in the opinion of bond counsel reasonably acceptable to the Trustee, to preserve the exclusion of interest on the Bonds from gross income of the owners thereof for purposes of federal income taxation, and

b) to the extent requested by either party if, in the opinion of such bond counsel, such amendment will not adversely affect the federal tax exemption of interest on the Bonds and is in compliance with the Act.

Section 10. Severability

The invalidity of any clause, part or provision of this Regulatory Agreement shall not affect the validity of the remaining portions thereof.

Section 11. Notices

All notices to be given pursuant to this Regulatory Agreement shall be in writing and shall be deemed given when mailed by certified or registered mail, return receipt requested, or

hand-delivered, to the parties hereto at their respective addresses set forth below. Each notice, certificate or other communication given hereunder by the Borrower shall be given to the Trustee at the address set forth below. The Borrower and Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. The initial addresses for notices and other communications are as follows:

To the Borrower: Yorktown Continental, LP
[ADDRESS]
[CITY, STATE]
Attn: [CONTACT NAME]

With a copy to: Winthrop & Weinstine, P.A.
Capella Tower, Suite 3500
225 South Sixth Street
Minneapolis, Minnesota 55402-4629
Attn: Norm Jones

To the Trustee: U.S. Bank National Association
60 Livingston Avenue, 3rd Floor
EP-MN-WS3C
St. Paul, MN 55107-2292
Attention: Corporate Trust Services

To the City: City of Edina, Minnesota
4801 W. 50th St.
Edina, Minnesota 55424
Attn: City Manager

Section 12. Governing Law

This Regulatory Agreement shall be governed by the laws of the State and, where applicable, the laws of the United States of America.

Section 13. Attorneys' Fees

In case of any action at law or in equity, including an action for declaratory relief, brought against the Borrower to enforce the provisions of this Regulatory Agreement, the Borrower agrees to pay reasonable attorneys' fees and other reasonable expenses incurred by the Trustee in connection with such action.

Section 14. Regulatory Agreement Binding; Covenants Run with the Land

This Regulatory Agreement and the covenants contained herein shall run with the land and shall bind the Borrower (including each general, special or limited partner of the Borrower, each of whom the Borrower hereby represents to have authorized the Borrower to bind by this Regulatory Agreement, and, to the extent controlled by the Borrower or any of the foregoing, each person who is "related" to any of the foregoing within the meaning of Section 147(a) of the Code), its heirs, legal representatives, executors, administrators, successors in office or interest,

and assigns, and all subsequent owners of the Project or any interest therein, and the benefits hereof shall inure to the Trustee and its successors and assigns, for the term of this Regulatory Agreement as provided in Section 5 hereof.

[EXECUTION PAGE OF THE TRUSTEE TO THE REGULATORY AGREEMENT]

U.S. BANK NATIONAL ASSOCIATION

By: _____
[TITLE]

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this ____ day of _____, 2014, by _____, the _____ of U.S. Bank National Association, a national association, on behalf of the banking association.

Notary Public

EXHIBIT A
Legal Description

EXHIBIT B

Form of Income Certification

TENANT INCOME CERTIFICATION <input type="checkbox"/> Initial Certification <input type="checkbox"/> Recertification <input type="checkbox"/> Other _____	Effective Date: _____ Move-in Date: _____ (MM/DD/YY): _____
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PART I. DEVELOPMENT DATA

Property Name: _____ Address: _____	County: _____ Unit Number: _____	BIN #: _____ # Bedrooms: _____
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PART II. HOUSEHOLD COMPOSITION

HH Br #	Last Name	First Name & Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YY)	F/T Student (Y or N)	Social Security or Alien Reg. No.
1			HEAD			
2						
3						
4						
5						
6						

PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

HH Br #	(A) Employment or Wages	(B) Soc. Security / Pensions	(C) Public Assistance	(D) Other Income
TOTALS	\$ _____	\$ _____	\$ _____	\$ _____
Add totals from (A) through (D) above			TOTAL INCOME (E):	\$ _____

PART IV. INCOME FROM ASSETS

HH Mbr#	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset	
TOTALS:			\$ _____	\$ _____	
Enter Column (H) Total if over \$5,000		\$ _____	x 2.00 %	= (J) Imputed Income	\$ _____
Enter the greater of the total column I, or J: imputed income				TOTAL INCOME FROM ASSETS (K)	\$ _____
(L) Total Annual Household Income from all sources [Add (E) + (K)]					\$ _____

HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full-time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

_____ Signature	_____ (Date)	_____ Signature	_____ (Date)
_____ Signature	_____ (Date)	_____ Signature	_____ (Date)

PART V. DETERMINATION OF INCOME ELIGIBILITY

TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES From Item (L) on page 1	\$ 	Household Meets Income Restriction at:	RECERTIFICATION ONLY: Current Income Limit x 140%
Current Income Limit per Family Size:	\$ _____	<input type="checkbox"/> 60% <input type="checkbox"/> 50% <input type="checkbox"/> 40% <input type="checkbox"/> 30% <input type="checkbox"/> ___%	\$ _____ Household income exceeds 140% at recertification: <input type="checkbox"/> Yes <input type="checkbox"/> No
Household Income at Move-in	\$ _____		Household Size at Move-in: _____

PART VI. RENT

Tenant Paid Rent	\$ _____	Rent Assistance:	\$ _____
Utility Allowance	\$ _____	Other non-optional charges:	\$ _____
GROSS RENT FOR UNIT: Tenant paid rent plus Utility Allowance and other non-optional charges)	\$ 	Unit Meets Rent Restriction at:	
Maximum Rent Limit for this unit:	\$ _____	<input type="checkbox"/> 60% <input type="checkbox"/> 50% <input type="checkbox"/> 40% <input type="checkbox"/> 30% <input type="checkbox"/> ___%	

PART VII. STUDENT STATUS

ARE ALL OCCUPANTS FULL-TIME STUDENTS? <input type="checkbox"/> yes <input type="checkbox"/> no	If yes, enter student explanation** (also attach documentation) <div style="border:1px solid black; padding:5px; width:fit-content; margin:0 auto;">Enter 1-4</div>	Student explanation: 1. TANF assistance 2. Job training program 3. Single parent/dependent child 4. Married/joint return*
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***Exception 4 for married/joint return is the only exception available for units necessary to qualify tax-exempt bonds.**

PART VIII. PROGRAM TYPE

Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification

a. Tax Credit <input type="checkbox"/>	b. HOME <input type="checkbox"/>	c. Tax Exempt <input type="checkbox"/>	d. AHDP <input type="checkbox"/>	e. _____ <input type="checkbox"/> (Name of Program)
See Part V above.	Income Status <input type="checkbox"/> ≤ 50% AMGI	Income Status <input type="checkbox"/> 50% AMGI	Income Status <input type="checkbox"/> ≤ 50% AMGI	Income Status <input type="checkbox"/> _____

- | | | | |
|-------------------------------------|-----------------------------------|-------------------------------------|----------------------------------|
| <input type="checkbox"/> ≤ 60% AMGI | <input type="checkbox"/> 60% AMGI | <input type="checkbox"/> ≤ 80% AMGI | <input type="checkbox"/> _____ |
| <input type="checkbox"/> ≤ 80% AMGI | <input type="checkbox"/> 80% AMGI | <input type="checkbox"/> ≤ 0I ** | <input type="checkbox"/> ≤ 0I ** |
| <input type="checkbox"/> ≤ 0I ** | <input type="checkbox"/> 0I ** | | |

** Upon recertification, household was determined over income (OI) according to eligibility requirements of the program(s) marked above.

SIGNATURE OF OWNER / REPRESENTATIVE

Based on the representations herein and upon the proofs and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

SIGNATURE OF OWNER / REPRESENTATIVE

DATE

INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

This form is to be completed by the owner or an authorized representative.

Part I – Development Data

Check the appropriate box for Initial Certification (move-in), Recertification (annual recertification), or Other. If Other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

- Move-in Date Enter the date the tenant has or will take occupancy of the unit.
- Effective Date Enter the effective date of the certification. For move-in, this should be the move-in date. For annual recertification, this effective date should be no later than one year from the effective date of the previous (re)certification.
- Property Name Enter the name of the development.
- County Enter the county (or equivalent) in which the building is located.
- BIN # Enter the Building Identification Number (BIN) assigned to the building (from IRS Form 8609).
- Address Enter the unit number.
- Unit Number Enter the unit number.
- # Bedrooms Enter the number of bedrooms in the unit.

Part II – Household Composition

List all occupants of the unit. State each household member's relationship to the head of the household by using one of the following coded definitions:

- | | | | |
|---|-------------------|---|---------------------|
| H | Head of household | S | Spouse |
| A | Adult co-tenant | O | Other family member |
| C | Child | F | Foster child |
| L | Live-in caretaker | N | None of the above |

Enter the date of birth, student status, and Social Security number or alien registration number for each occupant.

If there are more than seven occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.

Part III – Annual Income

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the 12 months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List the respective household member number from Part II.

- | | |
|------------|--|
| Column (A) | Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business. |
| Column (B) | Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc. |
| Column (C) | Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.) |
| Column (D) | Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household. |
| Row (E) | Add the totals from columns (A) through (D) above. Enter this amount. |

Part IV – Income from Assets

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the 12 months from the effective date of the certification. List the respective household member number from Part II and complete a separate line for each member.

- | | |
|------------|--|
| Column (F) | List the type of asset (i.e., checking account, savings account, etc.) |
| Column (G) | Enter C (for current, if the family currently owns or holds the asset), or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification). |
| Column (H) | Enter the cash value of the respective asset. |
| Column (I) | Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate). |

TOTALS Add the total of Column (H) and Column (I), respectively.

If the total in Column (H) is greater than \$5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 2 % and enter the amount in (J), Imputed Income.

Row (K) Enter the Greater of the total in Column (I) or (J)

Row (L) Total Annual Household Income from All Sources Add (E) and (K) and enter the total

HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than five days prior to the effective date of the certification.

Part V – Determination of Income Eligibility

Total Annual Household Income from all sources Enter the number from item (L).

Current Income Limit per size.
Family Size Enter the Current Move-in Income Limit for the household size.

Household income at move-in the
Household size at move-in For recertifications only. Enter the household income from the move-in certification. On the adjacent line, enter the number of household members from the move-in certification.

Household Meets Income Restriction Check the appropriate box for the income restriction that the household meets according to what is required by the set-aside(s) for the project.

Current Income Limit x 140% For recertification only. Multiply the Current Maximum Move-in Income Limit by 140% and enter the total. Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% of the current income limit, then the available unit rule must be followed.

Part VI – Rent

Tenant Paid Re	Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).
Rent Assistance	Enter the amount of rent assistance, if any.
Utility Allowance	Enter the utility allowance. If the owner pays all utilities, enter zero.
Other non-optional charges	Enter the amount of <u>non-optional</u> charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Rent for Unit	Enter the total of Tenant Paid Rent plus Utility Allowance and other non-optional charges.
Maximum Rent Limit for this unit	Enter the maximum allowable gross rent for the unit.
Unit Meets Rent Restriction at ??	Check the appropriate rent restriction that the unit meets according to what is required by the set-aside(s) for the project.

Part VII – Student Status

If all household members are full-time* students, check “yes.” If at least one household member is not a full-time student, check “no.”

If “yes” is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

** Full time is determined by the school the student attends.*

Part VIII – Program Type

Mark the program(s) for which this unit will be counted toward the property’s occupancy requirements. Under each program marked, indicate the household’s income status as established by this certification/recertification. If the property does not participate in the HOME, Tax-Exempt Bond, Affordable Housing Disposition, or other housing program, leave those sections blank.

Tax Credit	See Part V above.
HOME	If the property participates in the HOME program and the unit this household will occupy will count towards the HOME program set-asides, mark the appropriate box indicating the household’s designation.
Tax Exempt	If the property participates in the Tax Exempt Bond program, mark the appropriate box indicating the household’s designation.

AHDP If the property participates in the Affordable Housing Disposition Program (AHDP), and this household's unit will count towards the set-aside requirements, mark the appropriate box indicating the household's designation.

Other If the property participates in any other affordable housing program, complete the information as appropriate.

SIGNATURE OF OWNER / REPRESENTATIVE

It is the responsibility of the owner or the owner's representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well-trained in tax credit compliance.

These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.

TRUST INDENTURE

between

THE CITY OF EDINA, MINNESOTA

as Issuer

and

U.S. BANK NATIONAL ASSOCIATION,

as Trustee

RELATING TO

City of Edina, Minnesota
\$_____ Multifamily Housing Revenue Bonds
(Yorktown Continental, LP Project), Series 2014A

Dated as of July 1, 2014

INDEX

(This Index is not a part of the Indenture,
but rather is for convenience of reference only)

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TRUST INDENTURE

THIS TRUST INDENTURE (the “Indenture”), dated as of July 1, 2014, is made by and between the City of Edina, Minnesota, a body corporate and politic of the State of Minnesota (the “Issuer”), and U.S. Bank National Association, a national banking association, with its designated corporate trust office located in St. Paul, Minnesota, as Trustee (the “Trustee”), under the circumstances summarized in the following recitals (the capitalized terms not defined in the recitals and granting clauses being used therein are defined in Article I hereof).

RECITALS

WHEREAS, pursuant to and in accordance with the laws of the State of Minnesota (the “State”), including without limitation, Minnesota Statutes, Chapters 462A, 462C and 474A, as amended (the “Act”), the Issuer has determined to issue and sell its \$_____ Multifamily Housing Revenue Bonds (Yorktown Continental, LP Project), Series 2014A (the “Bonds”) and to loan the proceeds to be derived from the sale thereof to the Borrower to assist in the financing of the acquisition of an existing 264-unit building located at 7151 York Avenue South in the City containing 262 one-bedroom units and two two-bedroom units and the rehabilitation and equipping thereof as a senior low-income housing project (the “Project”);

WHEREAS, the Bonds will be secured by this Indenture, and the Issuer is authorized to execute and deliver this Indenture and to do or cause to be done all acts provided or required herein to be performed on its part;

WHEREAS, pursuant to its lawful authority under the Act, the Issuer and the Borrower have executed that certain Loan Agreement, by the terms of which the Issuer agrees to loan the proceeds of the Bonds to the Borrower for the Project;

WHEREAS, the Loan will be evidenced by the Note executed by the Borrower in the form attached as Exhibit A to the Loan Agreement and delivered to the Issuer, and assigned by the Issuer to the Trustee;

WHEREAS, all acts and conditions 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, or at the delivery of the Bonds will exist, will have happened and will have been performed (i) to make the Bonds, when issued, delivered and authenticated, valid obligations of the Issuer in accordance with the terms thereof and hereof and (ii) 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 in evidence thereof has joined in the execution hereof.

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that to secure the payment of Bond Debt Service Charges on the Bonds according to their true intent and meaning, to secure the performance and observance of all of the covenants, agreements, obligations and conditions contained therein and herein, and to declare the terms and conditions upon and subject to which the Bonds are and are intended to be issued, held, secured and enforced, and in consideration of

the premises and the acceptance by the Trustee of the trusts created herein and of the purchase and acceptance of the Bonds by the Holders, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Issuer has executed and delivered this Indenture and absolutely assigns hereby to the Trustee, and to its successors in trust, and its and their assigns, all right, title and interest of the Issuer in and to (i) the Issuer Revenues, including, without limitation, all Loan Payments and other amounts receivable by or on behalf of the Issuer under the Loan Agreement in respect of repayment of the Loan, (ii) the Special Funds, including all accounts in those funds and all moneys deposited therein and the investment earnings on such moneys, (iii) all right, title and interest of the Issuer in the proceeds derived from the sale of the Bonds, and any securities in which moneys in the Special Funds are invested, and (except for moneys in the Rebate Fund and otherwise required to be rebated to the United States of America under the Code) the proceeds derived therefrom, and any and all other real or personal property of every name 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 by the Issuer or by anyone in its behalf, or with its written consent, to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms of this Indenture, and (iv) the Loan Agreement, except for the Unassigned Issuer's Rights (the foregoing collectively referred to as the "Trust Estate"),

TO HAVE AND TO HOLD unto the Trustee and its successors in that trust and its and their assigns forever;

BUT IN TRUST, NEVERTHELESS, and subject to the provisions hereof,

(a) except as provided otherwise herein, for the equal and proportionate benefit, security and protection of all present and future Holders of the Bonds issued or to be issued under and secured by this Indenture,

(b) for the enforcement of the payment of the principal of and interest on the Bonds, when payable, according to the true intent and meaning thereof and of this Indenture, and

(c) to secure the performance and observance of and compliance with the covenants, agreements, obligations, terms and conditions of this Indenture,

in each case, without preference, priority or distinction, as to lien or otherwise, of any one Bond over any other by reason of designation, number, date of the Bonds or of authorization, issuance, sale, execution, authentication, delivery or maturity thereof, or otherwise, so that each Bond and all Bonds shall have the same right, lien and privilege under this Indenture and shall be secured equally and ratably hereby, provided, however, that

(i) if the principal of the Bonds and the interest due or to become due thereon shall be well and truly paid, at the times and in the manner to which reference is made in the Bonds, according to the true intent and meaning thereof, or the outstanding Bonds shall have been paid and discharged in accordance with Article IX hereof, and

(ii) if all of the covenants, agreements, obligations, terms and conditions of the Issuer under this Indenture shall have been kept, performed and observed and there shall have been paid to the Trustee, the Registrar and the Paying Agents all sums of money due or to become due to them in accordance with the terms and provisions hereof,

then this Indenture and the rights assigned hereby shall cease, determine and be void, except as provided in Section 9.03 hereof with respect to the survival of certain provisions hereof; otherwise, this Indenture shall be and remain in full force and effect.

It is declared that all Bonds issued hereunder and secured hereby are to be issued, authenticated and delivered, and that all Issuer Revenues assigned hereby are to be dealt with and disposed of under, upon and subject to, the terms, conditions, stipulations, covenants, agreements, obligations, trusts, uses and purposes provided in this Indenture. The Issuer has agreed and covenanted, and agrees and covenants with the Trustee and with each and all Holders, as follows:

THIS SPACE INTENTIONALLY LEFT BLANK

ARTICLE I

DEFINITIONS

Section 1.01 Definitions

In addition to the words and terms defined elsewhere in this Indenture or by reference to the Loan Agreement, unless the context or use clearly indicates another meaning or intent:

“*Act*” means Minnesota Statutes, Chapters 462A, 462C and 474A, as amended.

“*Additional Payments*” means the amounts required to be paid by the Borrower pursuant to the provisions of Section 4.2 of the Loan Agreement.

“*Affiliate*” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control” when used with respect to any specified Person means the power to direct the policies of such Person, directly or indirectly, whether through the power to appoint and remove its directors, the ownership of voting securities, by contract, or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“*Authorized Attesting Officer*” means the City Clerk of the Issuer who, in accordance with the laws of the State, the bylaws or other governing documents of the Issuer, or practice or custom, regularly attests or certifies official acts and records of the Issuer, and includes any assistant or deputy officer to the principal officer or officers exercising such responsibilities.

“*Authorized Borrower Representative*” means the person or persons designated to act on behalf of the Borrower by written certificate furnished to the Issuer and the Trustee containing the specimen signature of such person and signed on behalf of the Borrower by an officer of the manager of either of the general partners of the Borrower, which certificate may designate an alternate or alternates.

“*Authorized Denomination*” means (a) so long as the Bonds are rated “A,” without regard to a modifier (or the equivalent) or higher by a Rating Agency, \$5,000 or any integral multiple of \$5,000 in excess thereof, or (b) at any other time, \$100,000, or any integral multiple of \$0.01 in excess thereof, except that in each case one Bond may be in a principal amount equal to the then Outstanding principal amount of the Bonds.

“*Authorized Official*” means the Mayor, City Manager or Finance Director of the Issuer, and any other officer of the Issuer designated by certificate of any of the foregoing as authorized by the Issuer to perform a specified act, sign a specified document or otherwise take action with respect to the Bonds. The Trustee may conclusively presume that a person designated in a written certificate filed with it as an Authorized Official is an Authorized Official until such time as such provider files with it a written certificate identifying a different person or persons to act in such capacity.

“*Available Moneys*” means, as of any date of determination, any of the following, as applicable:

- (a) the proceeds of the Bonds;
- (b) proceeds from the sale of GNMA Securities;
- (c) proceeds from advances on the FHA Insured Mortgage Loan deposited directly with the Trustee by the FHA Lender;
- [(d) proceeds from advances on the Subordinate Loan deposited directly by the Subordinate Lender with the Trustee;]
- (e) any other amounts, including the proceeds of refunding bonds, for which the Trustee has received an opinion of counsel to the effect that the use of such amounts to make payments on the Bonds would not violate Section 362(a) of the Bankruptcy Code (or that relief from the automatic stay provisions of such Section 362(a) would be available from the bankruptcy court) or be avoidable as preferential payments under Section 547 of the Bankruptcy Code should the Issuer or the Borrower become a debtor in proceedings commenced under the Bankruptcy Code;
- (f) the proceeds of any letter of credit; or
- (g) investment earnings derived from the investment of moneys described in (a), (b), (c), (d), (e) or (f).

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

“*Bond Counsel*” shall mean, collectively, Dorsey & Whitney LLP or any other attorney or firm of attorneys designated by the Issuer who has a national reputation for skill in connection with the authorization and issuance of municipal obligations under Sections 103 and 141 through 150 (or any successor provisions) of the Code.

“*Bond Debt Service Charges*” means, for any period or payable at any time, the principal of and interest on the Bonds for that period or payable at that time whether due at maturity or upon redemption or acceleration.

“*Bond Fund*” means the Bond Fund created in Section 5.01 of this Indenture.

“*Bond Payment Date*” means each Interest Payment Date and any other date Bond Debt Service Charges on the Bonds are due, whether at maturity, upon acceleration or otherwise.

“*Bond Resolution*” means that certain Bond Resolution relating to the Project, adopted by the governing body of the Issuer on July __, 2014.

“*Bond Year*” means each annual period of twelve months the first of which commences on the date of the original issuance and delivery of the Bonds and the last of which ends on the maturity of the Bonds, except that the first and last Bond Year may be less than twelve months.

“*Bonds*” means the Multifamily Housing Revenue Bonds (Yorktown Continental, LP Project) Series 2014A of the Issuer, authorized in the Bond Resolution and Section 2.02 hereof in an aggregate amount of \$_____.

“*Book Entry Form*” or “*Book Entry System*” means, with respect to the Bonds, a form or system, as applicable, under which (i) physical Bond certificates in fully registered form are issued only to a Depository or its nominee, with the physical Bond certificates “immobilized” in the custody of the Depository and (ii) the ownership of book entry interests in Bonds and Bond Debt Service Charges thereon may be transferred only through a book entry made by Persons other than the Issuer or the Trustee. The records maintained by Persons other than the Issuer or the Trustee constitute the written record that identifies the owners, and records the transfer, of book entry interests in the Bonds and Bond Debt Service Charges thereon.

“*Borrower*” means Yorktown Continental, LP, a Minnesota limited partnership, and its lawful successors and assigns to the extent permitted by the Loan Agreement.

“*Borrower Documents*” means the Loan Agreement, Note and Regulatory Agreement.

“*Business Day*” means a day of the week, other than a Saturday or a Sunday, on which commercial banks located in the city in which the principal corporate trust office of the Trustee are not required or authorized to remain closed.

“*Closing Date*” means July __, 2014.

“*Code*” means the Internal Revenue Code of 1986, as amended, and all applicable regulations (whether proposed, temporary or final) under the Code and the statutory predecessor of the Code, and any official rulings and judicial determinations under the foregoing applicable to the Bonds.

“*Collateral Fund*” means the Collateral Fund created pursuant to Section 5.01 of this Indenture.

“*Combined Bonds*” means the Bonds and the Issuer’s Multifamily Housing Revenue Bonds (Yorktown Continental, LP Project), Series 2014B.

“*Completion Date*” means the date of substantial completion of the Project evidenced in accordance with the requirements of Section 3.7 of the Loan Agreement.

“*Construction Period*” means the period between the beginning of the acquisition, rehabilitation, remodeling, improving and equipping of the Project and the Completion Date.

“*Continuing Disclosure Agreement*” means the Continuing Disclosure Agreement, dated as of July __, 2014, between the Borrower and [U.S. Bank National Association], as Dissemination Agent.

“*Contractual Obligation*” means for any Person any obligation, covenant, or condition contained in any evidence of Indebtedness or any agreement or instrument under or pursuant to which any evidence of Indebtedness has been issued, or any other material agreement, instrument or guaranty, to which such Person is a party or by which such Person or any of its assets or properties are bound.

“*Costs of Issuance Fund*” means the Costs of Issuance Fund created pursuant to Section 5.01 of this Indenture.

“*Depository*” means, with respect to the Bonds, DTC, until a successor Depository shall have become such pursuant to the applicable provisions of this Indenture, and thereafter, Depository shall mean the successor Depository. Any Depository shall be a securities depository that is a clearing agency under federal law operating and maintaining, with its participants or otherwise, a Book Entry System to record ownership of book entry interests in the Bonds or Bond Debt Service Charges thereon, and to effect transfers of book entry interests in the Bonds.

“*Disbursement Request*” shall have the meaning set forth in Section 5.03(a) hereof.

“*DTC*” means The Depository Trust Company (a limited purpose trust company), New York, New York, and its successors or assigns.

“*DTC Participant*” means any participant contracting with DTC under its book entry system and includes securities brokers and dealers, banks and trust companies and clearing corporations.

“*Eligible Investments*” means non-AMT tax exempt obligations rated in the highest short term category by S&P, which shall mature or be subject to tender or redemption at par on or prior to the earlier of (A) 35 days from the date of investment or (B) the date such moneys are needed for the purposes thereof.

“*Event of Default*” means any of the events described as an Event of Default in Section 7.01 hereof or Section 7.1 of the Loan Agreement.

“*Extraordinary Services*” and “*Extraordinary Expenses*” mean all services rendered and all reasonable expenses properly incurred by the Trustee under this Indenture, other than Ordinary Services and Ordinary Expenses. Extraordinary Services and Extraordinary Expenses shall specifically include services rendered or expenses incurred by the Trustee in connection with, or in contemplation of, an Event of Default.

[“*Fair Market Value*” means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Code) and, otherwise, the term “Fair Market Value” means the acquisition price in a bona fide, arm’s-length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other

investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Security—State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) the investment is a commingled investment fund in which the Issuer and related parties do not own more than a 10% beneficial interest therein if the return paid by the fund is without regard to the source of the investment. To the extent required by applicable regulations under the Code, the term “investment” will include a “hedge.”]

“*Favorable Opinion of Bond Counsel*” means an opinion of Bond Counsel that the action proposed will not, in and of itself, cause interest on the Bonds to become includable in gross income of the holders thereof.

“*FHA*” means the Federal Housing Administration.

“*FHA Insurance Commitment*” means the commitment for insurance of advances issued by the Federal Housing Commissioner of HUD with respect to the Project, dated _____.

“*FHA Insurance Regulations*” means the FHA Regulations promulgated under the National Housing Act.

“*FHA Insured Mortgage Loan*” means the mortgage loan in the original principal amount of \$ _____ to be advanced by the FHA Lender to the Borrower and insured by FHA under Section [223f/221(d)(4)] of the National Housing Act, as amended.

“*FHA Lender*” means _____, a _____, its successors and assigns.

“*FHA Loan Documents*” means the documents related to the FHA Insured Mortgage Loan, including the FHA Insurance Commitment, the FHA Note, the FHA Mortgage, the HUD Regulatory Agreement and any and all other documents, agreements, or instruments which evidence or secure the indebtedness evidenced by the FHA Note.

“*FHA Mortgage*” means the first-lien priority [Name of FHA Mortgage: Multifamily Mortgage, Assignment of Leases and Rents, and Security Agreement] dated as of [Dated Date] from Borrower for the benefit of FHA Lender to secure the repayment of the FHA Note.

“*FHA Note*” means the \$[FHA Loan Amount] FHA-Insured Note (Multistate) dated as of [Dated Date] from Borrower to FHA Lender to evidence its indebtedness under the FHA Insured Mortgage Loan.

“*Fiscal Year*” means, with respect to a Person, that period beginning on January 1 of each year and ending on December 31 of that year or such other fiscal year as shall be designated by such Person as its annual accounting period.

“*Force Majeure*” means any of the causes, circumstances or events described as constituting Force Majeure in Section 7.1 of the Loan Agreement.

“GAAP” means generally accepted accounting principles applied on a consistent basis.

“GNMA” means the Government National Mortgage Association, a corporate instrumentality of the United States within the United States Department of Housing and Urban Development organized and existing under the National Housing Act.

“GNMA Documents” means the GNMA Guaranty and the documents related to the GNMA Guaranty.

“GNMA Guaranty” means the guaranty made by GNMA pursuant to the provisions of Section 306(g) of Title III of the National Housing Act, as amended, and the regulations promulgated under the National Housing Act.

“GNMA Mortgage-Backed Securities Guide” means the GNMA Handbook 5500.3, as it may be amended or modified from time to time, which describes and provides instruction to the participants in the GNMA Mortgage-Backed Securities program.

“GNMA Regulations” means the GNMA Regulations promulgated under the National Housing Act.

“GNMA Security” or “GNMA Securities” means a fully modified pass through security in the form of a CLC or a PLC issued by an approved FHA lender and guaranteed by GNMA as to timely payment of principal of and interest on a PLC and as to timely payment of interest only until maturity and timely payment of principal at maturity on a CLC, pursuant to Section 306(g) of the National Housing Act of 1934, as amended, and the regulations promulgated thereunder.

“Government” shall mean the government of the United States of America, the government of any other nation, any political subdivision of the United States of America or any other nation (including, without limitation, any state, territory, federal district, municipality or possession) and any department, agency or instrumentality thereof; and “Governmental” shall mean of, by, or pertaining to any Government.

“HUD” means the United States Department of Housing and Urban Development.

“HUD Funds” means, collectively (a) proceeds of the FHA Insured Mortgage Loan, which proceeds have been assigned by the Borrower to the Trustee pursuant to Section 3.5 of the Loan Agreement, and (b) proceeds, if any, received from the sale by the FHA Lender of GNMA Securities with respect to the FHA Insured Mortgage Loan.

“HUD Regulatory Agreement” means the Regulatory Agreement dated as of [Dated Date] between the Borrower and HUD, related to the FHA Insured Mortgage Loan.

“Holder,” “Holders,” or “Holder of a Bond” means the Person in whose name a Bond is registered on the Register.

“Indebtedness” shall mean for any Person (a) all indebtedness or other obligations of such Person for borrowed money or for the deferred purchase price of property or services, (b) all indebtedness or other obligations of any other Person for borrowed money or for the

deferred purchase price of property or services, the payment or collection of which such Person has guaranteed (except by reason of endorsement for deposit or collection in the ordinary course of business) or in respect of which such Person is liable, contingently or otherwise, including, without limitation, by way of agreement to purchase, to provide funds for payment, to supply funds to or otherwise to invest in such other Person, or otherwise to assure a creditor against loss, (c) all indebtedness or other obligations of any other Person for borrowed money or for the deferred purchase price of property or services secured by (or for which the holder of such indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien, upon or in property (including, without limitation, accounts and contract rights) owned by such Person, whether or not such Person has assumed or become liable for the payment of such indebtedness or other obligations, (d) all direct or contingent obligations of such Person in respect of letters of credit, (e) all lease obligations which have been or should be, in accordance with GAAP, capitalized on the books of such Person as lessee, and (f) guaranties of any of the foregoing, provided that Indebtedness does not include accounts payable and accrued expenses incurred in the ordinary course of business.

“*Indenture*” means this Trust Indenture, dated as of July 1, 2014, between the Issuer and the Trustee, as amended or supplemented from time to time in accordance with Article VIII hereof.

“*Independent*” when used with respect to a specified Person means such Person has no specific financial interest direct or indirect in the Borrower or any Affiliate of the Borrower and in the case of an individual is not a director, trustee, officer, partner or employee of the Borrower or any Affiliate of the Borrower and in the case of an entity, does not have a partner, director, trustee, officer, partner or employee who is a director, trustee, officer or employee of any partner of the Borrower or any Affiliate of the Borrower.

“*Information Services*” means in accordance with then-current guidelines of the Securities and Exchange Commission, the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the Securities Exchange Act of 1934, or any successor entity or entities designated by the Securities and Exchange Commission.

“*Initial Deposit*” means the deposit of Available Moneys in the amount of \$_____ which the Borrower shall cause to be made from Available Moneys other than the proceeds of the Bonds to the Initial Deposit Account of the Bond Fund on the Closing Date.

“*Initial Deposit Account*” means the Initial Deposit Account within the Bond Fund created in Section 5.01 hereof.

“*Interest Payment Date*” means each _____ 1 and _____ 1, commencing _____ 1, 20___, and on any date the Bonds are called for redemption prior to maturity.

“*Interest Rate*” means ____% per annum.

“*Interest Rate for Advances*” means the rate of ____ percent per annum (____%) or the rate per annum which is two percent plus that interest rate announced by the Trustee in its

lending capacity as a bank as its “Prime Rate” or its “Base Rate,” whichever is greater and lawfully chargeable, in whole or in part.

“*Investor Member*” means [Limited Partner], [Limited Partner Org. Type], its permitted successors and assigns.

“*Issuer*” means the City of Edina, Minnesota, a body corporate and politic of the State.

“*Issuer Revenues*” means (a) the Loan Payments, (b) all other moneys received or to be received by the Issuer or the Trustee in respect of repayment of the Loan, including without limitation, all moneys and investments in the Bond Fund, (c) any moneys and investments in the Project Fund and the Collateral Fund, and (d) all income and profit from the investment of the foregoing moneys. The term “*Issuer Revenues*” does not include any moneys or investments in the Rebate Fund.

“*Lien*” means any mortgage, deed of trust, lien, charge, security interest or encumbrance of any kind upon, or pledge of, any property, whether now owned or hereafter acquired, and includes the acquisition of, or agreement to acquire, any property subject to any conditional sale agreement or other title retention agreement, including a lease on terms tantamount thereto or on terms otherwise substantially equivalent to a purchase.

“*Loan*” means the loan by the Issuer to the Borrower of a portion of the proceeds received from the sale of the Bonds.

“*Loan Agreement*” means the Loan Agreement dated as of even date with this Indenture, between the Issuer and the Borrower and assigned by the Issuer, except for Unassigned Issuer’s Rights, to the Trustee, as amended or supplemented from time to time.

“*Loan Payment Cure Period*” means a period of four Business Days following any Loan Payment Date.

“*Loan Payment Date*” means the fifth Business Day preceding each Bond Payment Date.

“*Loan Payments*” means the amounts required to be paid by the Borrower in repayment of the Loan pursuant to the provisions of the Note and Section 4.1 of the Loan Agreement.

“*Majority of the Holders of the Bonds*” means Holders of more than fifty percent (50%) of the principal amount of the then Outstanding Bonds.

“*Maturity Dates*” means _____.

“*Minimum Trustee Rating*” means a long term rating of the Trustee’s unsecured obligations with maturities in excess of one year of not less than “A” by S&P, or, if the Trustee does not have such a rating from S&P, it must have a minimum rating of its unsecured obligations with maturities of one year or less of “A-1” from S&P.

“*Note*” means the Series 2014A Promissory Note in the original principal amount of \$_____, dated as of the Closing Date, in the form attached to the Loan Agreement as Exhibit A, evidencing the obligation of the Borrower to make Loan Payments.

“*Notice Address*” means:

To the Issuer:	City of Edina, Minnesota 4801 W. 50th St. Edina, Minnesota 55424 Attention: City Manager
To the Trustee:	U.S. Bank National Association _____ St. Paul, Minnesota _____ Attention: _____
To the Borrower:	Yorktown Continental, LP _____ _____ Attention: _____
With a copy to:	Winthrop & Weinstine 225 South Sixth Street, Suite 3500 Minneapolis, Minnesota 55402 Attention: Norm Jones
To the Rating Agency:	Standard & Poor’s Rating Services 55 Water Street, 38 th Floor New York, NY 10041 Attention: Public Finance Surveillance Group Email: pubfin_structured@standardandpoors.com
If to Investor Member:	[Limited Partner] _____ _____ _____ Attention: _____
With a copy to:	[Limited Partner’s Counsel] _____ _____ Attention: _____

or such additional or different address, notice of which is given under Section 13.03 hereof.

“*Opinion of Bond Counsel*” means an opinion of Bond Counsel.

“*Ordinary Services*” and “*Ordinary Expenses*” mean those services normally rendered, and those expenses normally incurred, by a trustee under instruments similar to this Indenture. Without limiting the generality of this definition, Ordinary Services and Ordinary Expenses shall include, without limitation, services provided by the Trustee in connection with the redemption of Bonds as provided in Article IV of this Indenture and in connection with any meetings of Holders of the Bonds as provided in Article XII of this Indenture.

“*Outstanding Bonds*,” “*Bonds outstanding*” or “*outstanding*” as applied to Bonds mean, as of the applicable date, all Bonds which have been authenticated and delivered, or which are being delivered by the Trustee under this Indenture, except:

(a) Bonds cancelled upon surrender, exchange or transfer, or cancelled because of payment on or prior to that date;

(b) Bonds, or the portion thereof, for the payment or purchase for cancellation of which sufficient money has been deposited and credited with the Trustee or the Paying Agents on or prior to that date for that purpose (whether upon or prior to the maturity of those Bonds);

(c) Bonds, or the portion thereof, which are deemed to have been paid and discharged or caused to have been paid and discharged pursuant to the provisions of this Indenture; and

(d) Bonds in lieu of which others have been authenticated under Section 3.06 of this Indenture.

“*Paying Agent*” means the Trustee acting as such, or any other bank or trust company designated as a Paying Agent by or in accordance with this Indenture.

“*Person*” or words importing persons mean firms, associations, partnerships (including without limitation, general and limited partnerships), joint ventures, societies, estates, trusts, corporations, limited liability companies, public or governmental bodies, other legal entities and natural persons.

“*Plans and Specifications*” means the plans and specifications describing the Project as now prepared and as they may be changed as herein provided from time to time.

“*Predecessor Bond*” of any particular Bond means every previous Bond evidencing all or a portion of the same debt as that evidenced by the particular Bond. For the purposes of this definition, any Bond authenticated and delivered under Section 3.06 of this Indenture in lieu of a lost, stolen or destroyed Bond shall, except as otherwise provided in Section 3.06, be deemed to evidence the same debt as the lost, stolen or destroyed Bond.

“*Project*” means the acquisition, rehabilitation and equipping of an existing 264-unit building containing 262 one-bedroom units and two two-bedroom units as a senior low income housing project located at 7151 York Avenue South in Edina, Minnesota.

“*Project Costs*” means the costs of the Project specified in Section 3.4 of the Loan Agreement.

“*Project Fund*” means the Project Fund created in Section 5.01 of this Indenture.

“*Project Purposes*” means the operation of the Project in accordance with the Act, the Code and the Regulatory Agreement.

“*Qualified Project Costs*” means _____,

“*Rating Agency*” means Standard & Poor’s Ratings Services (“S&P”), Moody’s Investors Service, Inc. (“Moody’s”) or any other nationally recognized municipal securities rating agency acceptable to the Holders and the Trustee.

“*Rebate Fund*” means the Rebate Fund created in Section 5.01 of this Indenture.

“*Register*” means the books kept and maintained by the Registrar for registration and transfer of Bonds pursuant to Section 3.05 hereof.

“*Registrar*” means the Trustee, until a successor Registrar shall have become such pursuant to applicable provisions of this Indenture; each Registrar shall be a transfer agent registered in accordance with Section 17A(c) of the Securities Exchange Act of 1934.

“*Regular Record Date*” means, the fifteenth day of the calendar month next preceding an Interest Payment Date applicable to that Bond.

“*Regulatory Agreement*” means the Regulatory Agreement, dated as of even date with this Indenture, among the Issuer, the Trustee and the Borrower.

“*Securities Act*” means the United States Securities Act of 1933, as in effect on the Closing Date.

“*Securities Depositories*” means The Depository Trust Company, 711 Stewart Avenue, Garden City, New York 11530, Fax (516) 227 4039 or 4191; Midwest Securities Trust Company, Capital Structures – Call Notification, 440 South LaSalle Street, Chicago, Illinois 60605, Fax (312) 663 2343; Pacific Securities Depository Trust Company, Pacific and Company, P.O. Box 7041, San Francisco, California 94120, Fax (415) 393 4128; Philadelphia Depository Trust Company, Reorganization Division, 1900 Market Street, Philadelphia, Pennsylvania 19103, Attention: Bond Department, Fax (215) 496 5058; or, in accordance with the then current guidelines of the Securities and Exchange Commission to such other addresses and/or such other securities depositories or, as the Issuer may designate in a request of the Issuer delivered to the Trustee, to no such depositories.

“*S&P*” means Standard & Poor’s Ratings Services.

“*Special Funds*” means, collectively, the Bond Fund, the Collateral Fund and the Project Fund, and any accounts therein, all as created in this Indenture.

“*Special Record Date*” means, with respect to any Bond, the date established by the Trustee in connection with the payment of overdue interest or principal on that Bond.

“*State*” means the State of Minnesota.

[“*Subordinate Lender*” means _____ or any of its Affiliates.]

[“*Subordinate Loan*” means a loan by the Subordinate Lender in an original principal amount equal to the amount of the Initial Deposit.]

“*Supplemental Indenture*” means any indenture supplemental to this Indenture entered into between the Issuer and the Trustee in accordance with Article VIII hereof.

“*Tax Agreement*” means the [Company Tax Certificate dated as of the Closing Date].

“*Trustee*” means [U.S. Bank National Association], until a successor Trustee shall have become such pursuant to the applicable provisions of this Indenture, and thereafter, “Trustee” shall mean the successor Trustee.

“*Unassigned Issuer’s Rights*” means all of the rights of the Issuer to receive Additional Payments under Section 4.2 of the Loan Agreement, to be held harmless and indemnified under Section 5.3 of the Loan Agreement, to be insured under Section 5.5 of the Loan Agreement, to be reimbursed for attorney’s fees and expenses under Section 7.4 of the Loan Agreement, to receive notices pursuant to Section 8.3 of the Loan Agreement and to give or withhold consent to amendments, changes, modifications, alterations and termination of the Loan Agreement under Section 8.6 of the Loan Agreement.

“*Underwriter*” means Dougherty & Company LLC.

Section 1.02 Interpretation

Any reference herein to the Issuer, to the governing body of the Issuer or to any member or officer of either includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a section or provision of the Constitution of the State or the Act, or to a section, provision or chapter of the Minnesota Statutes, or to any statute of the United States of America, includes that section, provision or chapter as amended, modified, revised, supplemented or superseded from time to time, provided that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this paragraph, if it constitutes in any way an impairment of the rights or obligations of the Issuer, the Holders, the Trustee, the Registrar, the Paying Agent, any Authenticating Agent or the Borrower under this Indenture, the Bond Resolution, the Bonds, the Loan Agreement, the Note, the Regulatory Agreement or any other instrument or document entered into in connection with any of the foregoing, including without limitation, any alteration of the obligation to pay Bond Debt Service Charges in the amount and manner, at the times, and from the sources provided in the Bond Resolution and this Indenture, except as permitted herein.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa. The terms “hereof,” “hereby,” “herein,” “hereto,” “hereunder,” “hereinafter” and similar terms refer to this Indenture; and the term “hereafter” means after, and the term “heretofore” means before, the date of this Indenture. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

Section 1.03 Captions and Headings

The captions and headings in this Indenture are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Articles, Sections, subsections, paragraphs, subparagraphs or clauses hereof.

END OF ARTICLE I

ARTICLE II

AUTHORIZATION AND TERMS OF BONDS

Section 2.01 Authorized Amount of Bonds

No Bonds may be issued under the provisions of this Indenture except in accordance with this Article. The total authorized principal amount of Bonds which shall be issued under the provisions of this Indenture is \$_____

Section 2.02 Issuance of Bonds

It is determined to be necessary to, and the Issuer shall, issue, sell and deliver \$_____ principal amount of Bonds and shall loan the proceeds thereof to the Borrower to finance the Project. The Bonds shall be designated "Multifamily Housing Revenue Bonds (Yorktown Continental, LP Project), Series 2014A." The Bonds shall be issuable only in fully registered form, substantially as set forth in Exhibit A to this Indenture, and shall be numbered in such manner as determined by the Trustee in order to distinguish each Bond from any other Bond; shall be in Authorized Denominations; shall be dated the Closing Date; and shall bear interest from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from their date of delivery.

The Bonds shall mature on their respective Maturity Dates and shall bear interest from their dates on the principal amount outstanding at their respective Interest Rates, payable on each Interest Payment Date, calculated on the basis of a 360-day year consisting of twelve 30-day months.

Section 2.03 Authorization of Bonds; Sale and Delivery of the Bonds

Upon the execution and delivery hereof, the Issuer shall execute the Bonds and deliver them to the Trustee, and the Trustee shall authenticate or cause the authentication of the Bonds and deliver them to such purchaser or purchasers as shall be directed by the Issuer, provided, that there shall be previous thereto or simultaneous therewith filed with the Trustee the following:

- (a) copies, certified by the City Clerk of the Issuer, of all resolutions adopted and proceedings had by the Issuer authorizing the issuance and delivery of the Bonds, including the Bond Resolution;
- (b) a letter of instructions of the Issuer directing the Trustee to authenticate and deliver the Bonds against receipt of the purchase price therefor,
- (c) original executed counterparts of this Indenture, the Loan Agreement, the Regulatory Agreement and the Note;
- (d) an approving opinion of Bond Counsel in form and content acceptable to the Issuer and the Underwriter;

- (e) an opinion of counsel for the Borrower in form and content acceptable to the Issuer, Bond Counsel and the Underwriter;
- (f) an executed Tax Agreement; and
- (g) payment to the Trustee, for the account of the Issuer, of the purchase price for the Bonds of \$_____.
- (h) payment to the Trustee, for the account of the Issuer, of the Initial Deposit.

Section 2.04 Special Obligations

The Bonds are special obligations of the Issuer payable solely from the Trust Estate and any other revenues, funds and assets pledged under this Indenture and not from any other revenues, funds or assets of the Issuer. The Bonds are not general obligations, debt or bonded indebtedness of the Issuer or of the State or any political subdivision thereof (other than of the Issuer to the limited extent set forth in this Indenture) and the Holders of the Bonds do not have the right to have any excises or taxes levied by the Issuer or by the State or any political subdivision thereof for the payment of the principal of and any premium and interest on the Bonds. Neither the Issuer nor the State nor any political subdivision of the State will be obligated to pay the principal of and the interest on the Bonds or other costs incident thereto except from the Issuer Revenues pledged under this Indenture.

END OF ARTICLE II

ARTICLE III

TERMS OF BONDS GENERALLY

Section 3.01 Form of Bonds

The Bonds, the certificate of authentication and the form of assignment shall be in the form thereof set forth in Exhibit A to this Indenture.

All Bonds, unless a Supplemental Indenture shall have been executed and delivered pursuant to Section 8.02 hereof, shall be in fully registered form, and, except as provided in Section 3.05 hereof, the Holder of a Bond shall be regarded as the absolute owner thereof for all purposes of this Indenture.

The Bonds shall be negotiable instruments in accordance with the Act, and shall express the purpose for which they are issued and any other statements or legends which may be required by law. Each Bond shall be of a single maturity, unless the Trustee shall approve the authentication and delivery of a Bond of more than one maturity.

Section 3.02 Execution and Authentication of Bonds

Each Bond shall be signed by the Mayor and City Manager in their official capacities (provided that any or all of those signatures may be facsimiles). In case any officer whose signature or a facsimile of whose signature shall appear on any Bond shall cease to be that officer before the issuance of the Bond, his signature or the facsimile thereof nevertheless shall be valid and sufficient for all purposes, the same as if he had remained in office until that time. Any Bond may be executed on behalf of the Issuer by an officer who, on the date of execution is the proper officer, although on the date of the Bond that person was not the proper officer.

No Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Indenture unless and until a certificate of authentication, substantially in the form set forth in Exhibit A to this Indenture, has been signed by the Trustee. The authentication by the Trustee upon any Bond shall be conclusive evidence that the Bond so authenticated has been duly authenticated and delivered hereunder and is entitled to the security and benefit of this Indenture. The certificate of the Trustee may be executed by any person authorized by the Trustee, but it shall not be necessary that the same authorized person sign the certificates of authentication on all of the Bonds.

Section 3.03 Source of Payment of Bonds

To the extent provided in and except as otherwise permitted by this Indenture, (i) the Bonds shall be special limited obligations of the Issuer and the Bond Debt Service Charges thereon shall be payable equally and ratably solely from the Issuer Revenues, including but not limited to moneys and investments in the Special Funds, (ii) the payment of Bond Debt Service Charges on the Bonds shall be secured by the assignment of Issuer Revenues hereunder and by this Indenture, and (iii) payments due on the Bonds also shall be secured by the Note. Notwithstanding anything to the contrary in the Bond Resolution, the Bonds or this Indenture, the Bonds do not and shall not represent or constitute a debt or pledge of the faith and credit or

the taxing power of the Issuer or of the State or of any political subdivision, municipality or other local agency thereof.

Section 3.04 Payment and Ownership of Bonds

Bond Debt Service Charges shall be payable in lawful money of the United States of America without deduction for the services of the Trustee or the Paying Agent. Subject to the provisions of Section 3.09 hereof, (i) the principal of any Bond shall be payable when due to a Holder upon presentation and surrender of such Bond at the designated corporate trust office of the Trustee or at the office, designated by the Trustee, of the Paying Agent, and (ii) interest on any Bond shall be paid on the applicable Interest Payment Date by check or draft which the Trustee shall cause to be mailed on that date to the Person in whose name the Bond is registered on the Register at the close of business on the Regular Record Date applicable to that Interest Payment Date, at such Holder's address appearing therein.

If and to the extent, however, that the Issuer shall fail to make payment or provision for payment of interest on any Bond on any Interest Payment Date, that interest shall cease to be payable to the Person who was the Holder of that Bond as of the applicable Regular Record Date. In that event, except as provided below in this Section, when moneys become available for payment of the interest, (x) the Trustee shall, pursuant to Section 7.06(d), establish a Special Record Date for the payment of that interest which shall be not more than 15 nor fewer than 10 days prior to the date of the proposed payment, and (y) the Trustee shall cause notice of the proposed payment and of the Special Record Date to be mailed by first-class mail, postage prepaid, to each Holder at its address as it appears on the Register not fewer than 10 days prior to the Special Record Date and, thereafter, the interest shall be payable to the Persons who are the Holders of the Bonds at the close of business on the Special Record Date.

Subject to the foregoing, each Bond delivered under this Indenture upon transfer thereof, or in exchange for or in replacement of any other Bond, shall carry the rights to interest accrued and unpaid, and to accrue on that Bond, or which were carried by that Bond.

Except as provided in this Section and the first paragraph of Section 3.06 hereof, (i) the Holder of any Bond shall be deemed and regarded as the absolute owner thereof for all purposes of this Indenture, (ii) payment of or on account of the Bond Debt Service Charges on any Bond shall be made only to or upon the order of that Holder or its duly authorized attorney in the manner permitted by this Indenture, and (iii) none of the Issuer, the Trustee, the Registrar nor the Paying Agent shall, to the extent permitted by law, be affected by notice to the contrary. All of those payments shall be valid and effective to satisfy and discharge the liability upon that Bond, including without limitation, the interest thereon, to the extent of the amount or amounts so paid.

Section 3.05 Registration, Transfer and Exchange of Bonds

The Trustee shall cause the Bond Register to be kept for the registration of Bonds and the registration of transfers of Bonds. The registration of any Bond may be transferred only upon an assignment duly executed by the registered holder or his duly authorized representative in such form as shall be satisfactory to the Trustee, and upon surrender of such Bond to the Trustee for cancellation. Whenever any Bond or Bonds shall be surrendered for registration of transfer, the

Issuer shall execute and the Trustee shall authenticate and deliver to the transferee a new Bond or Bonds of Authorized Denomination or Denominations and for the amount of such Bond or Bonds so surrendered.

Any Bond may be exchanged at the designated office of the Trustee, for a new Bond or Bonds of an Authorized Denomination and for the aggregate amount of such Bond then remaining Outstanding.

In all cases in which the registration of Bonds shall be transferred or Bonds shall be exchanged hereunder, the Trustee may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange, and all such taxes, fees or charges shall be Ordinary Expenses payable as scheduled pursuant to Section 6.03 hereof. The Trustee shall not be required to transfer or exchange any Bond after notice calling such Bond for redemption has been mailed.

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

Section 3.06 Mutilated, Lost, Wrongfully Taken or Destroyed Bonds

If any Bond is mutilated, lost, wrongfully taken or destroyed, in the absence of written notice to the Issuer or the Registrar that a lost, wrongfully taken or destroyed Bond has been acquired by a bona fide purchaser, the Issuer shall execute, and the Registrar shall authenticate and deliver, a new Bond of like date, maturity and denomination as the Bond mutilated, lost, wrongfully taken or destroyed, provided that (a) in the case of any mutilated Bond, the mutilated Bond first shall be surrendered to the Registrar, and (b) in the case of any lost, wrongfully taken or destroyed Bond, there first shall be furnished to the Registrar evidence of the loss, wrongful taking or destruction satisfactory to the Registrar, together with indemnity satisfactory to the Registrar for the Trustee, the Registrar and the Issuer.

If any lost, wrongfully taken or destroyed Bond shall have matured, instead of issuing a new Bond, the Trustee may pay that Bond without surrender thereof upon the furnishing of satisfactory evidence and indemnity as the Registrar may require, as in the case of issuance of a new Bond. The Issuer, the Registrar and the Trustee may charge the Holder of a mutilated, lost, wrongfully taken or destroyed Bond their reasonable fees and expenses in connection with their actions pursuant to this Section.

Every new Bond issued pursuant to this Section by reason of any Bond being mutilated, lost, wrongfully taken or destroyed (i) shall constitute, to the extent of the outstanding principal amount of the Bond lost, mutilated, taken or destroyed, an additional contractual obligation of the Issuer, regardless of whether the mutilated, lost, wrongfully taken or destroyed Bond shall be enforceable at any time by anyone and (ii) shall be entitled to all of the benefits of this Indenture equally and proportionately with any and all other Bonds issued and outstanding hereunder.

All Bonds shall be held and owned on the express condition that the foregoing provisions of this Section are exclusive with respect to the replacement or payment of mutilated, lost, wrongfully taken or destroyed Bonds and, to the extent permitted by law, shall preclude any and all other rights and remedies with respect to the replacement or payment of negotiable instruments or other investment securities without their surrender, notwithstanding any law or statute to the contrary now existing or enacted hereafter.

Section 3.07 Cancellation of Bonds

Any Bond surrendered pursuant to this Article for the purpose of payment or retirement or for exchange, replacement or transfer shall be cancelled upon presentation and surrender thereof to the Registrar, the Trustee or the Paying Agent. Any Bond cancelled by the Trustee or the Paying Agent shall be transmitted promptly to the Registrar by the Trustee or Paying Agent.

The Issuer, or the Borrower on behalf of the Issuer, may deliver at any time to the Registrar for cancellation any Bonds previously authenticated and delivered hereunder, which the Issuer or the Borrower may have acquired in any manner whatsoever. All Bonds so delivered shall be cancelled promptly by the Registrar. Certification of the surrender and cancellation shall be made to the Issuer and the Trustee by the Registrar upon written request to the Registrar. Unless otherwise directed by the Issuer, cancelled Bonds shall be retained and stored by the Registrar for a period of two years after their cancellation. Those cancelled Bonds shall be destroyed by the Registrar by shredding or incineration at that time or at any earlier time directed by the Issuer. The Registrar shall provide certificates describing the destruction of cancelled Bonds to the Issuer and the Trustee upon written request to the Registrar. The costs of such storage, shredding, incineration and certification shall constitute Ordinary Expenses payable as scheduled pursuant to Section 6.03 hereof.

Section 3.08 Special Agreement with Holders

Notwithstanding any provision of this Indenture or of any Bond to the contrary, with the written approval of the Borrower, the Trustee may enter into an agreement with any Holder providing for making all payments to that Holder of principal of and interest on that Bond or any part thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner other than as provided in this Indenture and in the Bond, without presentation or surrender of the Bond, upon any conditions which shall be satisfactory to the Trustee and the Borrower, provided that payment in any event shall be made to the Person in whose name a Bond shall be registered on the Register, with respect to payment of principal, on the date such principal is due, and, with respect to the payment of interest, as of the applicable Regular Record Date or Special Record Date, as the case may be.

The Trustee will furnish a copy of each of those agreements, certified to be correct by an officer of the Trustee, to the Registrar, the Issuer and the Borrower. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Indenture.

Section 3.09 Book-Entry Only System

Notwithstanding any provision of this Indenture to the contrary, the Issuer may direct that all Bonds issued hereunder shall be initially issued in a Book Entry System, registered in the name of a Depository or its nominee as registered owner of the Bonds, and held in the custody of that Depository. Unless otherwise requested by a Depository, a single certificate will be issued and delivered to the Depository for each maturity of Bonds. Beneficial owners of Bonds in a Book Entry System will not receive physical delivery of Bond certificates except as provided hereinafter. For so long as a Depository shall continue to serve as securities depository for the Bonds as provided herein, all transfers of beneficial ownership interests will be made by book-entry only, and no investor or other party purchasing, selling or otherwise transferring beneficial ownership of Bonds is to receive, hold or deliver any Bond certificate, provided that if a Depository fails or refuses to act as securities depository for the Bonds, the Issuer shall take the actions necessary to provide for the issuance of Bond certificates to the Holders of such Bonds.

With respect to Bonds registered in the name of a Depository, the Issuer, the Borrower and the Trustee shall have no responsibility or obligation to any participant therein or to any Person on whose behalf any participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, neither the Issuer, the Borrower nor the Trustee shall have any responsibility or obligation with respect to (i) the accuracy of the records of the Depository or any participant therein or any other Person, other than a registered owner of the Bonds, as shown on the registration books, or (ii) any notice with respect to the Bonds or (iii) the payment to any participant in the Depository or any other Person, other than a registered owner of the Bonds, as shown in the registration books, of any amount with respect to principal of or interest on or purchase price of the Bonds.

Replacement Bonds may be issued directly to beneficial owners of Bonds other than a Depository, or its nominee, but only in the event that (i) the Depository determines not to continue to act as securities depository for the Bonds (which determination shall become effective no less than 90 days after written notice to such effect to the Issuer and the Trustee); or (ii) the Issuer has advised a Depository of its determination (which determination is conclusive as to the Depository and beneficial owners of the Bonds) that the Depository is incapable of discharging its duties as securities depository for the Bonds; or (iii) the Issuer has determined (which determination is conclusive as to the Depository and the beneficial owners of the Bonds) that the interests of the beneficial owners of the Bonds might be adversely affected if such book-entry only system of transfer is continued. Upon occurrence of any of the foregoing events, the Issuer and the Borrower shall use commercially reasonable efforts to attempt to locate another qualified securities depository. If the Issuer and the Borrower fail to locate another qualified securities depository to replace the Depository, the Issuer and the Borrower, at the Borrower's expense, shall cause to be authenticated and delivered replacement Bonds, in certificate form, to the beneficial owners of the Bonds. In the event that the Issuer makes the determination noted in (ii) or (iii) above (provided that the Issuer undertakes no obligation to make any investigation to determine the occurrence of any events that would permit the Issuer to make any such determination), and has made provisions to notify the beneficial owners of Bonds of such determination by mailing an appropriate notice to the Depository, it and the Borrower shall cause to be issued replacement Bonds in certificate form to beneficial owners of the Bonds as shown on the records of the Depository provided to the Issuer.

Upon the written consent of one hundred percent (100%) of the beneficial owners of the Bonds, the Trustee shall withdraw the Bonds from any Depository and authenticate and deliver Bonds fully registered to the assignees of that Depository or its nominee. If the request for such withdrawal is not the result of any Issuer action or inaction, such withdrawal, authentication and delivery shall be at the cost and expense (including costs of printing, preparing and delivering such Bonds) of the persons requesting such withdrawal, authentication and delivery; otherwise such withdrawal, authentication and delivery shall be at the cost and expense of the Borrower.

Whenever, during the term of the Bonds, the beneficial ownership thereof is determined by a book entry at a Depository, (i) the requirements in this Indenture of holding, delivering or transferring Bonds shall be deemed modified to require the appropriate Person or entity to meet the requirements of the Depository as to registering or transferring the book entry to produce the same effect and (ii) delivery of the Bonds will be in accordance with arrangements among the Issuer, the Trustee and the Depository notwithstanding any provision of this Indenture to the contrary.

The Trustee and the Issuer shall enter into any letter of representation with a Depository to implement the Book Entry System of bond registration described above.

END OF ARTICLE III

ARTICLE IV

REDEMPTION OF BONDS

Section 4.01 **Redemption of Bonds**

The Bonds are subject to redemption prior to maturity as provided in this section.

For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Bonds shall relate, in the case of any Bond redeemed or to be redeemed only in part, to the portion of the principal of such Bond that has been or is to be redeemed, provided, however, that Bonds shall be redeemed in part only in such amounts that the Bonds remaining outstanding after a redemption shall in all events be in Authorized Denominations.

On each redemption date the Trustee shall transfer to the Registrar, but only from and to the extent of funds held by the Trustee hereunder available for such purpose, an amount sufficient to pay the redemption price of all Bonds or portions thereof to be redeemed on such redemption date.

The Bonds shall be redeemed, in whole or in part, at a price equal to the principal amount thereof plus accrued interest to the date fixed for redemption, on any Business Day on and after _____ in the event the Borrower exercises any option to prepay the Note and amounts are paid from the proceeds of refunding bonds or otherwise from Available Moneys upon the written direction of the Borrower delivered to the Issuer and the Trustee.

Section 4.02 **Notice of Redemption**

(a) Not less than 30 days prior to the redemption date, the Trustee shall give written notice of redemption to the Holders (with a copy to the Borrower and the Investor Member) by first class mail, postage prepaid, at their respective addresses appearing on the Bond Register. The notice shall state:

- (1) the redemption date;
- (2) the redemption price;
- (3) if less than all Outstanding Bonds are to be redeemed, the identification by designation, letters, numbers or other distinguishing marks (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed;
- (4) that on the redemption date the redemption price of each such Bond will become due and payable to the extent of funds on deposit with the Trustee for that purpose, and that interest on the principal amount of each such Bond to be redeemed shall cease to accrue on such date;

(5) the place where such Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the office of the Trustee designated in such notice; and

(6) such additional information as the Trustee or the Issuer shall deem appropriate.

(b) In addition to the foregoing notice, further notice shall be given by the Trustee as set out below, but no defect in such further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as above prescribed. Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption and in addition (i) the complete official title, including series designation, delivery date, interest rate and maturity date of each Bond being redeemed, (ii) the certificate and CUSIP number of each such Bond, and, in the case of a partial redemption, the amount of the principal represented by each such certificate that is being redeemed, (iii) the date of mailing of official notice of redemption, and (iv) any other descriptive information needed to identify accurately the Bonds being redeemed. Further notices of redemption shall be sent by first class mail.

(c) Further notices of redemption shall be sent by first-class mail or overnight delivery service to any Holder owning, on the date such notice is sent, Bonds in the aggregate principal amount of \$1,000,000 or more.

(d) If the Bonds are not then being held under a book entry system, each further notice of redemption shall be sent at least 30 days before the redemption date by first class mail or overnight delivery service to the Securities Depositories and to the Information Services. This further notice of redemption sent to the Securities Depositories pursuant to the preceding sentence shall be sent at such time as shall insure that such notice is received at least two Business Days before official notice of such redemption is received.

(e) A second notice of redemption shall be sent by the same means as the first such notice not later than 60 days after the redemption date to any Holder who shall not have presented for payment the Bond or Bonds called for redemption within 30 days after such date.

(f) In the event the Bonds are called for redemption under circumstances resulting in discharge of this Indenture under Section 9.02 hereof more than 90 days before the redemption date, additional official and further notice of redemption satisfying the requirements of this Section shall be given not less than 30 nor more than 60 days prior to such redemption date.

(g) Failure to give any official or further notice or any defect therein shall not affect the validity of the proceedings for redemption of any Bond with respect to which no such failure or defect has occurred or exists.

Any notice of the redemption of Bonds may state that such notice is conditional and that if the conditions for redemption of such Bonds on the scheduled redemption date are not satisfied (including the availability of funds sufficient to redeem such Bonds), such Bonds will not be redeemed on such date and any Bonds tendered for payment on such date will be returned to the Holders thereof.

Notice of redemption having been given as aforesaid, except as provided below, the principal amount of the Bonds so to be redeemed shall become due and payable on the redemption date at the redemption price specified, and on and after such date (unless the Issuer shall default in the payment of the redemption price) such principal amount of the Bonds shall cease to bear interest. Upon surrender of any such Bond for redemption in accordance with such notice, such Bond shall be paid at the redemption price thereof to the extent that money is on deposit with the Registrar for that purpose. Neither the failure of a Holder to receive such notice nor any defect in any notice shall affect the sufficiency of the proceedings for such redemption. If any Bond called for redemption shall not be so paid on the redemption date upon proper surrender of the Bond for redemption, the redemption price and, to the extent lawful, interest thereon shall, until paid, bear interest from the redemption date at the rate borne by the Bond immediately before the redemption date.

If any Bond is to be redeemed only in part, it shall be surrendered to the Registrar (with, if the Registrar so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Registrar duly executed by, the Holder thereof or its attorney duly authorized in writing) and the appropriate officers of the Issuer shall execute and the Registrar shall authenticate and deliver to the Holder of such Bond, without service charge, a new Bond or Bonds of the same interest rate and of any Authorized Denomination or Authorized Denominations, as requested by such Holder, in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Bond surrendered.

END OF ARTICLE IV

ARTICLE V

PROVISIONS AS TO FUNDS, PAYMENTS, PROJECT AND AGREEMENT

Section 5.01 Creation of Funds; Allocation of Bond Proceeds

(a) The funds and accounts described in this Section, designated as indicated are created by this Section 5.01 in this Indenture. Each fund is to be maintained in the custody of the Trustee as a separate bank account (except when invested in Eligible Investments). The funds and accounts are:

- (1) the Bond Fund designated “Bond Fund,” and the “Initial Deposit Account” therein;
- (2) the Project Fund designated the “Project Fund”;
- (3) the Collateral Fund designated “Collateral Fund”;
- (4) the Costs of Issuance Fund; and
- (5) the Rebate Fund designated “Rebate Fund.”

(b) The proceeds of the sale of the Bonds (including without limitation, premium, if any, and interest accrued thereon) in the amount of \$_____ shall be deposited by the Trustee on the Closing Date to the Project Fund.

[On the Closing Date, the Trustee shall deposit \$_____ received by or on behalf of the Borrower, from money other than the proceeds of the Bonds, in the Costs of Issuance Fund.] In addition, the Trustee shall cause the Initial Deposit to be deposited by the provider thereof to the Initial Deposit Account of the Bond Fund.

Section 5.02 Application of Loan Payments

So long as there are any Outstanding Bonds, any payments made by the Borrower pursuant to the Note and the Loan Agreement shall be paid on each Loan Payment Date directly to the Trustee and deposited into the Bond Fund, to be used to pay the interest and principal (if any) on the Bonds on the next succeeding Interest Payment Date, provided that so long as there are amounts available therefor, for purposes of paying interest on the Loan when due the Trustee shall debit the Initial Deposit Account in the amount of interest due on the Bonds on each Interest Payment Date and transfer the same to the Bond Fund to pay interest due on the Bonds on each Interest Payment Date, and provided further that so long as there are amounts available therefor, for purposes of making principal payments on the Loan when due the Trustee shall debit the Collateral Fund and transfer the same to the Bond Fund to pay the principal of the Bonds on the date set for redemption of the Bonds or payment of the Bonds on the Maturity Date.

Section 5.03 Disbursements from the Project Fund

(a) Requisitions. Subject to the provisions of this Section 5.03(a) and Section 5.03(b) below, the Trustee shall make disbursements from the Project Fund to pay Project Costs only upon the receipt of a written request of the Borrower signed by an Authorized Borrower Representative, which request shall be in the form attached as Exhibit B to the Loan Agreement (a “Disbursement Request”).

(b) Project Fund. When the Trustee receives a Disbursement Request for a disbursement from the Project Fund in accordance with the provisions of Section 5.03(a) above and Sections 3.4 and 3.5 of the Loan Agreement, subject to the following paragraph, the Trustee shall confirm that Available Moneys equal to or greater than the sum of (a) the amount set forth in the Disbursement Request and (b) all prior disbursements made, are on deposit in the Collateral Fund. Upon confirmation of the items above, the Trustee shall thereafter disburse the funds from the Project Fund to pay Project Costs in the amount pursuant to the Disbursement Request. Any interest earnings on the Project Fund shall be credited to the Bond Fund. No proceeds of the Bonds may be disbursed for costs paid by the Borrower prior to the date of issuance of the Bonds.

There shall be deposited from time to time in the Collateral Fund Available Moneys in such amounts and at such times as may be necessary to allow the Trustee to disburse funds from the Project Fund, pursuant to Section 5.03 hereof, upon the Trustee’s receipt of a Disbursement Request from the Borrower to pay Project Costs.

(c) Records. The Trustee shall cause to be kept and maintained adequate records pertaining to the Project Fund and all disbursements therefrom as herein provided. If requested by the Issuer or the Borrower, or the Investor Member, the Trustee shall file copies of the records pertaining to the Project Fund and disbursements therefrom with the Issuer and the Borrower and the Investor Member.

The proceeds of the Bonds shall be used exclusively to pay costs that (i) are (A) capital expenditures (as defined in Section 1.150-1(a) of the Code’s regulations) and (B) not made for the acquisition of existing property, to the extent prohibited in Section 147(d) of the Code, and (ii) are made exclusively with respect to a “qualified residential rental project” within the meaning of Section 142(d) of the Code so that the Project and the land on which it is located will have been financed fifty percent (50%) or more by the proceeds of the Bonds for the purpose of complying with Section 42(h)(4)(B) of the Code, provided, however, the foregoing representation, covenant and warranty is made for the benefit of the Borrower and its partners and neither the Trustee nor the Issuer shall have any obligation to enforce this covenant nor shall they incur any liability to any person, including without limitation, the Borrower, the partners of the Borrower, any other affiliate of the Borrower or the holders of the Bonds for any failure to meet the intent expressed in the foregoing representation, covenant and warranty, and provided further that failure to comply with this representation, covenant and warranty shall not constitute a default or Event of Default under this Indenture.

Upon the occurrence and continuance of an Event of Default hereunder because of which the principal amount of the Bonds has been declared to be due and immediately payable pursuant

to Section 7.03 hereof, any moneys remaining in the Project Fund shall be promptly transferred by the Trustee to the Bond Fund.

Section 5.04 Bond Fund

There shall be deposited in the Bond Fund (1) the amounts set forth in Section 5.01, if any, (2) interest earnings on the Project Fund and the Collateral Fund and (3) amounts set forth under this Section 5.04.

The Bond Fund (and the Initial Deposit Account therein) and the moneys and Eligible Investments therein shall be used solely and exclusively for the payment of Bond Debt Service Charges as they become due and at stated maturity, or upon redemption or acceleration, all as provided herein and in the Loan Agreement.

The Trustee shall transmit to the Paying Agent, as appropriate, from moneys on deposit in the Bond Fund, amounts sufficient to make timely payments of Bond Debt Service Charges on the Bonds. To the extent that the amount needed by the Paying Agent is not sufficiently predictable, the Trustee may make any credit arrangements with the Paying Agent which will permit those payments to be made. The Issuer authorizes and directs the Trustee to cause withdrawal of moneys from the Bond Fund which are available for the purpose of paying, and are sufficient to pay, Bond Debt Service Charges on the Bonds as they become due and payable, for the purposes of paying or transferring moneys to the Paying Agent which are necessary to pay such Bond Debt Service Charges. Amounts credited to or on deposit in the Initial Deposit Account shall be transferred to the Bond Fund on each Loan Payment Date in order to provide for the payment of Bond Debt Service Charges on the next succeeding Bond Payment Date.

In the event that amounts on deposit in the Bond Fund on any Loan Payment Date are insufficient to make the payment of Bond Debt Service Charges due on the next succeeding Bond Payment Date, the Trustee shall transfer funds in the following order to the Bond Fund and use such funds, together with amounts then on deposit in the Bond Fund, to pay the Bond Debt Service Charges due on the next succeeding Bond Payment Date:

- (1) first, from amounts on deposit in the Initial Deposit Account of the Bond Fund;
- (2) second, from amounts on deposit in the Collateral Fund; and
- (3) third, from amounts on deposit in the Project Fund.

Section 5.05 Investment of Special Funds

(a) Any money held as part of the funds and accounts created under this Indenture shall be invested or reinvested by the Trustee solely in Eligible Investments pursuant to written direction from the Borrower consistent with the terms of this Indenture. All such Eligible Investments shall mature or be subject to withdrawal or redemption without discount or penalty prior to the next Interest Payment Date. In addition, following receipt of written notice of an Event of Default of the Borrower, the Trustee shall invest and reinvest the money it holds as part of the funds and accounts in Eligible Investments consistent with the terms of this Indenture.

Except as described below, any investment made with money on deposit in a fund or account shall be held by or under control of the Trustee and shall be deemed at all times a part of the fund or account where such money was on deposit, and the interest and profits realized from such investment shall be credited to such fund or account and any loss resulting from such investment shall be charged to such fund or account. In the absence of the receipt of any investment instructions as provided herein, the Trustee is hereby directed authorized to invest all money under its control in money market mutual funds described in clause (ii) of the definition of Eligible Investments.

(b) The Trustee may make any investment through its own bond department, investment department or other commercial banking department or Affiliate of the Trustee providing investment services. The Trustee, any such department or the Trustee's Affiliates may receive reasonable and customary compensation in connection with any investment made under this Indenture.

(c) The Trustee shall have no liability or responsibility for any depreciation of the value of any investment made in accordance with the provisions of this Indenture or for any loss resulting from such investment or redemption, sale or maturity thereof made in accordance with the provisions of this Indenture.

(d) Unless otherwise confirmed in writing, an account statement delivered by the Trustee to the Borrower shall be deemed written confirmation by said party that the investment transactions identified therein accurately reflect the investment directions given to the Trustee by said party, unless said party notifies the Trustee in writing to the contrary within 30 days of the date of receipt of such statement.

(e) The Issuer (and the Borrower by its execution of the Loan Agreement) acknowledges that to the extent regulations of the Office of the Comptroller of the Currency or other applicable regulatory entity grant the Issuer or the Borrower the right to receive brokerage confirmations of security transactions as they occur, the Issuer and the Borrower specifically waive receipt of such confirmations to the extent permitted by law. The Trustee will furnish to the Issuer, the Borrower and the Investor Limited Partner periodic cash transaction statements that include detail for all investment transactions made by the Trustee hereunder.

(f) Except as otherwise provided in subsection (g), the Trustee and Borrower covenant that all investments of amounts deposited in any fund or account created by or pursuant to this Indenture, or otherwise containing gross proceeds of the Bonds (within the meaning of Section 148 of the Code) shall be acquired, disposed of, and valued (as of the date that valuation is required by this Indenture or the Code) at Fair Market Value.

Section 5.06 Moneys to be Held in Trust

Except where moneys have been deposited with or paid to the Trustee pursuant to an instrument restricting their application to particular Bonds, all moneys required or permitted to be deposited with or paid to the Trustee or the Paying Agent under any provision of this Indenture or the Note, and any investments thereof, shall be held by the Trustee or the Paying Agent in trust. Except for moneys held by the Trustee pursuant to Section 5.09 hereof, all

moneys described in the preceding sentence held by the Trustee or the Paying Agent shall be subject to the lien hereof while so held.

Section 5.07 Nonpresentment of Bonds

In the event that any Bond shall not be presented for payment when the principal thereof becomes due, or a check or draft for interest is uncashed, if moneys sufficient to pay the principal then due of that Bond or of such check or draft shall have been made available to the Trustee for the benefit of its Holder, all liability of the Issuer to that Holder for such payment of the principal then due of the Bond or of such check or draft thereupon shall cease and be discharged completely. Thereupon, it shall be the duty of the Trustee to hold those moneys, without liability for interest thereon, in a separate account in the Bond Fund for the exclusive benefit of the Holder, who shall be restricted thereafter exclusively to those moneys for any claim of whatever nature on its part under this Indenture or on, or with respect to, the principal then due of that Bond or of such check or draft. The Trustee shall notify the Borrower in writing of any Bond that has not been presented for payment when the principal thereof becomes due.

Any of those moneys which shall be so held by the Trustee, and which remain unclaimed by the Holder of a Bond not presented for payment or check or draft not cashed for a period of two years after the due date thereof, shall be paid to the Borrower free of any trust or lien, upon a request of the Borrower in writing executed by an Authorized Borrower Representative. Thereafter, the Holder of that Bond shall look only to the Borrower for payment and then only to the amounts so received by the Borrower without any interest thereon, and the Trustee shall not have any responsibility with respect to those moneys.

Section 5.08 Repayment to the Borrower from the Bond Fund

Except as provided in Section 5.09 hereof, any amounts remaining in the Bond Fund (i) after all of the outstanding Bonds shall be deemed paid and discharged under the provisions of this Indenture, and (ii) after payment of all fees, charges and expenses of the Trustee, the Registrar, the Paying Agents and the Issuer, and of all other amounts required to be paid under this Indenture, the Loan Agreement, the Regulatory Agreement and the Note, shall be paid to the Borrower to the extent that those amounts are in excess of those necessary to effect the payment and discharge of the outstanding Bonds.

Section 5.09 Rebate Fund

Any provision hereof to the contrary notwithstanding, amounts credited to the Rebate Fund shall be free and clear of any lien hereunder.

The Trustee shall furnish to the Borrower all information reasonably requested by the Borrower with respect to the Bonds and investments of the funds and accounts maintained by the Trustee hereunder. The Trustee shall make deposits to and disbursements from the Rebate Fund (including rebate payments to the United States required to be made by the Tax Agreement), as well as investments of the amounts therein, in accordance with the written directions received from the Borrower and the Investor Member pursuant to the Tax Agreement.

Section 5.10 Valuation

For the purpose of determining the amount on deposit to the credit of any fund or account, the value of obligations in which money in such fund or account shall have been invested shall be computed at the then market value thereof.

The Eligible Investments shall be valued by the Trustee at any time requested by the Borrower on reasonable notice to the Trustee (which period of notice may be waived or reduced by the Trustee), provided, however, that the Trustee shall not be required to value the Eligible Investments more than once in any calendar month.

Section 5.11 Completion of the Project

The completion of the Project and payment of all costs and expenses incident thereto shall be evidenced by the filing with the Trustee of the Completion Certificate required by Section 3.7 of the Loan Agreement. As soon as practicable after the filing with the Trustee of the Completion Certificate, any balance remaining in the Project Fund (other than the amounts retained by the Trustee as described in the Completion Certificate) shall be deposited or applied in accordance with the direction of the Borrower executed by an Authorized Borrower Representative pursuant to Section 3.4 of the Loan Agreement.

Section 5.12 Collateral Fund

There shall be deposited from time to time in the Collateral Fund, Available Moneys in such amounts and at such times as may be necessary to allow the Trustee to transfer funds from the Project Fund, pursuant to Section 5.03 hereof, upon the Trustee's receipt of a disbursement request from the Borrower. Moneys in the Collateral Fund shall be invested in Eligible Investments.

The Collateral Fund shall only be used and applied for, and irrevocably committed to, the payment of (i) the Bond Debt Service Charges on the Bonds which are due and payable on any Interest Payment Date or Maturity Date and (ii) the Bond Debt Service Charges on the Bonds as and when due at any other Bond Payment Date. Any interest earnings on the Collateral Fund shall be credited to the Bond Fund.

Section 5.13 Costs of Issuance Fund

The Trustee shall use money on deposit to the credit of the Costs of Issuance Fund to pay the costs of issuance on the Closing Date or as soon as practicable thereafter in accordance with written instructions to be given to the Trustee by the Issuer, as set forth in a certificate of the Issuer delivered to the Trustee on the Closing Date or as otherwise directed by the Issuer, upon delivery to the Trustee of appropriate invoices for such expenses. Investment earnings on amounts on deposit in the Costs of Issuance Fund shall be retained in such fund. Amounts remaining on deposit in the Costs of Issuance Fund sixty (60) days after the Closing Date shall be remitted by the Trustee to the Borrower. Upon such final disbursement, the Trustee shall close the Costs of Issuance Fund.

END OF ARTICLE V

ARTICLE VI

THE TRUSTEE, REGISTRAR, PAYING AGENTS AND AUTHENTICATING AGENTS

Section 6.01 Trustee's Acceptance and Responsibilities

The Trustee accepts the trusts imposed upon it by this Indenture, and agrees to observe and perform those trusts, but only upon and subject to the terms and conditions set forth in this Article, to all of which the parties hereto and the Holders agree.

(a) Prior to the occurrence of a default or an Event of Default (as defined in Section 7.01 hereof) of which the Trustee has been notified, as provided in paragraph (f) of Section 6.02 hereof, or of which by that paragraph the Trustee is deemed to have notice, and after the cure or waiver of all defaults or Events of Default which may have occurred,

(i) the Trustee undertakes to perform only those duties and obligations which are set forth specifically in this Indenture, and no duties or obligations shall be implied to the Trustee;

(ii) in the absence of bad faith, wilful misconduct or gross negligence on its part, the Trustee may rely conclusively, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provision hereof are required specifically to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture.

(b) In case a default or an Event of Default has occurred and is continuing hereunder (of which the Trustee has been notified, or is deemed to have notice), the Trustee shall exercise those rights and powers vested in it by this Indenture and shall 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 such person's own affairs.

(c) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

(i) this Subsection shall not be construed to affect the limitation of the Trustee's duties and obligations provided in subparagraph (a)(i) of this Section or the Trustee's right to rely on the truth of statements and the correctness of opinions as provided in subparagraph (a)(ii) of this Section;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by any one of its officers, unless it shall be established that the Trustee was grossly negligent in ascertaining the pertinent facts;

(iii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a majority in principal amount of the Bonds then outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture; and

(iv) no provision of this Indenture 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 if it shall have reasonable grounds in its sole discretion for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(d) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section 6.01.

Section 6.02 Certain Rights and Obligations of the Trustee

Except as otherwise provided in Section 6.01 hereof:

(a) The Trustee (i) may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees (but shall be answerable therefor only in accordance with the standard specified above), (ii) shall be entitled to the advice of counsel concerning all matters of trusts hereof and duties hereunder, and (iii) may pay reasonable compensation in all cases to all of those attorneys, agents, receivers and employees reasonably employed by it in connection with the trusts hereof (at its own expense or, if such attorneys, agents and receivers are reasonably employed by the Trustee to perform Extraordinary Services, at the expense of the Borrower as provided in Section 6.03 hereof). The Trustee may act upon the opinion or advice of any attorney (who may be the attorney or attorneys for 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 taken or omitted to be taken in good faith in reliance upon that opinion or advice.

(b) The Trustee shall not be responsible for:

(i) the validity, priority, recording, re-recording, filing or re-filing of this Indenture or any Supplemental Indenture or the Regulatory Agreement,

(ii) any instrument or document of further assurance or collateral assignment,

(iii) insurance of the Project,

(iv) the validity of the execution by the Issuer of this Indenture, any Supplemental Indenture or instruments or documents of further assurance,

(v) the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby,

(vi) the value of or title to the Project,

except that, in the event that the Trustee enters into possession of a part or all of the Project pursuant to any provision of the Regulatory Agreement or any other instrument or document collateral thereto, the Trustee shall use due diligence in preserving that property. The Trustee shall not be bound to ascertain or inquire as to the observance or performance of any covenants, agreements or obligations on the part of the Issuer or the Borrower under the Loan Agreement except as set forth hereinafter; but the Trustee may require of the Issuer or the Borrower full information and advice as to the observance or performance of those covenants, agreements and obligations. Except as otherwise provided in Section 7.04 hereof, the Trustee shall have no obligation to observe or perform any of the duties of the Issuer under the Loan Agreement.

(c) The Trustee shall not be accountable for the application by the Borrower or any other Person of the proceeds of any Bonds authenticated or delivered hereunder.

(d) The Trustee shall be protected, in the absence of bad faith on its part, in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document reasonably believed by it to be genuine and correct and to have been signed or sent by the proper Person or Persons. Any action taken by the Trustee pursuant to this Indenture upon the request, authority or consent of any Person who is the Holder of any Bonds at the time of making the request or giving the authority or consent, shall be conclusive and binding upon all future Holders of the same Bond and of Bonds issued in exchange therefor or in place thereof.

(e) As to the existence or nonexistence of any fact for which the Issuer or the Borrower may be responsible or as to the sufficiency or validity of any instrument, document, report, paper or proceeding, the Trustee, in the absence of bad faith on its part, shall be entitled to rely upon a certificate signed on behalf of the Issuer or Borrower, as appropriate, by an authorized officer or representative thereof as sufficient evidence of the facts recited therein. Prior to the occurrence of a default or Event of Default hereunder of which the Trustee has been notified, as provided in paragraph (f) of this Section, or of which by that paragraph the Trustee is deemed to have notice, the Trustee may accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, provided that the Trustee in its discretion may require and obtain any further evidence which it deems to be necessary or advisable; and, provided further, that the Trustee shall not be bound to secure any such further evidence.

(f) The Trustee shall not be required to take notice, and shall not be deemed to have notice, of any default or Event of Default hereunder, except Events of Default described in paragraphs (a), (b) and (d) (but only with respect to paragraph (a) of Section 7.1 of the Loan Agreement) of Section 7.01 hereof, unless the Trustee shall be

notified specifically of the default or Event of Default in a written instrument or document delivered to it by the Issuer or by the Holders of at least 10% of the aggregate principal amount of Bonds then outstanding. In the absence of delivery of a notice satisfying those requirements, the Trustee may assume conclusively that there is no default or Event of Default, except as noted above.

(g) The Trustee shall not be required to give any bond or surety with respect to the execution of these trusts and powers or otherwise in respect of the premises.

(h) Notwithstanding anything contained elsewhere in this Indenture, the Trustee may demand any showings, certificates, reports, opinions, appraisals and other information, and any corporate action and evidence thereof, in addition to that required by the terms hereof, as a condition to the authentication of any Bonds or the taking of any action whatsoever within the purview of this Indenture, if the Trustee deems it to be desirable for the purpose of establishing the right of any Person to the taking of any other action by the Trustee, provided that the Trustee shall not be required to make that demand.

(i) Before taking action hereunder pursuant to Section 6.04 or Article VII hereof (with the exception of any action required to be taken under Section 7.02 hereof), the Trustee may require that a satisfactory indemnity bond be furnished to it for the reimbursement of all expenses which it may incur and to protect it against all liability by reason of any action so taken, except liability which is adjudicated to have resulted from its negligence or willful misconduct. The Trustee may take action without that indemnity, and in that case, the Borrower shall reimburse the Trustee for all of the Trustee's expenses pursuant to Section 6.03 hereof.

(j) Unless otherwise provided herein, all moneys received by the Trustee under this Indenture shall be held in trust for the purposes for which those moneys were received, until those moneys are used, applied or invested as provided herein, provided that those moneys need not be segregated from other moneys, except to the extent required by this Indenture or by law. Absent written direction provided to the Trustee pursuant to Section 5.05 hereof, the Trustee shall not be responsible or liable for keeping moneys held by it hereunder invested in any particular investment, and the Trustee shall not have any liability for interest on any moneys received hereunder, except to the extent expressly provided herein.

(k) Any resolution by the governing body of the Issuer, and any opinions, certificates and other instruments and documents for which provision is made in this Indenture, may be accepted by the Trustee, in the absence of bad faith on its part, as conclusive evidence of the facts and conclusions stated therein and shall be full warrant, protection and authority to the Trustee for its actions taken hereunder.

(l) The Trustee shall be entitled to file proofs of claim in bankruptcy at the direction of the Holders of at least 25% in aggregate principal amount of Bonds outstanding. Trustee fees and expenses are intended to constitute administrative expenses in bankruptcy.

(n) The duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture. No implied covenants or obligations shall be read into this Indenture against the Trustee. Notwithstanding any provision herein, the Trustee shall have no duty or obligation to the Borrower except as may be expressly set forth in this Indenture.

(o) The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising or caused, directly or indirectly by circumstances beyond its reasonable control including, without limitation, acts of God; earthquakes; fire; flood; hurricanes or other storms wars; terrorism; similar military disturbances; sabotage; epidemic; pandemic; riots; interruptions; loss or malfunctions of utilities, communications services; accidents; labor disputes; acts of civil or military authority or governmental action; it being understood that the Trustee shall use commercially reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as reasonably practicable under any such circumstances.

(p) Notwithstanding anything contained herein to the contrary, upon the occurrence and continuance of an Event of Default, before taking any action which may subject the Trustee to liability under any environmental law, statute, regulation or similar requirement relating to the environment, the Trustee may require that a satisfactory indemnity bond, indemnity or environmental impairment insurance be furnished for the payment or reimbursement of all costs and expenses to which it may be put (including reasonable attorney's fees, costs and expenses) and to protect it against all liability resulting from any claims, judgments, damages, losses, penalties, fines, liabilities (including strict liability) and costs and expenses which may result from such foreclosure or other action (including reasonable attorney's fees, costs and expenses).

Section 6.03 Fees, Charges and Expenses of Trustee, Registrar, Paying Agents and Authenticating Agents

The Trustee, Registrar, Paying Agents and Authenticating Agents shall be entitled to payment or reimbursement by the Borrower, as provided in the Loan Agreement, for customary fees for their respective Ordinary Services rendered hereunder and for all advances, counsel fees and other Ordinary Expenses reasonably and necessarily paid or incurred by them in connection with the provision of Ordinary Services. For purposes hereof, fees for Ordinary Services provided for by their respective standard fee schedule shall be considered customary. Notwithstanding anything in this Indenture or the other Loan Documents to the contrary, fees of the Trustee, Registrar, Paying Agents and Authenticating Agents for Ordinary Services and any fees for services of the Dissemination Agent under the Continuing Disclosure Agreement shall be paid directly by the Borrower to the Trustee as provided in Section 4.2(c) of the Loan Agreement. In the event that it should become necessary for any of them to perform Extraordinary Services, they shall be entitled to customary extra compensation therefor and to reimbursement for reasonable and necessary Extraordinary Expenses incurred in connection therewith. Unless and until such time as the Trustee resigns or is replaced, and a successor

Trustee is appointed pursuant to Section 6.09 hereunder, the Trustee shall continue to perform its duties hereunder notwithstanding the Borrower's failure to timely pay such fees.

Without creating a default or an Event of Default hereunder, however, the Borrower may contest in good faith the necessity for any Extraordinary Service and Extraordinary Expense and the amount of any fee, charge or expense except Ordinary Expenses.

The Trustee, Registrar, Paying Agents and Authenticating Agents shall not be entitled to compensation or reimbursement for Extraordinary Services or Extraordinary Expenses occasioned by their negligence or willful misconduct. The customary fees for their respective Ordinary Services and charges of the foregoing shall be entitled to payment and reimbursement only from (i) the Additional Payments made by the Borrower pursuant to the Loan Agreement, or (ii) from other moneys available therefor. Any amounts payable to the Trustee, the Registrar, the Paying Agents or the Authenticating Agents pursuant to this Section 6.03 shall be payable upon receipt of a detailed invoice from the Trustee, Registrar, Paying Agents or Authenticating Agents, as applicable, and shall bear interest beginning thirty (30) days following the provision of the respective invoice to the Borrower at the Interest Rate for Advances.

Section 6.04 Intervention by Trustee

The Trustee may intervene on behalf of the Holders, and shall intervene if requested to do so in writing by the Holders of at least 25% of the aggregate principal amount of Bonds then outstanding, in any judicial proceeding to which the Issuer or the Borrower is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of Holders of the Bonds. The rights and obligations of the Trustee under this Section are subject to the approval of that intervention by a court of competent jurisdiction. The Trustee may require that a satisfactory indemnity bond be provided to it in accordance with Sections 6.01 and 6.02 hereof before it takes action hereunder.

Section 6.05 Successor Trustee

Anything herein to the contrary notwithstanding,

(a) any corporation or association (i) into which the Trustee may be converted or merged, (ii) with which the Trustee or any successor to it may be consolidated, or (iii) to which it may sell or transfer its corporate trust assets and corporate trust business as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, merger, consolidation, sale or transfer, ipso facto, shall be and become successor Trustee hereunder and shall be vested with all of the title to the whole property or Trust Estate hereunder; and

(b) that corporation or association shall be vested further, as was its predecessor, with each and every trust, property, remedy, power, right, duty, obligation, discretion, privilege, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by, vested in or conveyed to

the Trustee, without the execution or filing of any instrument or document or any further act on the part of any of the parties hereto.

Any successor Trustee, however, (i) shall be a trust company or a bank having the powers of a trust company, (ii) shall be in good standing within the State, (iii) shall be duly authorized to exercise trust powers within the State, (iv) shall have a reported capital, surplus and retained earnings of not less than \$100,000,000, and (v) shall have at least a Minimum Trustee Rating.

Section 6.06 Appointment of Co-Trustee

It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including without limitation, the laws of the State) denying or restricting the right of banks or trust companies to transact business as trustees in that jurisdiction. It is recognized that, (a) if there is litigation under this Indenture or other instruments or documents relating to the Bonds and the Project, and in particular, in case of the enforcement hereof or thereof upon a default or an Event of Default, or (b) if the Trustee should deem that, by reason of any present or future law of any jurisdiction, it may not (i) exercise any of the powers, rights or remedies granted herein to the Trustee, (ii) hold title to the properties, in trust, as granted herein, or (iii) take any action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an individual or additional institution as a co-Trustee. The following provisions of this Section are adapted to these ends.

In the event that the Trustee appoints an individual or additional institution as a co-Trustee, each and every trust, property, remedy, power, right, duty, obligation, discretion, privilege, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by, vested in or conveyed to the Trustee shall be exercisable by, vest in and be conveyed to that co-Trustee, but only to the extent necessary for it to be so vested and conveyed and to enable that co-Trustee to exercise it. Every covenant, agreement and obligation necessary to the exercise thereof by that co-Trustee shall run to and be enforceable by it.

Should any instrument or document in writing from the Issuer reasonably be required by the co-Trustee so appointed by the Trustee for vesting and conveying more fully and certainly in and to that co-Trustee those trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens, that instrument or document shall be executed, acknowledged and delivered, but not prepared, by the Issuer. In case any co-Trustee or a successor to it shall die, become incapable of acting, resign or be removed, all of the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens of the co-Trustee shall be exercised by, vest in and be conveyed to the Trustee, to the extent permitted by law, until the appointment of a successor to the co-Trustee.

The total compensation of the Trustee and any co-Trustee or separate trustee shall be as, and may not exceed the amounts, provided in Section 6.03 hereof.

Section 6.07 Resignation by the Trustee

The Trustee may resign at any time from the trusts created hereby by giving written notice of the resignation to the Issuer, the Borrower, the Investor Member, the Registrar, the Paying Agents and Authenticating Agents, and by mailing written notice of the resignation to the Holders as their names and addresses appear on the Register at the close of business fifteen days prior to the mailing. Notwithstanding the foregoing, if the Trustee no longer has a Minimum Trustee Rating, it shall resign within sixty (60) calendar days of the withdrawal or suspension of a former Minimum Trustee Rating or other event giving rise to its failure to maintain a Minimum Trustee Rating. The resignation shall take effect upon the appointment of a successor Trustee as provided for in Section 6.09 of this Indenture or an order of a court of competent jurisdiction allowing the Trustee to resign.

Section 6.08 Removal of the Trustee

The Trustee may be removed at any time by an instrument or document or concurrent instruments or documents in writing delivered to the Trustee, with copies thereof mailed to the Issuer, the Registrar, the Paying Agents and Authenticating Agents and the Borrower, and signed by or on behalf of the Majority of the Holders of the Bonds.

The Trustee also may be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provision of this Indenture with respect to the duties and obligations of the Trustee by any court of competent jurisdiction upon the application of the Issuer or the Holders of not less than 25% in aggregate principal amount of the Bonds then outstanding under this Indenture.

The removal of the Trustee under this Section 6.08 shall take effect upon the appointment of a successor Trustee as provided for in Section 6.09 of this Indenture.

Section 6.09 Appointment of Successor Trustee

If (i) the Trustee shall resign, shall be removed, shall be dissolved, or shall become otherwise incapable of acting hereunder, (ii) the Trustee shall be taken under the control of any public officer or officers, or (iii) a receiver shall be appointed for the Trustee by a court, then a successor Trustee shall be appointed by the Issuer, provided that if a successor Trustee is not so appointed within thirty days after (a) a notice of resignation or an instrument or document of removal is received by the Issuer, as provided in Sections 6.07 and 6.08 hereof, respectively, or (b) the Trustee is dissolved, taken under control, becomes otherwise incapable of acting or a receiver is appointed, in each case, as provided above, then, but only so long as the Issuer shall not have appointed a successor Trustee, the Holders of a majority in aggregate principal amount of Bonds then outstanding may designate a successor Trustee by an instrument or document or concurrent instruments or documents in writing signed by or on behalf of those Holders. If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section, the Holder of any Bond outstanding hereunder or any retiring Trustee may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

Every successor Trustee appointed pursuant to this Section (i) shall be a trust company or a bank having the powers of a trust company (ii) shall be in good standing within the State, (iii) shall be duly authorized to exercise trust powers within the State, (iv) shall have a reported capital, surplus and retained earnings of not less than \$100,000,000, (v) shall be willing to accept the trusteeship under the terms and conditions of this Indenture, and (vi) shall have a Minimum Trustee Rating.

Every successor Trustee appointed hereunder shall execute and acknowledge, and shall deliver to its predecessor, the Issuer and the Borrower an instrument or document in writing accepting the appointment. Thereupon, without any further act, the successor shall become vested with all of the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens of its predecessor. Upon the written request of its successor, the Issuer or the Borrower, and payment of all fees and expenses owed to it, the predecessor Trustee (i) shall execute and deliver an instrument or document transferring to its successor all of the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens of the predecessor Trustee hereunder, and (ii) shall take any other action necessary to duly assign, transfer and deliver to its successor all property (including without limitation, all securities and moneys) held by it as Trustee. Should any instrument or document in writing from the Issuer be requested by any successor Trustee for vesting and conveying more fully and certainly in and to that successor the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens vested or conveyed or intended to be vested or conveyed hereby in or to the predecessor Trustee, the Issuer shall execute, acknowledge and deliver that instrument or document.

In the event of a change in the Trustee, the predecessor Trustee shall cease to be custodian of any moneys which it may hold pursuant to this Indenture and shall cease to be Registrar, Authenticating Agent and a Paying Agent for any of the Bonds, to the extent it served in any of those capacities.

Section 6.10 Adoption of Authentication

In case any of the Bonds shall have been authenticated, but shall not have been delivered, any successor Trustee, Registrar or Authenticating Agent may adopt the certificate of authentication of any predecessor Trustee, Registrar or Authenticating Agent and may deliver those Bonds so authenticated as provided herein. In case any Bonds shall not have been authenticated, any successor Trustee, Registrar or Authenticating Agent may authenticate those Bonds in its own name as successor Trustee. In all cases, the certificate of authentication shall have the same force and effect as provided in the Bonds or in this Indenture with respect to the certificate of authentication of the predecessor Trustee, Registrar or Authenticating Agent.

Section 6.11 Registrars

(a) Succession. Anything herein to the contrary notwithstanding, any corporation or association (i) into which a Registrar may be converted or merged, (ii) with which a Registrar or any successor to it may be consolidated, or (iii) to which it may sell or transfer its assets as a

whole or substantially as a whole, or any corporation or association resulting from any such conversion, merger, consolidation, sale or transfer, ipso facto, shall be and become successor Registrar to that Registrar hereunder and shall be vested with each and every power, right, duty, obligation, discretion and privilege expressed or intended by this Indenture to be exercised by or vested in the predecessor Registrar, without the execution or filing of any instrument or document or any further act on the part of any of the parties hereto.

(b) Resignation. A Registrar may resign at any time by giving written notice of its resignation to the Issuer, the Borrower, the Trustee and to each Paying Agent and Authenticating Agent for the Bonds, at least 60 days before the resignation is to take effect. The resignation shall take effect immediately, however, upon the appointment of a successor Registrar, if the successor Registrar is appointed and accepts that appointment before the time stated in the notice.

(c) Removal. The Registrar may be removed at any time by an instrument or document or concurrent instruments or documents in writing delivered to the Registrar, with copies thereof mailed to the Issuer, the Trustee and the Borrower, and signed by or on behalf of the Holders of not less than a majority in aggregate principal amount of the Bonds then outstanding.

(d) Appointment of Successors. If (i) a Registrar shall resign, shall be removed, shall be dissolved, or shall become otherwise completely incapable of acting hereunder, (ii) a Registrar shall be taken under the control of any public officer or officers, (iii) a receiver shall be appointed for a Registrar by a court, or (iv) a Registrar shall have an order for relief entered in any case commenced by or against it under the federal bankruptcy laws or commence a proceeding under any federal or state bankruptcy, insolvency, reorganization or similar law, or have such a proceeding commenced against it and either have an order of insolvency or reorganization entered against it or have the proceeding remain undismissed and unstayed for ninety days, then a successor Registrar shall be appointed by the Trustee, with the written consent of the Borrower, provided that if a successor Registrar is not so appointed within ten days after (a) a notice of resignation or an instrument or document of removal is received by the Trustee, as provided above, or (b) the Registrar is dissolved, taken under control, becomes otherwise incapable of acting or a receiver is appointed, in each case, as provided above, then, if the Trustee shall not have appointed a successor Registrar, the Trustee shall be and become the Registrar.

Every successor Registrar appointed hereunder shall execute and acknowledge, and shall deliver to its predecessor, the Issuer, the Trustee and the Borrower, an instrument or document in writing accepting the appointment. Thereupon, without any further act, the successor shall become vested with all of the properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, titles and interests of its predecessor. Upon the written request of its successor, the Issuer or the Borrower, a predecessor Registrar (i) shall execute and deliver an instrument or document transferring to its successor all of the properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, titles and interests of it as predecessor Registrar hereunder, and (ii) shall take any other action necessary to duly assign, transfer and deliver to its successor all property and records (including without limitation, the Register and any cancelled

Bonds) held by it as Registrar. Should any instrument or document in writing from the Issuer be requested by any successor Registrar for vesting and conveying more fully and certainly in and to that successor the properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, titles and interests vested or conveyed or intended to be vested or conveyed hereby in or to a predecessor Registrar, the Issuer shall execute, acknowledge and deliver that instrument or document.

The Trustee shall cause the Borrower to pay pursuant to Section 4.2 of the Loan Agreement, to any Registrar customary compensation for its services from time to time, as authorized, but subject to the limitations set forth, in Section 6.03 hereof. The provisions of Sections 3.05, 3.06, 3.07 and 6.02(d) hereof shall be applicable to the Registrar.

Section 6.12 Designation and Succession of Paying Agents

The Trustee shall be a Paying Agent for the Bonds, and, with the consent of the Issuer, the Trustee may appoint a Paying Agent or Agents with power to act on its behalf and subject to its direction in the payment of Bond Debt Service Charges on the Bonds. It is the responsibility of the Trustee to establish the duties and responsibilities of the Paying Agent for the purposes of this Indenture, to the extent not specified herein.

Any corporation or association with or into which the Paying Agent may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, consolidation or conversion to which the Paying Agent shall be a party, or any corporation or association succeeding to the trust business of the Paying Agent, shall be the successor of that Paying Agent hereunder, if that successor corporation or association is otherwise eligible hereunder, without the execution or filing of any paper or any further act on the part of the parties hereto or the Paying Agent or that successor corporation or association.

The Paying Agent may at any time resign by giving written notice of resignation to the Trustee, to the Registrar and to the Borrower. The Trustee may at any time terminate the agency of the Paying Agent by giving written notice of termination to such Paying Agent, to the Registrar and to the Borrower. Upon receiving such a notice of resignation or upon such a termination, or in case at any time the Paying Agent shall cease to be eligible under this Section, the Trustee may appoint a successor Paying Agent. The Trustee shall give written notice of appointment of a successor Paying Agent to the Borrower, the Issuer and the Registrar and shall mail, within ten days after that appointment, notice thereof to all Holders as their names and addresses appear on the Register on the date of that appointment.

The Trustee shall cause the Borrower to pay pursuant to Section 4.2 of the Loan Agreement, to the Paying Agent from time to time customary compensation as authorized, but subject to the limitations set forth, in Section 6.03 hereof for its services.

The provisions of Section 3.05, 3.07 and Subsection 6.02(d) shall be applicable to the Paying Agent.

Section 6.13 Designation and Succession of Authenticating Agents

The Trustee may appoint an authenticating agent or agents (each referred to herein as an “Authenticating Agent”), in addition to the Registrar, with power to act on its behalf and subject to its direction in the authentication and delivery of Bonds in connection with transfers and exchanges under Sections 3.06 and 4.02 hereof. For all purposes of this Indenture, the authentication and delivery of Bonds by an Authenticating Agent pursuant to this Section shall be deemed to be authentication and delivery of those Bonds “by the Trustee”.

Any corporation or association with or into which any Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, consolidation or conversion to which any Authenticating Agent shall be a party, or any corporation or association succeeding to the trust business of any Authenticating Agent, shall be the successor of that Authenticating Agent hereunder, if that successor corporation or association is otherwise eligible hereunder, without the execution or filing of any paper or any further act on the part of the parties hereto or the Authenticating Agent or such successor corporation.

Any Authenticating Agent may at any time resign by giving written notice of resignation to the Trustee, to the Registrar and to the Borrower. The Trustee may at any time terminate the agency of any Authenticating Agent by giving written notice of termination to such Authenticating Agent, to the Registrar and to the Borrower. Upon receiving such a notice of resignation or upon such a termination, or in case at any time any Authenticating Agent shall cease to be eligible under this Section, the Trustee may appoint a successor Authenticating Agent. The Trustee shall give written notice of appointment of a successor Authenticating Agent to the Borrower, the Issuer and the Registrar and shall mail, within ten days after that appointment, notice thereof to all Holders as their names and addresses appear on the Register on the date of that appointment.

The Trustee shall cause the Borrower to pay pursuant to Section 4.2 of the Loan Agreement, to any Authenticating Agent from time to time customary compensation for its services.

The provisions of Section 3.05 and Subsections 6.02(b), (c), (d), (h) and (i) shall be applicable to any Authenticating Agent.

Section 6.14 Dealing in Bonds

The Trustee, a Registrar, a Paying Agent and an Authenticating Agent, their Affiliates, and any directors, officers, employees or agents thereof, in good faith, may become the owners of Bonds secured hereby with the same rights which it or they would have hereunder if the Trustee, the Registrar, Paying Agents and Authenticating Agents did not serve in those capacities.

Section 6.15 Representations, Agreement and Covenants of Trustee

The Trustee hereby represents that it is a national banking association duly organized and validly existing under the laws of the United States of America, in good standing and duly authorized to exercise corporate trust powers in the State, and that it has an unimpaired reported capital, surplus and retained earnings of not less than \$100,000,000. The Trustee covenants that

it will take such action, if any, as is necessary to remain in good standing and duly authorized to exercise corporate trust powers in the State, and that it will maintain an unimpaired reported capital, surplus and retained earnings of not less than \$100,000,000. The Trustee accepts and agrees to observe and perform the duties and obligations of the Trustee to which reference is made in any other instrument or document providing security for any of the Bonds.

Section 6.16 Right of Trustee to Pay Taxes and Other Charges

The Trustee is hereby authorized (i) to pay taxes, assessments and other governmental charges with respect to the Project, (ii) to make payments for the discharge of mechanics' and other liens relating to the Project, (iii) to obtain and maintain insurance for the Project and pay premiums therefor, and (iv) generally, to make payments and incur expenses, all in the event that the Borrower fails to do so as required by the Loan Agreement, but only to the extent that it has received funds necessary for the purpose of making any such payments, and in any event without prejudice to any rights of the Trustee or the Holders against the Borrower for failure of the Borrower to do so.

Any amount so paid at any time, with interest thereon at the Interest Rate for Advances from the date of payment, (i) shall be an additional obligation secured by this Indenture, (ii) shall be given a preference in payment over any Bond Debt Service Charges, and (iii) shall be paid out of the Issuer Revenues, if not caused otherwise to be paid. The Trustee shall only make such payments if it shall have been requested to do so by the Holders of at least 25% of the aggregate principal amount of Bonds then outstanding and shall have been provided with adequate funds for the purpose of making such payment.

Section 6.17 Interpleader

In the event of a dispute between any of the parties hereto with respect to the disposition of any funds held by the Trustee hereunder, or the Trustee receives conflicting demands made upon the Trustee with respect to the Trustee's duties hereunder or any other document related to the Bonds, the Trustee shall be entitled to file a suit in interpleader in a court of competent jurisdiction seeking to require the parties to interplead and litigate in such court their several claims and rights among themselves. Upon the filing of such a suit and the deposit of the applicable funds to such court, the Trustee will ipso facto be fully released and discharged from all obligations to further perform any and all duties imposed hereunder or any other document related to the Bonds regarding such matter and/or such funds that are the subject of such interpleader suit. In the event that the Trustee remains as Trustee under this Indenture and receives a court order, directive or other request regarding the interpleader suit, the Trustee shall be entitled to rely upon such instruction without incurring any obligation or liability and the parties hereto release, hold harmless and indemnify the Trustee for any obligation or liability for so relying on such court instruction.

Section 6.18 Survival of Certain Provisions

The provisions of Sections 6.01 through 6.18 of this Indenture shall survive the release, discharge and satisfaction of this Indenture.

END OF ARTICLE VI

ARTICLE VII

DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND HOLDERS

Section 7.01 **Defaults; Events of Default**

The occurrence of any of the following events is defined as and declared to be and to constitute an Event of Default hereunder:

(a) Payment of any interest on any Bond shall not be made when and as that interest shall become due and payable;

(b) Payment of the principal of any Bond shall not be made when and as that principal shall become due and payable, whether at stated maturity, upon acceleration or otherwise;

(c) Failure by the Issuer to observe or perform any other covenant, agreement or obligation on its part to be observed or performed contained in this Indenture or in the Bonds, which failure shall have continued for a period of 30 days after written notice, by registered or certified mail, to the Issuer and the Borrower specifying the failure and requiring that it be remedied, which notice may be given by the Trustee in its discretion and shall be given by the Trustee at the written request of the Holders of not less than 25% in aggregate principal amount of Bonds then outstanding, provided that if the failure is other than the payment of money and is of such nature that it can be corrected but not within the applicable period, that failure shall not constitute an Event of Default so long as the Issuer or the Borrower institutes curative action within the applicable period and diligently pursues that action to completion, which must be resolved within one hundred eighty (180) days after the aforementioned notice; and

(d) The occurrence and continuance of an Event of Default as defined in Section 7.1 of the Loan Agreement

The term “default” or “failure” as used in this Article means (i) a default or failure by the Issuer in the observance or performance of any of the covenants, agreements or obligations on its part to be observed or performed contained in this Indenture or in the Bonds, or (ii) a default or failure by the Borrower under the Loan Agreement, exclusive of any period of grace or notice required to constitute an Event of Default, as provided above or in the Loan Agreement.

Section 7.02 **Notice of Default**

If an Event of Default shall occur, the Trustee shall give written notice of the Event of Default, by registered or certified mail, to the Issuer, the Borrower, the Investor Member, the Registrar or the Paying Agent and Authenticating Agent, within five days after the Trustee has notice of the Event of Default pursuant to Section 6.02(f) of this Indenture. If an Event of Default occurs of which the Trustee has notice pursuant to this Indenture, the Trustee shall give written notice thereof, within thirty days after the Trustee’s receipt of notice of its occurrence, to

the Holders of all Bonds then outstanding as shown by the Register at the close of business fifteen days prior to the mailing of that notice.

The Investor Member shall be entitled to cure any Event of Default hereunder within the time frame provided to the Borrower hereunder. The Issuer and Trustee agree that cure of any default or Event of Default made or tendered by the Investor Member shall be deemed to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

Section 7.03 Acceleration

Upon the occurrence of an Event of Default described in Section 7.01(a) and (b), the Trustee may declare, and upon the written request of the Holders of not less than 25% in aggregate principal amount of Bonds then outstanding the Trustee shall declare, by a notice in writing delivered to the Issuer and the Borrower, the principal of all Bonds then outstanding (if not then due and payable), and the interest accrued thereon, to be due and payable immediately. Upon the occurrence of any Event of Default other than those described in Section 7.01(a) and (b), the Trustee, with the written consent of all Holders of Bonds then outstanding, may declare by a notice in writing delivered to the Issuer and Borrower, the principal of all Bonds then outstanding (if not then due and payable), and the interest accrued thereon, to be due and payable immediately. Upon such declaration, the principal and interest on the Bonds shall become and be due and payable immediately. Interest on the Bonds shall accrue to the date determined by the Trustee for the tender of payment to the Holders pursuant to that declaration, provided that interest on any unpaid principal of Bonds outstanding shall continue to accrue from the date determined by the Trustee for the tender of payment to the Holders of those Bonds.

The provisions of the preceding paragraph are subject, however, to the condition that if, at any time after declaration of acceleration and prior to the entry of a judgment in a court for enforcement hereunder (after an opportunity for hearing by the Issuer and the Borrower),

(a) all sums payable hereunder (except the principal of and interest on Bonds which have not reached their stated maturity dates but which are due and payable solely by reason of that declaration of acceleration), plus interest to the extent permitted by law on any overdue installments of interest at the rate borne by the Bonds in respect of which the default shall have occurred, shall have been duly paid or provision shall have been duly made therefor by deposit with the Trustee or Paying Agents, and

(b) all existing Events of Default shall have been cured,

then and in every case, the Trustee shall waive the Event of Default and its consequences and shall rescind and annul that declaration. No waiver or rescission and annulment shall extend to or affect any subsequent Event of Default or shall impair any rights consequent thereon.

Section 7.04 Other Remedies; Rights of Holders

With or without taking action under Section 7.03 hereof, upon the occurrence and continuance of an Event of Default, the Trustee may pursue any available remedy, including

without limitation actions at law or equity to enforce the payment of Bond Debt Service Charges or the observance and performance of any other covenant, agreement or obligation under this Indenture, the Loan Agreement, the Regulatory Agreement or the Note or any other instrument providing security, directly or indirectly, for the Bonds.

If, upon the occurrence and continuance of an Event of Default, the Trustee is requested so to do by the Holders of at least 25% in aggregate principal amount of Bonds outstanding, the Trustee (subject to the provisions of Sections 6.01 and 6.02 and particularly subparagraph 6.01(c)(iv) and Subsection 6.02 (j) of those Sections), shall exercise any rights and powers conferred by this Section and by Section 7.03 hereof.

No remedy conferred upon or reserved to the Trustee (or to the Holders) by this Indenture is intended to be exclusive of any other remedy. Each remedy shall be cumulative and shall be in addition to every other remedy given hereunder or otherwise to the Trustee or to the Holders now or hereafter existing.

No delay in exercising or omission to exercise any remedy, right or power accruing upon any default or Event of Default shall impair that remedy, right or power or shall be construed to be a waiver of any default or Event of Default or acquiescence therein. Every remedy, right and power may be exercised from time to time and as often as may be deemed to be expedient.

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 remedy, right or power consequent thereon.

As the assignee of all right, title and interest of the Issuer in and to the Loan Agreement (except for the Unassigned Issuer's Rights), the Trustee is empowered to enforce each remedy, right and power granted to the Issuer under the Loan Agreement. In exercising any remedy, right or power thereunder or hereunder, the Trustee shall take such action as may be directed by the requisite percentage of the Holders of the Bonds then outstanding, applying the standards described in Sections 6.01 and 6.02 hereof.

Section 7.05 Right of Holders to Direct Proceedings

Anything to the contrary in this Indenture notwithstanding, the Holders of a majority in aggregate principal amount of Bonds then outstanding shall have the right at any time to direct, by an instrument or document in writing executed and delivered to the Trustee, 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, provided that (i) any direction shall not be other than in accordance with the provisions of law and of this Indenture, and (ii) the Trustee shall be indemnified as provided in Sections 6.01 and 6.02.

Section 7.06 Application of Moneys

After payment of any costs, expenses, liabilities and advances paid, incurred or made by the Trustee in the collection of moneys and to all fees of the Trustee for Ordinary and Extraordinary Expenses pursuant to any right given or action taken under the provisions of this Article or the provisions of the Loan Agreement, the Regulatory Agreement or the Note

(including without limitation, reasonable attorneys' fees and expenses, except as limited by law or judicial order or decision entered in any action taken under this Article VII), all moneys received by the Trustee, shall be applied as follows, subject to Section 3.04 hereof:

(a) Unless the principal of all of the Bonds shall have become, or shall have been declared to be, due and payable, all of those moneys shall be deposited in the Bond Fund and shall be applied:

First -- To the payment to the Holders entitled thereto of all installments of interest then due on the Bonds, in the order of the dates of maturity of the installments of that interest, beginning with the earliest date of maturity and, if the amount available is not sufficient to pay in full any particular installment, then to the payment thereof ratably, according to the amounts due on that installment, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds; and

Second -- To the payment to the Holders entitled thereto of the unpaid principal of any of the Bonds which shall have become due, in the order of their due dates, beginning with the earliest due date, with interest on those Bonds from the respective dates upon which they became due at the rates specified in those Bonds, and if the amount available is not sufficient to pay in full all Bonds due on any particular date, together with that interest, then to the payment thereof ratably, according to the amounts of principal due on that date, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds.

(b) If the principal of all of the Bonds shall have become due or shall have been declared to be due and payable pursuant to this Article, all of those moneys shall be deposited into the Bond Fund and shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds, without preference or priority of principal over interest, of interest over principal, of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds.

(c) If the principal of all of the Bonds shall have been declared to be due and payable pursuant to this Article, and if that declaration thereafter shall have been rescinded and annulled under the provisions of Section 7.03 or 7.10 hereof, subject to the provisions of paragraph (b) of this Section in the event that the principal of all of the Bonds shall become due and payable later, the moneys shall be deposited in the Bond Fund and shall be applied in accordance with the provisions of Article III.

(d) Whenever moneys are to be applied pursuant to the provisions of this Section, those moneys shall be applied at such times, and from time to time,

as the Trustee shall determine, having due regard to the amount of moneys available for application and the likelihood of additional moneys becoming available for application in the future. Whenever the Trustee shall direct the application of those moneys, it shall fix the date upon which the application is to be made, and upon that date, interest shall cease to accrue on the amounts of principal, if any, to be paid on that date, provided the moneys are available therefor. The Trustee shall give notice of the deposit with it of any moneys and of the fixing of that date, all consistent with the requirements of Section 3.04 hereof for the establishment of, and for giving notice with respect to, a Special Record Date for the payment of overdue interest. The Trustee shall not be required to make payment of principal of a Bond to the Holder thereof, until the Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if it is paid fully.

Section 7.07 Remedies Vested in Trustee

All rights of action (including without limitation, the right to appear on behalf of the Issuer and the Holders of the Bonds in any bankruptcy or insolvency proceeding and to file proof of claims in any such proceeding) under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceeding relating thereto. Any suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining any Holders as plaintiffs or defendants. Any recovery of judgment shall be for the benefit of the Holders of the Outstanding Bonds, subject to the provisions of this Indenture.

Section 7.08 Rights and Remedies of Holders

A Holder shall not have any right to institute any suit, action or proceeding for the enforcement of this Indenture, for the execution of any trust hereof, or for the exercise of any other remedy hereunder, unless:

(a) there has occurred and is continuing an Event of Default of which the Trustee has been notified, as provided in paragraph (f) of Section 6.02 hereof, or of which it is deemed to have notice under that paragraph,

(b) the Holders of at least 25% in aggregate principal amount of Bonds then outstanding shall have made written request to the Trustee and shall have afforded the Trustee reasonable opportunity to proceed to exercise the remedies, rights and powers granted herein or to institute the suit, action or proceeding in its own name, and shall have offered indemnity to the Trustee as provided in Sections 6.01 and 6.02 hereof, and

(c) the Trustee thereafter shall have failed or refused to exercise the remedies, rights and powers granted herein or to institute the suit, action or proceeding in its own name.

At the option of the Trustee, that notification (or notice), request, opportunity and offer of indemnity are conditions precedent in every case, to the institution of any suit, action or proceeding described above.

No one or more Holders of the Bonds shall have any right to affect, disturb or prejudice in any manner whatsoever the security or benefit of this Indenture by its or their action, or to enforce, except in the manner provided herein, any remedy, right or power hereunder. Any suit, action or proceedings shall be instituted, had and maintained in the manner provided herein for the benefit of the Holders of all Bonds then outstanding. Nothing in this Indenture shall affect or impair, however, the right of any Holder to enforce the payment of the Bond Debt Service Charges on any Bond owned by that Holder at and after the maturity thereof, at the place, from the sources and in the manner expressed in that Bond.

Section 7.09 Termination of Proceedings

In case the Trustee shall have proceeded to enforce any remedy, right or power under this Indenture in any suit, action or proceedings, and the suit, action or proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, the Issuer, the Trustee and the Holders shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies and powers of the Trustee shall continue as if no suit, action or proceedings had been taken.

Section 7.10 Waivers of Events of Default

The Trustee shall waive any Event of Default hereunder and its consequences and may rescind and annul any declaration of maturity of principal of or interest on, the Bonds upon the written request of the Holders of

(a) at least a majority in aggregate principal amount of all Bonds then outstanding in respect of which an Event of Default in the payment of Bond Debt Service Charges exists, or

(b) at least 25% in aggregate principal amount of all Bonds then outstanding, in the case of any other Event of Default.

There shall not be so waived, however, any Event of Default described in paragraph (a) or (b) of Section 7.01 hereof, nor shall any declaration of acceleration in connection therewith be rescinded or annulled, unless at the time of that waiver or rescission and annulment payments of the amounts provided in Section 7.03 hereof for waiver and rescission and annulment in connection with acceleration of maturity have been made or provision has been made therefor. In the case of the waiver or rescission and annulment, or in case any suit, action or proceedings taken by the Trustee on account of any Event of Default shall have been discontinued, abandoned or determined adversely to it, the Issuer, the Trustee and the Holders shall be restored to their former positions and rights hereunder, respectively. No waiver or rescission shall extend to any subsequent or other Event of Default or impair any right consequent thereon.

END OF ARTICLE VII

ARTICLE VIII

SUPPLEMENTAL INDENTURES

Section 8.01 Supplemental Indentures Generally

The Issuer and the Trustee may enter into indentures supplemental to this Indenture, as provided in this Article and pursuant to the other provisions therefor in this Indenture. Trustee shall deliver copies of all Supplemental Indentures to Borrower and Investor Member. Any subsequent amendment to this Indenture or the Loan Agreement is subject to prior written approval of HUD (so long as the Project is subject to a mortgage insured or held by HUD). No amendment to this Indenture or the Loan Agreement shall conflict with the provisions of the Program Obligations.

Section 8.02 Supplemental Indentures Not Requiring Consent of Holders

Without the consent of, or notice to, any of the Holders, the Issuer and the Trustee may enter into indentures supplemental to this Indenture for any one or more of the following purposes:

- (a) To cure any ambiguity, inconsistency or formal defect or omission in this Indenture;
- (b) To grant to or confer upon the Trustee for the benefit of the Holders any additional rights, remedies, powers or authority that lawfully may be granted to or conferred upon the Holders or the Trustee;
- (c) To assign additional revenues under this Indenture;
- (d) To accept additional security and instruments and documents of further assurance with respect to the Project;
- (e) To add to the covenants, agreements and obligations of the Issuer under this Indenture, other covenants, agreements and obligations to be observed for the protection of the Holders, or to surrender or limit any right, power or authority reserved to or conferred upon the Issuer in this Indenture;
- (f) To evidence any succession to the Issuer and the assumption by its successor of the covenants, agreements and obligations of the Issuer under this Indenture, the Loan Agreement and the Bonds;
- (g) To permit the Trustee to comply with any obligations imposed upon it by law;
- (h) To specify further the duties and responsibilities of, and to define further the relationship among, the Trustee, the Registrar and any Authenticating Agents or Paying Agents;

(i) To achieve compliance of this Indenture with any applicable federal securities or tax law;

(j) To make amendments to the provisions hereof relating to arbitrage matters under Section 148 of the Code, if, in the Opinion of Bond Counsel, those amendments would not cause the interest on the Bonds outstanding to be included in gross income of the Holders for federal income tax purposes, which amendments may, among other things, change the responsibility for making the relevant calculations, provided that in no event shall such amendment delegate to the Trustee, without its consent, in its sole discretion the obligation to make or perform the calculations required under Section 148 of the Code; and

(k) To permit any other amendment which, in the judgment of the Trustee, is not materially adverse to the Trustee or the Holders.

The provisions of Subsections 8.02(h) and (j) shall not be deemed to constitute a waiver by the Trustee, the Registrar, the Issuer or any Holder of any right which it may have in the absence of those provisions to contest the application of any change in law to this Indenture or the Bonds.

Section 8.03 Supplemental Indentures Requiring Consent of Holders

Exclusive of Supplemental Indentures to which reference is made in Section 8.02 hereof and subject to the terms, provisions and limitations contained in this Section, and not otherwise, with the consent of the Holders of not less than a majority in aggregate principal amount of the Bonds at the time outstanding, evidenced as provided in this Indenture, and with the consent of the Borrower if required by Section 8.04 hereof, the Issuer and the Trustee may execute and deliver Supplemental Indentures adding any provisions to, changing in any manner or eliminating any of the provisions of this Indenture or any Supplemental Indenture or restricting in any manner the rights of the Holders. Nothing in this Section or Section 8.02 hereof shall permit, however, or be construed as permitting:

(a) without the consent of the Holder of each Bond so affected, (i) an extension of the maturity of the principal of or the interest on any Bond or (ii) a reduction in the principal amount of any Bond or the rate of interest thereon, or

(b) without the consent of the Holders of all Bonds then outstanding, (i) the creation of a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (ii) a reduction in the aggregate principal amount of the Bonds required for consent to a Supplemental Indenture.

If the Issuer shall request that the Trustee execute and deliver any Supplemental Indenture for any of the purposes of this Section, upon (i) being satisfactorily indemnified with respect to its expenses in connection therewith, and (ii) if required by Section 8.04 hereof, receipt of the Borrower's consent to the proposed execution and delivery of the Supplemental Indenture, the Trustee shall cause notice of the proposed execution and delivery of the Supplemental Indenture to be mailed by first-class mail, postage prepaid, to all Holders of Bonds then

outstanding at their addresses as they appear on the Register at the close of business on the fifteenth day preceding that mailing.

The Trustee shall not be subject to any liability to any Holder by reason of the Trustee's failure to mail, or the failure of any Holder to receive, the notice required by this Section. Any failure of that nature shall not affect the validity of the Supplemental Indenture when there has been consent thereto as provided in this Section. The notice shall set forth briefly the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the designated corporate trust office of the Trustee for inspection by all Holders.

If the Trustee shall receive, within a period prescribed by the Borrower, of not less than 60 days, but not exceeding one year, following the mailing of the notice, an instrument or document or instruments or documents, in form to which the Trustee does not reasonably object, purporting to be executed by the Holders of not less than a majority in aggregate principal amount of the Bonds then outstanding (which instrument or document or instruments or documents shall refer to the proposed Supplemental Indenture in the form described in the notice and specifically shall consent to the Supplemental Indenture in substantially that form), the Trustee shall, but shall not otherwise, execute and deliver the Supplemental Indenture in substantially the form to which reference is made in the notice as being on file with the Trustee, without liability or responsibility to any Holder, regardless of whether that Holder shall have consented thereto.

Any consent shall be binding upon the Holder of the Bond giving the consent and, anything herein to the contrary notwithstanding, upon any subsequent Holder of that Bond and of any Bond issued in exchange therefor (regardless of whether the subsequent Holder has notice of the consent to the Supplemental Indenture). At any time after the Holders of the required percentage of Bonds shall have filed their consents to the Supplemental Indenture, the Trustee shall make and file with the Issuer a written statement that the Holders of the required percentage of Bonds have filed those consents. That written statement shall be conclusive evidence that the consents have been so filed.

If the Holders of the required percentage in aggregate principal amount of Bonds outstanding shall have consented to the Supplemental Indenture, as provided in this Section, no Holder shall have any right (a) to object to (i) the execution or delivery of the Supplemental Indenture, (ii) any of the terms and provisions contained therein, or (iii) the operation thereof, (b) to question the propriety of the execution and delivery thereof, or (c) to enjoin or restrain the Trustee or the Issuer from that execution or delivery or from taking any action pursuant to the provisions thereof.

Section 8.04 Consent of Borrower

Anything contained herein to the contrary notwithstanding, a Supplemental Indenture executed and delivered in accordance with this Article VIII which affects any rights or obligations of the Borrower shall not become effective unless and until the Borrower shall have consented in writing to the execution and delivery of that Supplemental Indenture. The Trustee shall cause notice of the proposed execution and delivery of any Supplemental Indenture and a copy of the proposed Supplemental Indenture to be mailed to the Borrower, as provided in

Section 13.03 hereof, (i) at least 30 days (unless waived by the Borrower) before the date of the proposed execution and delivery in the case of a Supplemental Indenture to which reference is made in Section 8.02 hereof, and (ii) at least 30 days (unless waived by the Borrower) before the giving of the notice of the proposed execution and delivery in the case of a Supplemental Indenture for which provision is made in Section 8.03 hereof.

Section 8.05 Authorization to Trustee; Effect of Supplement

The Trustee is authorized to join with the Issuer in the execution and delivery of any Supplemental Indenture in accordance with this Article and to make the further agreements and stipulations which may be contained therein. Thereafter,

- (a) that Supplemental Indenture shall form a part of this Indenture;
- (b) all terms and conditions contained in that Supplemental Indenture as to any provision authorized to be contained therein shall be deemed to be a part of the terms and conditions of this Indenture for any and all purposes;
- (c) this Indenture shall be deemed to be modified and amended in accordance with the Supplemental Indenture; and
- (d) the respective rights, duties and obligations under this Indenture of the Issuer, the Borrower, the Trustee, the Registrar, the Paying Agents, the Authenticating Agents and all Holders of Bonds then outstanding shall be determined, exercised and enforced hereunder in a manner which is subject in all respects to those modifications and amendments made by the Supplemental Indenture.

Express reference to any executed and delivered Supplemental Indenture may be made in the text of any Bonds issued thereafter, if that reference is deemed necessary or desirable by the Trustee or the Issuer. A copy of any Supplemental Indenture for which provision is made in this Article, except a Supplemental Indenture described in clause (g) of Section 8.02 hereof, shall be mailed by the Trustee to the Registrar, each Authenticating Agent and Paying Agent. The Trustee shall not be required to execute any supplemental indenture containing provisions adverse to the Trustee.

Section 8.06 Opinion of Counsel

The Trustee shall be entitled to receive, and shall be fully protected in relying upon, the opinion of any counsel approved by it as conclusive evidence that (i) any proposed Supplemental Indenture complies with the provisions of this Indenture, and (ii) it is proper for the Trustee to join in the execution of that Supplemental Indenture under the provisions of this Article. That counsel may be counsel for the Issuer or the Borrower.

Section 8.07 Modification by Unanimous Consent

Notwithstanding anything contained elsewhere in this Indenture, the rights and obligations of the Issuer and of the Holders, and the terms and provisions of the Bonds and this

Indenture or any Supplemental Indenture, may be modified or altered in any respect with the consent of (i) the Issuer, (ii) the Holders of all of the Bonds then outstanding, (iii) the Borrower; and (iv) if such modification or alteration contains provisions adverse to the Trustee, the Trustee.

END OF ARTICLE VIII

ARTICLE IX

DEFEASANCE

Section 9.01 Release of Indenture

If (i) the Issuer shall pay all of the Outstanding Bonds, or shall cause them to be paid and discharged, or if there otherwise shall be paid to the Holders of the Outstanding Bonds, all Bond Debt Service Charges due or to become due thereon, and (ii) provision also shall be made for the payment of all other sums payable hereunder or under the Loan Agreement, the Regulatory Agreement and the Note, then this Indenture shall cease, determine and become null and void (except for those provisions surviving by reason of Section 9.03 hereof in the event the Bonds are deemed paid and discharged pursuant to Section 9.02 hereof), and the covenants, agreements and obligations of the Issuer hereunder shall be released, discharged and satisfied.

Thereupon, and subject to the provisions of Section 9.03 hereof if applicable,

(a) the Trustee shall release this Indenture (except for those provisions surviving by reason of Section 9.03 hereof in the event the Bonds are deemed paid and discharged pursuant to Section 9.02 hereof), and shall execute and deliver to the Issuer any instruments or documents in writing as shall be requisite to evidence that release and discharge or as reasonably may be requested by the Issuer, and

(b) the Trustee and any other Paying Agents shall assign and deliver to the Issuer any property subject at the time to the lien of this Indenture which then may be in their possession, except amounts in the Bond Fund required (a) to be paid to the Borrower under Section 5.08 hereof, or (b) to be held by the Trustee and the Paying Agents under Section 5.09 hereof or otherwise for the payment of Bond Debt Service Charges.

Section 9.02 Payment and Discharge of Bonds

All or any part of the Bonds shall be deemed to have been paid and discharged within the meaning of this Indenture, including without limitation, Section 9.01 hereof, if:

(a) the Trustee as paying agent and the Paying Agents shall have received, in trust for and irrevocably committed thereto, sufficient moneys, or

(b) the Trustee shall have received, in trust for and irrevocably committed thereto, noncallable direct obligations of or obligations guaranteed as to full and timely payment by the United States of America which are certified by an Independent public accounting firm or such other firm experienced with such certifications of national reputation to be of such maturities or redemption dates and interest payment dates, and to bear such interest, as will be sufficient together with any moneys to which reference is made in subparagraph (a) above, without further investment or reinvestment of either the principal amount thereof or the

interest earnings therefrom (which earnings are to be held likewise in trust and so irrevocably committed, except as provided herein),

for the payment of all Bond Debt Service Charges on those Bonds at their maturity.

Any moneys held by the Trustee in accordance with the provisions of this Section may be invested by the Trustee only in noncallable direct obligations of or obligations guaranteed as to full and timely payment by the United States of America having maturity dates, or having redemption dates which, at the option of the Holder of those obligations, shall be not later than the date or dates at which moneys will be required for the purposes described above. To the extent that any income or interest earned by, or increment to, the investments held under this Section is determined from time to time by the Trustee to be in excess of the amount required to be held by the Trustee for the purposes of this Section, that income, interest or increment shall be transferred at the time of that determination in the manner provided in Section 5.08 hereof for transfers of amounts remaining in the Bond Fund.

If any Bonds shall be deemed paid and discharged pursuant to this Section 9.02, then within 15 days after such Bonds are so deemed paid and discharged the Trustee shall cause a written notice to be given to each Holder as shown on the Register on the date on which such Bonds are deemed paid and discharged. Such notice shall state the numbers of the Bonds deemed paid and discharged or state that all Bonds are deemed paid and discharged and shall set forth a description of the obligations held pursuant to subparagraph (b) of the first paragraph of this Section 9.02.

Section 9.03 Survival of Certain Provisions

Notwithstanding the foregoing, any provisions of the Bond Resolution and this Indenture which relate to the maturity of Bonds, interest payments and dates thereof, exchange, transfer and registration of Bonds, replacement of mutilated, destroyed, lost or stolen Bonds, the safekeeping and cancellation of Bonds, the storage and shredding of cancelled Bonds, non-presentment of Bonds, the holding of moneys in trust, and repayments to the Borrower from the Bond Fund, the rebate of moneys to the United States in accordance with Section 5.09 hereof, and the rights and duties of the Trustee and the Registrar in connection with all of the foregoing, shall remain in effect and be binding upon the Trustee, the Registrar, the Authenticating Agents, Paying Agents and the Holders notwithstanding the release and discharge of this Indenture. The provisions of this Article shall survive the release, discharge and satisfaction of this Indenture. The obligations of the Borrower to pay the Trustee its fees and expenses hereunder shall survive the release, discharge and satisfaction of this Indenture.

END OF ARTICLE IX

ARTICLE X
COVENANTS AND AGREEMENTS
OF THE ISSUER

Section 10.01 Covenants and Agreements of the Issuer

In addition to any other covenants and agreements of the Issuer contained in the Loan Agreement, this Indenture or the Bond Resolution, the Issuer further covenants and agrees with the Holders and the Trustee as follows:

(a) Payment of Bond Debt Service Charges. The Issuer will pay all Bond Debt Service Charges, or cause them to be paid, solely from the sources provided herein, on the dates, at the places and in the manner provided in this Indenture.

(b) Issuer Revenues and Assignment of Issuer Revenues. The Issuer will not assign the Issuer Revenues or create or authorize to be created any debt, lien or charge thereon, other than the assignment thereof under this Indenture.

(c) Issuer Not to Adversely Affect Exclusion From Gross Income of Interest on Bonds. The Issuer covenants that it (i) will take, or require to be taken, at the written direction of any Holder or the Trustee, and at the expense of the Borrower, all actions that may be required of the Issuer for the interest on the Bonds to be and remain excluded from gross income for federal income tax purposes, and (ii) will not take or authorize to be taken any actions that would, to its actual knowledge, adversely affect that exclusion under the provisions of the Code.

(d) Patriot Act. The Issuer covenants and agrees to provide documentation as reasonably requested or required by the Trustee to enable the Trustee to satisfy the requirements of the USA Patriot Act as described in Section 13.13 of this Indenture.

Section 10.02 Observance and Performance of Covenants, Agreements, Authority and Actions

The Issuer will observe and perform faithfully at all times all covenants, agreements, authority, actions, undertakings, stipulations and provisions to be observed or performed on its part under the Loan Agreement, this Indenture, the Bond Resolution, the Regulatory Agreement and the Bonds which are executed, authenticated and delivered under this Indenture, and under all proceedings of its governing body pertaining thereto.

The Issuer represents and warrants that

(a) It is duly authorized by the Constitution and laws of the State, including particularly and without limitation the Act, to issue the Bonds, to execute and deliver this Indenture, the Loan Agreement and the Regulatory

Agreement and to provide the security for payment of the Bond Debt Service Charges in the manner and to the extent set forth in this Indenture.

(b) All actions required on its part to be performed for the issuance, sale and delivery of the Bonds and for the execution and delivery of this Indenture and the Loan Agreement have been taken duly and effectively.

(c) The Bonds will be valid and enforceable special obligations of the Issuer according to their terms.

Section 10.03 Trustee May Enforce Issuer's Rights

The Trustee may enforce, in its name or in the name of the Issuer, all rights of the Issuer for and on behalf of the Holders, except for Unassigned Issuer's Rights, and may enforce all covenants, agreements and obligations of the Borrower under and pursuant to the Loan Agreement, regardless of whether the Issuer is in default in the pursuit or enforcement of those rights, covenants, agreements or obligations. The Issuer, however, will do all things and take all actions on its part necessary to comply with covenants, agreements, obligations, duties and responsibilities on its part to be observed or performed under the Loan Agreement, and will take all actions within its authority to keep the Loan Agreement in effect in accordance with the terms thereof.

END OF ARTICLE X

ARTICLE XI

AMENDMENTS TO AGREEMENT, REGULATORY AGREEMENT AND NOTE

Section 11.01 Amendments Not Requiring Consent of Holders

Without the consent of or notice to the Holders, the Issuer, the Borrower and the Trustee may consent to any amendment, change or modification of the Loan Agreement, the Regulatory Agreement or the Note as may be required (i) by the provisions of the Loan Agreement, the Regulatory Agreement or this Indenture, (ii) for the purpose of curing any ambiguity, inconsistency or formal defect or omission in the Loan Agreement, the Regulatory Agreement or the Note, (iii) in connection with an amendment or to effect any purpose for which there could be an amendment of this Indenture pursuant to Section 8.02 hereof, or (iv) in connection with any other change therein which is not materially adverse to the Trustee or the Holders of the Bonds, in the judgment of the Trustee, applying the standards described in Sections 6.01 and 6.02 hereof.

Any subsequent amendment to this Indenture or the Loan Agreement is subject to prior written approval of HUD (so long as the Project is subject to a mortgage insured or held by HUD). No amendment to this Indenture or the Loan Agreement shall conflict with the provisions of the Program Obligations.

Section 11.02 Amendments Requiring Consent of Holders

Except for the amendments, changes or modifications contemplated in Section 11.01 hereof, neither the Issuer nor the Trustee shall consent to

(a) any amendment, change or modification of the Loan Agreement or the Note which would change the amount or time as of which Loan Payments are required to be paid, without the giving of notice as provided in this Section of the proposed amendment, change or modification and receipt of the written consent thereto of the Holders of all of the then Outstanding Bonds affected by such amendment, change or modification, or

(b) any other amendment, change or modification of the Loan Agreement, the Regulatory Agreement or the Note without the giving of notice as provided in this Section of the proposed amendment, change or modification and receipt of the written consent thereto of the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding affected by such amendment, change or modification.

The consent of the Holders shall be obtained as provided in Section 8.03 hereof with respect to Supplemental Indentures.

If the Issuer or the Authorized Borrower Representative shall request at any time the consent of the Trustee to any proposed amendment, change or modification of the Loan Agreement, the Regulatory Agreement or the Note contemplated in subparagraphs (a) or (b) of

this Section, upon being indemnified satisfactorily with respect to expenses, the Trustee shall cause notice of the proposed amendment, change or modification to be provided in the manner which is required by Section 8.03 hereof with respect to notice of Supplemental Indentures. The notice shall set forth briefly the nature of the proposed amendment, change or modification and shall state that copies of the instrument or document embodying it are on file at the designated corporate trust office of the Trustee for inspection by all Holders.

END OF ARTICLE XI

ARTICLE XII

MEETINGS OF HOLDERS

Section 12.01 Purposes of Meetings

A meeting of Holders may be called at any time and from time to time pursuant to the provisions of this Article XII, to take any action (i) authorized to be taken by or on behalf of the Holders of any specified aggregate principal amount of the Bonds, (ii) under any provision of this Indenture or (iii) authorized or permitted by law.

Section 12.02 Call of Meetings

The Trustee may (but shall not be obligated to) call at any time a meeting of Holders pursuant to Section 12.01 to be held at any reasonable time and place the Trustee shall determine. Notice of such meeting, setting forth the time, place and generally the subject thereof, shall be mailed by first-class mail, postage prepaid, not fewer than 15 nor more than 90 days prior to the date of the meeting to the Holders at their addresses as they appear on the Register on the fifteenth day preceding such mailing, which fifteenth day, preceding the mailing, shall be the record date for the meeting.

At any time, the Issuer or the Borrower, or the Holders of at least 25% in aggregate principal amount of the Bonds then outstanding, shall have requested the Trustee to call a meeting of Holders, by written request setting forth the purpose of the meeting, and the Trustee shall not have mailed the notice of the meeting within 20 days after receipt of the request, then the Issuer, the Borrower, the Investor Member or the Holders of Bonds in the amount above specified may determine the time and the place of the meeting and may call the meeting to take any action authorized in Section 12.01, by mailing notice thereof as provided above.

Any meetings of Holders shall be valid without notice, if the Holders of all Bonds then outstanding are present in person or by proxy, or if notice is waived before or after the meeting by the Holders of all Bonds outstanding who were not so present at the meeting, and if the Issuer, the Borrower and the Trustee are either present by duly authorized representatives or have waived notice, before or after the meeting.

Section 12.03 Voting

To be entitled to vote at any meeting of Holders, a Person shall (a) be a Holder of one or more outstanding Bonds as of the record date for the meeting as determined above, or (b) be a person appointed by an instrument or document in writing as proxy by a Person who is a Holder as of the record date for the meeting, of one or more outstanding Bonds. Each Holder or proxy shall be entitled to one vote for each \$100,000 principal amount of Bonds held or represented by it.

The vote upon any resolution submitted to any meeting of Holders shall be by written ballots on which shall be subscribed the signatures of the Holders of Bonds or of their representatives by proxy and the identifying number or numbers of the Bonds held or represented by them.

Section 12.04 Meetings

Notwithstanding any other provisions of this Indenture, the Trustee may make any reasonable regulations which it may deem to be advisable for meetings of Holders, with regard to

- (a) proof of the holding of Bonds and of the appointment of proxies,
- (b) the appointment and duties of inspectors of votes,
- (c) recordation of the proceedings of those meetings,
- (d) the execution, submission and examination of proxies and other evidence of the right to vote, and
- (e) any other matters concerning the conduct, adjournment or reconvening of meetings which it may think fit.

The Trustee shall appoint a temporary chair of the meeting by an instrument or document in writing, unless the meeting shall have been called by the Issuer, the Borrower or by the Holders, as provided in Section 12.02, in which case the Issuer, the Borrower or the Holders calling the meeting, as the case may be, shall appoint a temporary chair in like manner. A permanent chair and a permanent secretary of the meeting shall be elected by vote of the Holders of a majority in principal amount of the Bonds represented at the meeting and entitled to vote.

The only Persons who shall be entitled to be present or to speak at any meeting of Holders shall be the Persons entitled to vote at the meeting and their counsel, any representatives of the Trustee or Registrar and their counsel, any representatives of the Issuer and its counsel and any representatives of the Borrower and its counsel.

Section 12.05 Miscellaneous

Nothing contained in this Article XII shall be deemed or construed to authorize or permit any hindrance or delay in the exercise of any right or rights conferred upon or reserved to the Trustee or to the Holders under any of the provisions of this Indenture or of the Bonds by reason of any call of a meeting of Holders or any rights conferred expressly or impliedly hereunder to make a call.

END OF ARTICLE XII

ARTICLE XIII

MISCELLANEOUS

Section 13.01 Limitation of Rights

With the exception of rights conferred expressly in this Indenture, 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 Registrar, the Authenticating Agents, the Paying Agents, the Borrower, the Investor Member and the Holders of the Bonds any legal or equitable right, remedy, power or claim under or with respect to this Indenture or any covenants, agreements, conditions and provisions contained herein. This Indenture and all of those covenants, agreements, conditions and provisions are intended to be, and are, for the sole and exclusive benefit of the parties hereto, the Registrar, the Paying Agent, the Authenticating Agent, the Borrower, the Investor Member and the Holders of the Bonds, as provided herein.

Section 13.02 Severability

In case any section or provision of this Indenture, or any covenant, agreement, stipulation, obligation, act or action, or part thereof, made, assumed, entered into or taken under this Indenture, or any application thereof, is held to be illegal or invalid for any reason, or is inoperable at any time, that illegality, invalidity or inoperability shall not affect the remainder thereof or any other section or provision of this Indenture or any other covenant, agreement, stipulation, obligation, act or action, or part thereof, made, assumed, entered into or taken under this Indenture, all of which shall be construed and enforced at the time as if the illegal, invalid or inoperable portion were not contained therein.

Any illegality, invalidity or inoperability shall not affect any legal, valid and operable section, provision, covenant, agreement, stipulation, obligation, act, action, part or application, all of which shall be deemed to be effective, operative, made, assumed, entered into or taken in the manner and to the full extent permitted by law from time to time.

Section 13.03 Notices

It shall be sufficient service or giving of any notice, request, complaint, demand or other instrument or document, if mailed by registered or certified mail, postage prepaid, or forwarded by overnight courier service, delivery charges prepaid (receipt of which to be evidenced by a signed receipt from such overnight delivery service), or sent by facsimile which produces evidence of transmission, addressed to the appropriate party at its Notice Address.

Such notice or other communication shall be deemed given on (i) the third (3rd) Business Day following deposit thereof in the mail when mailed by registered or certified mail, (ii) the Business Day immediately following deposit thereof with the overnight courier service when forwarded by an overnight courier service, and (iii) the Business Day immediately following the date specified in the written evidence of electronic transmission. The Issuer, Trustee, the Borrower, the Investor Limited Partner may, by notice given as provided in this paragraph, designate any further or different address to which subsequent notices or other communication shall be sent.

Any notice given pursuant to Sections 6.09, 6.13, 7.02, 7.03, 8.02, 8.03, 9.02 and 11.02 shall be simultaneously given to the Rating Agency, if and so long as the Bonds are rated. The foregoing parties may designate, by written notice given hereunder, any further or different addresses to which any subsequent notice, request, complaint, demand or other instrument or document shall be sent. The Trustee shall designate, by written notice to the Issuer, the Borrower and the Investor Limited Partner, the addresses to which notices or copies thereof shall be sent to the Registrar, the Authenticating Agents and the Paying Agents. In addition to the foregoing, the Trustee hereby agrees to send written notice to the Rating Agency, if and so long as the Bonds are rated, upon the occurrence of any of the following events: (1) any change in the Trustee; (2) any amendment to the documents; (3) a payment of all principal and interest on all of the Bonds; or (4) any defeasance or acceleration of the Bonds.

In connection with any notice mailed pursuant to the provisions of this Indenture, a certificate of the Trustee, the Issuer, the Registrar, the Authenticating Agents, the Borrower, the Investor Member or the Holders of the Bonds, whichever or whoever mailed that notice, that the notice was so mailed shall be conclusive evidence of the proper mailing of the notice.

Section 13.04 Suspension of Mail and Courier Service

If because of the suspension of delivery of registered or certified mail or delivery by overnight courier services, the Trustee shall be unable to mail by registered or certified mail or forward by overnight courier service any notice required to be given by the provisions of this Indenture, the Trustee shall use its best efforts to give such notice in such other manner as in the judgment of the Trustee shall most effectively approximate the required mailing or forwarding thereof, and the giving of that notice in that manner for all purposes of this Indenture shall be deemed to be in compliance with the requirements of Section 13.03 hereof. Except as otherwise provided herein, the mailing of any notice by first class mail, postage prepaid, shall be deemed given on the third (3rd) Business Day after upon deposit of that notice in the mail and the giving of any notice by any other means of delivery shall be deemed complete upon receipt of the notice by the delivery service.

Section 13.05 Payments Due on Saturdays, Sundays and Holidays

If any Interest Payment Date or a date of maturity of the principal of any Bonds is a Saturday, Sunday or a day on which (i) the Trustee is required, or authorized or not prohibited, by law (including without limitation, executive orders) to close and is closed, then payment of interest and principal need not be made by the Trustee or the Paying Agent on that date, but that payment may be made on the next succeeding business day on which the Trustee and the Paying Agent are open for business with the same force and effect as if that payment were made on the Interest Payment Date or date of maturity, and no interest shall accrue for the period after that date, or (ii) a Paying Agent is required, or authorized or not prohibited, by law (including without limitation, executive orders) to close and is closed, then payment of interest and principal need not be made by that Paying Agent on that date, but that payment may be made on the next succeeding business day on which that Paying Agent is open for business with the same force and effect as if that payment were made on the Interest Payment Date or date of maturity and no interest shall accrue for the period after that date, provided that if the Trustee is open for business on the applicable Interest Payment Date or date of maturity, it shall make any payment

required hereunder with respect to payment of interest on outstanding Bonds and payment of principal of the Bonds presented to it for payment, regardless of whether the Paying Agent shall be open for business or closed on the applicable Interest Payment Date or date of maturity.

Section 13.06 Instruments of Holders

Any writing, including without limitation, any consent, request, direction, approval, objection or other instrument or document, required under this Indenture to be executed by any Holder may be in any number of concurrent writings of similar tenor and may be executed by that Holder in person or by an agent or attorney appointed in writing. Proof of (i) the execution of any writing, including without limitation, any consent, request, direction, approval, objection or other instrument or document, (ii) the execution of any writing appointing any agent or attorney, and (iii) the ownership of Bonds, shall be sufficient for any of the purposes of this Indenture, if made in the following manner, and if so made, shall be conclusive in favor of the Trustee with regard to any action taken thereunder, namely:

(a) The fact and date of the execution by any person of any writing may be proved by the certificate of any officer in any jurisdiction, who has power by law to take acknowledgments within that jurisdiction, that the person signing the writing acknowledged that execution before that officer, or by affidavit of any witness to that execution; and

(b) The fact of ownership of Bonds shall be proved by the Register maintained by the Registrar.

Nothing contained herein shall be construed to limit the Trustee to the foregoing proof, and the Trustee may accept any other evidence of the matters stated therein which it deems to be sufficient. Any writing, including without limitation, any consent, request, direction, approval, objection or other instrument or document, of the Holder of any Bond shall bind every future Holder of the same Bond, with respect to anything done or suffered to be done by the Issuer, the Borrower, the Trustee, the Registrar or the Paying Agent or Authenticating Agent pursuant to that writing.

Section 13.07 Priority of this Indenture

This Indenture shall be superior to any liens which may be placed upon the Issuer Revenues or any other funds or accounts created pursuant to this Indenture.

Section 13.08 Extent of Covenants; No Personal Liability

All covenants, stipulations, obligations and agreements of the Issuer contained in this Indenture are and shall be deemed to be covenants, stipulations, obligations and agreements of the Issuer to the full extent authorized by the Act and permitted by the Constitution of the State. No covenant, stipulation, obligation or agreement of the Issuer contained in this Indenture shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, officer, agent or employee of the Issuer or the governing body of the Issuer in other than that person's official capacity. Neither the members of the governing body of the Issuer nor any official executing the Bonds, this Indenture, the Loan Agreement or any amendment or

supplement hereto or thereto shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance or execution hereof or thereof.

Section 13.09 Binding Effect

This Indenture 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 herein.

Section 13.10 Counterparts

This Indenture may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

Section 13.11 Governing Law

This Indenture and the Bonds shall be deemed to be contracts made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State.

Section 13.12 Security Advice Waiver

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 specifically waives such notification to the extent permitted by law and will receive periodic cash transaction statements that will detail all investment transactions.

Section 13.13 Patriot Act

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a trust or other legal entity the Trustee will request documentation to verify its formation and existence as a legal entity. Furthermore, if required by the Patriot Act, Trustee may request financial statements, licenses, identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation.

Section 13.14 FHA Federal Laws and Requirements Control

Notwithstanding anything in this Indenture or the Loan Agreement to the contrary:

- (a) Borrower, Trustee and Issuer acknowledge that this Indenture, and any obligations of Borrower hereunder, are subject and subordinate to the FHA Loan Documents. Notwithstanding any provision in this Indenture to the contrary, no obligations of the Borrower or hereunder shall be payable except from (A) Surplus Cash (as defined in the HUD Regulatory Agreement) or (B) funds that are not derived from (i) revenues of the Project (as defined in the FHA Mortgage), or (ii) any reserve or deposit made with the FHA Lender or any other

party as required by HUD in connection with the FHA Loan Documents, or (C) any proceeds of the FHA Note (collectively, “Non-Project Sources”). No claims or actions shall be made (or payable) under this Indenture against the Project, the FHA Lender, the proceeds of the FHA Note, or the assets of the Borrower, except for Surplus Cash of the Borrower. In addition, the rights and obligations of the parties under this Indenture and all other documents evidencing, implementing, or securing this Indenture (collectively, the “Subordinate Bond Documents”) are and shall be subordinated in all respects rights and obligations of the parties to and under the FHA Loan Documents. In the event of any conflict between the provisions of (i) this Indenture or the Subordinate Bond Documents and (ii) the provisions of the FHA Loan Documents or the Program Obligations (as defined in the FHA Mortgage), the provisions of the FHA Loan Documents or the Program Obligations shall control. The provisions of this Section 13.14 shall control over any inconsistent provisions in this Indenture or the Subordinate Bond Documents.

(b) Any subsequent amendment to this Indenture or the Loan Agreement is subject to prior written approval of HUD (so long as the Project is subject to a mortgage insured or held by HUD). No amendment to this Indenture or the Loan Agreement shall conflict with the provisions of the Program Obligations.

(c) The Bonds are not a debt of the United States of America, HUD, FHA, GNMA or any other agency or instrumentality of the federal government, and are not guaranteed by the full faith and credit of the United States or any agency or instrumentality thereof.

(d) There is no pledge hereunder or under the Loan Agreement of the gross revenues or any of the assets of the Project.

(e) Neither a default under this Indenture nor under the Loan Agreement shall constitute a default under the FHA Loan Documents related to the Project.

(f) Nothing contained herein or in the Loan Agreement shall inhibit or impair the right of FHA to require or agree to any amendment, change or modification of any FHA Loan Documents related to the Project for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective or inconsistent provision contained therein, or in regard to matters or questions arising under said FHA Loan Documents so long as any such amendment, change or modification shall not adversely affect the payment terms of the Bonds.

(g) Neither the Issuer, the Trustee, nor any of the Holders has or shall be entitled to assert any claim against the Project, any reserves or deposits required by HUD in connection with the Project, or the rents or deposits or other income of the Project.

(h) Proceeds from any condemnation award or from the payment of a claim under any hazard insurance policy relating to the Project will not be payable to the Trustee, but will be payable in accordance with the FHA Loan Documents.

END OF ARTICLE XIII

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

CITY OF EDINA, MINNESOTA

By: _____
Mayor

By: _____
City Manager

[ISSUER SIGNATURE PAGE TO TRUST INDENTURE]

**U.S. BANK NATIONAL ASSOCIATION,
as Trustee and Registrar of the Bonds**

By: _____
Authorized Officer

[TRUSTEE SIGNATURE PAGE TO TRUST INDENTURE]

EXHIBIT A

SERIES 2014A BOND FORM

NO. R-

\$

UNITED STATES OF AMERICA
STATE OF MINNESOTA

CITY OF EDINA
MULTIFAMILY HOUSING REVENUE BOND
(YORKTOWN CONTINENTAL, LP PROJECT), SERIES 2014A

INTEREST RATE:	MATURITY DATE:	DATED AS OF:	CUSIP:
_____%	_____ 1, 20__	_____	_____

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: _____ AND 00/100 DOLLARS

The City of Edina, Minnesota (the "Issuer"), a body corporate and politic of the State of Minnesota, for value received, promises to pay to the Registered Owner specified above or registered assigns, but solely from the sources and in the manner referred to herein, the principal amount on the maturity date specified above (subject to optional redemption set forth herein), which shall be equal to \$_____, and to pay from those sources interest thereon at the aforesaid interest rate on each _____ 1 and _____ 1 (each an "Interest Payment Date"), commencing _____ 1, 20__ until the principal amount is paid or duly provided for. This Bond will bear interest from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from its date of delivery.

The principal of this Bond is payable upon presentation and surrender hereof at the designated corporate trust office of the trustee, presently U.S. Bank National Association, in St. Paul, Minnesota (the "Trustee"). Interest is payable on each Interest Payment Date by check or draft mailed to the person in whose name this Bond (or one or more predecessor bonds) is registered (the "Holder") at the close of business on the 15th day of the calendar month next preceding that Interest Payment Date (the "Regular Record Date") on the registration books for this issue maintained by the Trustee, as Registrar, at the address appearing therein. Any interest which is not timely paid or duly provided for shall cease to be payable to the Holder hereof (or of one or more predecessor bonds) as of the Regular Record Date, and shall be payable to the Holder hereof (or of one or more predecessor bonds) at the close of business on a Special Record Date to be fixed by the Trustee for the payment of that overdue interest. Notice of the Special Record Date shall be mailed to Holders not less than ten days prior thereto. The principal of and

interest on this Bond are payable in lawful money of the United States of America, without deduction for the services of the paying agent. While the Bonds are held in a book-entry system and in certain other circumstances, all as provided in the Indenture, principal of and interest on this Bond is required to be paid by wire transfer or other arrangement, other than any payment of the entire unpaid principal amount hereof.

THE BONDS ARE SPECIAL, LIMITED OBLIGATIONS OF THE ISSUER, PAYABLE SOLELY OUT OF THE REVENUES, RECEIPTS AND OTHER MONEYS PLEDGED THEREFOR UNDER THE INDENTURE. THE BONDS ARE NOT A DEBT OR BONDED INDEBTEDNESS OF THE STATE, THE ISSUER OR OF ANY OTHER POLITICAL SUBDIVISION OF THE STATE, AND NEITHER THE STATE, THE ISSUER NOR ANY OTHER POLITICAL SUBDIVISION OF THE STATE IS LIABLE FOR THE PAYMENT OF THE BONDS. NEITHER THE FAITH AND CREDIT OF THE STATE, THE ISSUER NOR OF ANY OTHER POLITICAL SUBDIVISION OF THE STATE ARE PLEDGED TO THE PAYMENT OF THE PRINCIPAL OR OF INTEREST ON THE BONDS.

This Bond is one of a duly authorized issue of Multifamily Housing Revenue Bonds (Yorktown Continental, LP Project) Series 2014A (the “Bonds”), issuable under the Trust Indenture dated as of July 1, 2014 (the “Indenture”), between the Issuer and the Trustee, aggregating in principal amount [\$16,500,000.00] and issued for the purpose of making a loan (the “Loan”) to the Borrower described therein (the “Borrower”) to pay a portion of the costs of acquiring, rehabilitating, equipping and improving the Project, as defined in the Indenture and the Loan Agreement dated as of even date with the Indenture (the “Loan Agreement”), between the Issuer and the Borrower. The Bonds are special obligations of the Issuer, issued or to be issued under and are to be secured and entitled equally and ratably to the protection given by the Indenture. The Bonds are issued pursuant to, under authority of and in compliance with the laws of the State of Minnesota, and including without limitation, Minnesota Statutes, Chapters 462A, 462C and 474A as amended (the “Act”), and a resolution duly enacted by the governing body of the Issuer.

The Bonds are subject to optional redemption prior to their stated maturity on or after _____, at par as set forth in the Indenture. Upon presentation and surrender of the Bonds by the Holder on the date fixed for redemption, the Holder shall be paid the principal amount of the Bonds to be redeemed, plus accrued interest on such Bonds to the redemption date.

Reference is made to the Indenture for a more complete description of the Project, the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the Issuer, the Trustee and the Holders of the Bonds, and the terms and conditions upon which the Bonds are issued and secured. Each Holder assents, by its acceptance hereof, to all of the provisions of the Indenture.

Pursuant to the Loan Agreement, the Borrower has executed and delivered to the Trustee the Borrower’s promissory note dated of even date herewith (the “Series 2014A Note”), in the principal amount up to \$_____. The Borrower is required by the Loan Agreement and the Series 2014A Note to make payments to the Trustee in the amounts and at the times necessary to pay the principal of and interest (the “Bond Debt Service Charges”) on the Bonds.

In the Indenture, the Issuer has assigned to the Trustee, to provide for the payment of the Bond Debt Service Charges on the Bonds, the Issuer's right, title and interest in and to the Loan Agreement, except for Unassigned Issuer's Rights as defined in the Loan Agreement. To secure its compliance with certain covenants in the Loan Agreement, the Borrower has executed and delivered the Declaration of Restrictive Covenants (the "Regulatory Agreement") between itself, the Issuer and the Trustee dated as of even date with the Indenture.

Copies of the Indenture, the Loan Agreement, the Regulatory Agreement and the Series 2014A Note are on file in the principal corporate trust office of the Trustee.

The Bond Debt Service Charges on the Bonds are payable solely from the Issuer Revenues, as defined and as provided in the Indenture (being, generally, the amounts payable under the Loan Agreement and the Series 2014A Note in repayment of the loan, deposits to the Collateral Fund and any unexpended proceeds of the Bonds), and are an obligation of the Issuer only to the extent of the Issuer Revenues. The Bonds are not secured by an obligation or pledge of any moneys raised by taxation and do not represent or constitute a debt or pledge of the faith and credit of the Issuer.

The Bonds are issuable only as fully registered bonds and, except as hereinafter provided, in printed or typewritten form, registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"), which shall be considered to be the Holder for all purposes of the Indenture, including, without limitation, payment by the Issuer of Bond Debt Service Charges, and receipt of notices to, giving of consents by and exercise of rights of, Holders. There shall be a single Bond representing each maturity, and all Bonds shall be immobilized in the custody of DTC with the owners of beneficial interests in those Bonds (the "book entry interests") having no right to receive from the Issuer Bonds in the form of physical securities or certificates. Ownership of book entry interests in the Bonds shall be shown by book entry on the system maintained and operated by DTC, its participants (the "Participants") and certain persons acting through the Participants, and transfers of ownership of book entry interests shall be made only by that book entry system, the Issuer and the Trustee having no responsibility therefor. DTC is to maintain records of the positions of Participants in the Bonds, and the Participants and persons acting through Participants are to maintain records of the purchasers and owners of book entry interests in the Bonds. The Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository (as defined in the Indenture) or to another nominee of a Depository, without further action by the Issuer and otherwise at the expense of the Borrower.

If any Depository determines not to continue to act as a Depository for the Bonds for use in a book entry system, the Issuer may attempt to have established a securities depository/book entry system relationship with another qualified Depository under the Indenture. If the Issuer does not or is unable to do so, the Issuer and the Trustee, after the Trustee has made provision for notification of the owners of book entry interests by the then Depository, shall permit withdrawal of the Bonds from the Depository, and authenticate and deliver Bond certificates in fully registered form (in denominations of \$5,000, or any integral multiple thereof) to the assignees of the Depository or its nominee, all at the cost and expense (including costs of printing or otherwise preparing and delivering replacement Bond certificates) of those persons requesting

such authentication and delivery, if the event is not the result of Issuer action or inaction (including action at the request of the Borrower).

The Indenture permits certain amendments or supplements to the Indenture, the Loan Agreement, the Regulatory Agreement and the Series 2014A Note not prejudicial to the Holders to be made without the consent of or notice to the Holders, and certain other amendments or supplements thereto to be made with the consent of the Holders of not less than a majority in aggregate principal amount of the Bonds then outstanding.

The Holder of each Bond has only those remedies provided in the Indenture.

The Bonds shall not constitute the personal obligation, either jointly or severally, of the members of the governing body of the Issuer or of any other officer of the Issuer.

This Bond shall not be entitled to any security or benefit under the Indenture or be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed.

It is certified and recited that there have been performed and have happened in regular and due form, as required by law, all acts and conditions necessary to be done or performed by the Issuer or to have happened (i) precedent to and in the issuing of the Bonds in order to make them legal, valid and binding special obligations of the Issuer, and (ii) precedent to and in the execution and delivery of the Indenture and the Loan Agreement; that payment in full for the Bonds has been received; and that the Bonds do not exceed or violate any constitutional or statutory limitation.

This Bond shall not be entitled to any security or benefit under the Indenture or be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed.

IN WITNESS OF THE ABOVE, the Issuer has caused this Bond to be to be executed and delivered by duly authorized officers thereof as of the day and year first written above.

IN WITNESS WHEREOF, the City of Edina, Minnesota has caused this Bond to be executed with the manual or facsimile signature of its Mayor and City Manager.

CITY OF EDINA, MINNESOTA

By: _____
Mayor

By: _____
City Manager

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds described in the within-mentioned Indenture.

Date of Registration and Authentication: July __, 2014.

**U.S. BANK NATIONAL ASSOCIATION,
Trustee**

By: _____
Authorized Officer

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto _____ the within Bond and irrevocably constitutes and appoints _____ attorney to transfer that Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

Signature guarantee shall be made by a guarantor institution participating in the Securities Transfer Agent Medallion Program or in such other guarantee program acceptable to the Registrar.

Notice: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or any change whatever.

Please insert social security number or other tax identification number of transferee

Unless this certificate is presented by an authorized representative of The Depository Trust Company (55 Water Street, New York, New York) to the Issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

INDENTURE OF TRUST

BY AND BETWEEN

**CITY OF EDINA, MINNESOTA,
as Issuer**

AND

**U.S. BANK NATIONAL ASSOCIATION,
as Trustee**

Dated as of July 1, 2014

Relating to:

\$_____
CITY OF EDINA, MINNESOTA
MULTIFAMILY HOUSING REVENUE BONDS
(YORKTOWN CONTINENTAL, LP PROJECT), SERIES 2014B

This instrument drafted by:
Dorsey & Whitney LLP
50 South Sixth Street
Minneapolis, Minnesota 55402

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INDENTURE OF TRUST

THIS INDENTURE OF TRUST (the “Indenture”) dated as of July 1, 2014, by and between the City of Edina, Minnesota, a Minnesota body corporate and politic (the “Issuer”), and U.S. Bank National Association, a national banking association, authorized to accept and execute trusts of the character herein set out, with a principal corporate trust office in St. Paul, Minnesota (the “Trustee”):

WITNESSETH

WHEREAS:

The Issuer is authorized by Minnesota Statutes, Chapters 462C and 474A, as amended (the “Act”), to issue revenue bonds to finance or refinance in whole or in part the cost of a “Project” (as hereinafter defined) for the public purposes expressed in the Act; and

The Issuer has made the necessary arrangements with Yorktown Continental, LP, a Minnesota limited partnership (the “Borrower”), for the acquisition and rehabilitation, and equipping of an existing 264-unit building containing 262 one-bedroom units and two two-bedroom units as a senior low-income housing project located at 7151 York Avenue South in the Issuer (the “Project”), which will be of the character and accomplish the purposes provided by the Act, and the Issuer has entered into a revenue agreement with the Borrower (in the form of the Loan Agreement as hereinafter defined) which specifies the terms and conditions of such acquisition and renovation and provides for the Issuer to finance a portion of the costs of the Project by making a loan (the “Loan”) to the Borrower to be funded through the issuance of Multifamily Housing Revenue Bonds (Yorktown Continental, LP Project), Series 2014B (the “Bonds”), in the original aggregate principal amount of \$_____; and

As security for the payment of the Bonds, the Issuer has agreed to assign and pledge to the Trustee, among other things, all right, title and interest of the Issuer in and to the Loan Agreement (except certain rights reserved to the Issuer under the terms of this Indenture), including the Basic Payments (as hereinafter defined); and

As additional security for the Bonds, the Borrower has entered into a [Combination Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Financing Statement, dated as of July 1, 2014] (the “Mortgage”), in favor of the Issuer, which Mortgage the Issuer has assigned to the Trustee pursuant to an assignment of mortgage, and the Borrower has delivered the [Assignment of Capital Contributions, Collateral Assignment of HOME Loan Proceeds, the Assignment of Partnership Interest, and the Guaranty] (all as defined below); and

In connection with the issuance of the Bonds, the Borrower will enter into a Regulatory Agreement dated as of July 1, 2014 (the “Regulatory Agreement”), with the Issuer and Trustee relating to compliance with certain federal and state requirements applicable to the Project; and

All things necessary to make the Bonds, when authenticated by the Trustee and issued as in this Indenture provided, valid, binding and legal limited obligations of the Issuer according to the import thereof, and to constitute this Indenture a valid contract for the security of the Bonds, have been done and performed; and the creation, execution and delivery of this Indenture, and the creation, execution and issuance of said Bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS, THIS INDENTURE
WITNESSETH:

The Issuer, in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Bonds by the Holders (as herein defined) thereof, in order to secure the payment of the principal of and interest and premium, if any, on the Bonds according to their tenor and effect and the performance and observance by the Issuer of all the covenants expressed or implied herein and in the Bonds, does hereby grant a security interest in, assign, transfer in trust, and pledge to the Trustee, and to its successors in trust, and to them and their assigns forever, the following:

FIRST

All rights, title, interest and privileges of the Issuer in, to and under the Loan Agreement, including, but not limited to, all sums which the Issuer is entitled to receive from the Borrower pursuant to the Loan Agreement and in particular the Basic Payments (but excluding the rights of the Issuer to indemnification and certain direct payments to be made to it pursuant to Sections 3.2, 4.4, 7.4, 9.5, 10.8, 10.11, 10.12, and 10.13 of the Loan Agreement), and all other sums (including Bond proceeds) which are required to be deposited in the trust accounts in accordance with Article 5 hereof, except for the Rebate Fund which is not a part of the Trust Estate; and the earnings derived from the investment of any of the foregoing sums as provided herein; and

SECOND

Any and all other property of every name and nature which may from time to time hereafter by delivery or by writing of any kind be subjected to the lien hereof by the Issuer or by anyone on its behalf or with its written consent, including, but not limited to, the interests of the Issuer, if any, under the Collateral Documents [(including the proceeds of the Assigned Capital Contributions, the GP Capital Contributions, the HOME Loan Proceeds and the Sponsor Loan Proceeds)], and the Trustee is hereby authorized to receive any and all such property at any and all times and to hold and apply the same as additional security hereunder subject to the terms hereof; and

THIRD

All property mortgaged, pledged and assigned under the Mortgage and any and all other property of every name and nature which may from time to time hereafter by delivery or by writing of any kind be subjected to the lien hereof by the Issuer or by anyone on its behalf or with its written consent, and the Trustee is hereby authorized to hold and apply the same as additional security hereunder subject to the terms hereof.

TO HAVE AND TO HOLD all the same (herein called the "Trust Estate") with all privileges and appurtenances hereby granted and assigned, or agreed or intended so to be, to the Trustee and its successors in trust and to them and their assigns forever;

SUBJECT TO the rights of the Borrower under the Loan Agreement and the Mortgage;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of all Holders from time to time of the Bonds issued under and secured by this Indenture, without privilege, priority or distinction as to lien or otherwise of any of the Bonds over any of the others except as otherwise provided herein;

PROVIDED, HOWEVER, that if the Issuer, its successors or assigns, shall well and truly pay, or cause to be paid, or provide fully for payment as herein provided of the principal of the Bonds and the interest due or to become due thereon (together with premium, if any), at the time and in the manner set forth in the Bonds according to the true intent and meaning thereof, and shall make the payments into the

Bond Fund as required under Article 5 or shall provide, as permitted hereby, for the payment thereof by depositing with the Trustee sums sufficient for payment of the entire amount due or to become due thereon as herein provided, and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Indenture to be kept, performed and observed by it, and shall pay to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then this Indenture and the rights hereby granted shall cease, terminate and be void except as otherwise provided herein; otherwise, this Indenture shall be and remain in full force and effect.

UNDER THE PROVISIONS OF THE ACT the Bonds may not be payable from or be a charge upon any funds of the Issuer other than the revenue pledged to the payment thereof nor shall the Issuer be subject to any pecuniary liability thereon and no Holder or Holders of the Bonds shall ever have the right to compel any exercise of the taxing power of the Issuer to pay any Bonds or the interest and premium, if any, thereon, or to enforce payment thereof against any property of the Issuer, except as above provided; the Bonds shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the Issuer, except as above provided; and no Bond shall constitute a debt of the Issuer within the meaning of any constitutional or statutory limitation, but nothing in the Act impairs the rights of the Holders of Bonds issued under this Indenture to enforce the covenants made for the security thereof as provided in this Indenture and in the Act, and by authority of the Act the Issuer and the Trustee mutually covenant and agree, to the extent specifically provided herein, for the equal and proportionate benefit of all Holders of the Bonds, as follows:

ARTICLE 1

DEFINITIONS, EXHIBITS AND GENERAL PROVISIONS

Section 1.1 Definitions. In this Indenture the following terms have the following meanings unless the context hereof clearly requires otherwise, and any other terms defined in the Loan Agreement shall have the same meanings when used herein as assigned them in the Loan Agreement unless the context or use thereof indicates another or different meaning or intent:

Act: Minnesota Statutes, Chapters 462C and 474A, as amended;

Act of Bankruptcy: any of the following events:

(i) If the Borrower shall (a) apply for or consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee, liquidator or the like, or of all or a substantial part of their property, (b) commence a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), or (c) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts; or

(ii) A proceeding or case shall be commenced, without the application or consent of the Borrower, in any court of competent jurisdiction, and shall not be dismissed, vacated, or stayed within 60 days after commencement, seeking (a) the liquidation, reorganization, dissolution, winding-up, or the composition or adjustment of its debts, (b) the appointment of a trustee, receiver, custodian, liquidator or the like of the Borrower, or of all or any substantial part of its assets, or (c) similar relief in respect of the Borrower under any law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts;

Additional Charges: the payments required by Section 4.4 of the Loan Agreement;

Affiliated Party: as to a particular Person, any Person directly and, indirectly controlling or controlled by or under direct or indirect common control with such specified Person. "Control", when used with respect to a particular Person, means the possession, directly or indirectly, of the power to direct management and policies of such Person whether through the ownership of voting stock, by contract or otherwise, and the terms "controlling" and "controlled" have meanings correlative to the foregoing;

[Assigned Capital Contributions: the second installment, which is in the expected amount of \$_____, and the third installment, which is in the expected amount of \$_____, of the equity contribution to be made by the Investor Limited Partner to the Borrower, pursuant to Section 7.2 of the Partnership Agreement, and subject to the conditions, terms and provisions of the Partnership Agreement;]

[Assignment of Capital Contributions: the Assignment of Capital Contributions dated as of _____ 1, 20___, from the Borrower and the General Partner to the Trustee, acknowledged by the Investor Limited Partner;]

[Assignment of HOME Loan Proceeds: the Collateral Assignment of HOME Loan Proceeds dated as of _____ 1, 20___, between the Borrower and the Trustee;]

Assignment of Mortgage: the Assignment of Mortgage, dated as of July 1, 2014, executed by the Issuer in favor of the Trustee;

[Assignment of Partnership Interest: that Assignment of Partnership Interest, dated as of _____ 1, 20___, from the Borrower and the General Partner to the Trustee, whereby the Borrower and the General Partner assign to the Trustee all right, title and interest of the General Partner in the Borrower, including all ownership and general partner rights of the General Partner as a partner under the Partnership Agreement, and all right, title and interest of the Borrower in the GP Capital Contributions;]

Authorized Denominations: \$100,000 or any integral multiple of \$5,000 in excess thereof;

Basic Payments: the payments required by Section 4.2 of the Loan Agreement;

Beneficial Owner: the Person for which a DTC Participant holds an interest in the Bonds as shown on the books and records of the DTC Participant;

Bond Closing: July __, 2014, the date on which there is delivery by the Issuer of and payment by the Underwriter for the Bonds;

Bond Counsel: Dorsey & Whitney LLP and any other firm of nationally recognized bond counsel experienced in tax exempt bond financing selected by the Issuer and acceptable to the Trustee and the Borrower;

Bond Fund: the fund so designated in Section 5.3 from which the principal of and interest on the Bonds are payable;

Bond Register: the register maintained by the Trustee pursuant to Section 2.9;

Bondholder or Holder: a Person in whose name a Bond is registered in the Bond Register;

Bond Year: any 12 month period ending on the anniversary of the Bond Closing;

Bonds: the Issuer's Multifamily Housing Revenue Bonds (Yorktown Continental, LP Project), Series 2014B, in the original aggregate principal amount of \$_____;

Borrower: Yorktown Continental, LP, a Minnesota limited partnership, and its successors and assigns or other Person which may assume its obligations under the Loan Agreement;

Business Day: any day on which the Trustee or the Federal Reserve Bank of New York are not authorized by law to close;

Capitalized Interest Fund: the fund so designated in Section 5.4 from which interest on the Bonds is payable;

Cede & Co.: initially, Cede & Co., as nominee of DTC, and any successor or subsequent such nominee designated by DTC respecting DTC's functions as book-entry depository for any Bond or Bonds;

Code or Internal Revenue Code: the Internal Revenue Code of 1986, as amended, and all applicable Treasury Regulations;

Collateral Documents: the Mortgage, the Security Documents and any other written instrument other than the Loan Agreement and this Indenture, whereby any property or interest in property of any kind is granted, pledged, conveyed, assigned, or transferred to the Issuer or Trustee, or both, as security for payment of the Bonds or performance by the Borrower of its obligations under the Loan Agreement;

Completion Date: the date the Borrower certifies the renovation of the Project is complete pursuant to Section 3.6 of the Loan Agreement;

Condemnation: the word “Condemnation” or phrase “eminent domain” as used herein shall include the taking or requisition by governmental authority or by a Person, acting under governmental authority and a conveyance made under threat of Condemnation, and “Condemnation award” shall mean payment for property condemned or conveyed under threat of Condemnation;

Defaulted Interest: shall have the meaning stated in Section 2.2 hereof;

Determination of Taxability: a determination that the interest income on any Bond is included in gross income for federal income tax purposes under Section 103 of the Code for any reason, other than that the Holder is a Substantial User of the Project or a Related Person thereto, which determination shall be deemed to have been made upon the occurrence of the first to occur of the following:

(i) the date on which any change in law or regulation becomes effective or on which the Internal Revenue Service has issued any private ruling, technical advice or any other written communication to the effect that the interest income on any of the Bonds is included in gross income for federal income tax purposes; or

(ii) the date on which the Borrower shall receive notice from the Trustee or the Issuer in writing that the Trustee has been advised by any Holder that the Internal Revenue Service has issued a 30-day letter or other notice which asserts that the interest on such Bond is included in gross income for federal income tax purposes;

[*Disbursing Agreement:* the Disbursing Agreement, dated as of July 1, 2014, among the Trustee, the Borrower and Commercial Partners Title, LLC;]

Discharge Date: the date on which all Outstanding Bonds are discharged under Article 7;

DTC: The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York, or any successor book-entry securities depository for the Bonds appointed pursuant to Section 2.13;

DTC Participants: those broker-dealers, banks and other financial institutions from time to time for which DTC holds bonds or securities as depository;

Event of Default: any of the events set forth in Section 8.1 hereof;

Facility: the existing building located at 7151 York Avenue South, in Edina, Minnesota on the Project Premises, and all related improvements and equipment, together with all additions to, replacements of and substitutions for any of the foregoing;

Federal Bankruptcy Code: the United States Bankruptcy Reform Act of 1978, as amended, or any similar or succeeding federal bankruptcy law;

Final Maturity Date: the Stated Maturity, Discharge Date or Redemption Date on which all Outstanding Bonds either mature, are redeemed or discharged, whichever is earlier;

General Partner: _____, a _____, and its successors and assigns;

Government Obligations: direct general obligations of, or obligations the prompt payment of the principal of and the interest on which are fully and unconditionally guaranteed by, the United States of America;

[GP Capital Contributions: the equity contribution to be made by the General Partner to the Borrower, pursuant to Section 6.1 of the Partnership Agreement in the amount of \$_____, and subject to the conditions, terms and provisions of the Partnership Agreement;]

[Guaranty: the Guaranty Agreement dated as of July 1, 2014, from _____, a Minnesota nonprofit corporation, to the Trustee, as amended, modified, supplemented or restated from time to time or any agreement entered into in substitution therefor;]

[HOME Loan Proceeds: the proceeds to be loaned by the Issuer to the Borrower in the amount of \$500,000 pursuant to a HOME Repayment Loan Agreement, dated as of _____, 20__;]

Holder or Bondholder: the Person in whose name a Bond is registered in the Bond Register;

Indenture: this Indenture of Trust, dated as of July 1, 2014, by and between the Issuer and the Trustee, as the same may from time to time be amended or supplemented as herein provided;

Independent Accountant: a certified public accountant or firm of certified public accountants registered and qualified to practice as such under the laws of the State, who does not have any direct financial interest in the Borrower, other than the payment to be received under contract for services performed and who is not connected with the Borrower as an officer, employee, underwriter, partner, affiliate, subsidiary, or person performing similar functions and is not a trustee or director of the Borrower;

Independent Counsel: any attorney duly admitted to practice law before the highest court of any state, who may be counsel to the Borrower or the Issuer but who may not be an officer or a full time employee of the Borrower or the Issuer;

Interest Payment Date: each _____ 1 and _____ 1, commencing _____ 1, 20__ and continuing until payment in full of the Bonds;

Internal Revenue Code or Code: the Internal Revenue Code of 1986, as amended, and all applicable Treasury Regulations;

Investor Limited Partner: _____, a _____, and its successors and assigns;

Issuer: the City of Edina, Minnesota, or any successor thereto;

Loan: the loan of Bond proceeds by the Issuer to the Borrower described in Section 4.1 of the Loan Agreement;

Loan Agreement: the Loan Agreement dated as of July 1, 2014, by and between the Issuer and the Borrower, as the same may from time to time be amended or supplemented as provided therein and in this Indenture;

Mortgage: the [Combination Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Financing Statement] dated as of July 1, 2014 from the Borrower to the Issuer and assigned by the Issuer to the Trustee, to secure the Bonds;

Moody's: Moody's Investors Service, Inc., a corporation organized and existing under the laws of the State of New York, and its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a municipal securities rating agency, "Moody's" shall be deemed to refer to any other nationally recognized municipal securities rating agency designated by the Issuer (other than Standard & Poor's);

Notice by Mail: notice of any action or condition by mail shall mean a written notice meeting the requirements of this Indenture mailed by first-class mail, postage prepaid, to the Holders of specified Bonds at the addresses shown in the Bond Register;

Original Purchaser: the Underwriter;

Outstanding Bonds: as of the date of determination, all Bonds theretofore issued and delivered under this Indenture except:

(i) Bonds theretofore cancelled by the Trustee or Paying Agent or delivered to the Trustee or Paying Agent cancelled or for cancellation;

(ii) Bonds for which payment or redemption money or securities (as provided in Article 7) shall have been theretofore deposited with the Trustee in trust for the Holders of such Bonds; provided, however, that if such Bonds are to be redeemed, notice of such redemption shall have been duly given pursuant to this Indenture or irrevocable action shall have been taken to call such Bonds for redemption at a stated Redemption Date; and

(iii) Bonds in exchange for or in lieu of which other Bonds shall have been issued and delivered pursuant to this Indenture;

provided, however, that in determining whether the Holders of the requisite principal amount of Outstanding Bonds have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Bonds owned by the Borrower shall be disregarded and deemed not to be Outstanding Bonds, except that in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent, or waiver, only Bonds which the Trustee knows to be owned by the Borrower shall be disregarded;

Paying Agent: the Trustee or any other entity designated pursuant to this Indenture as the agent of the Issuer and the Trustee to receive and disburse the principal of and premium, if any, and interest on the Bonds;

Payment Date: any Interest Payment Date, any Stated Maturity, the Discharge Date or any Redemption Date;

[Partnership Agreement: the Amended and Restated Agreement of Limited Partnership of the Borrower, dated as of _____, 20__, as amended, modified, supplemented or restated from time to time, or any agreement entered into in substitution thereof;]

Permitted Investments:

- (i) Government Obligations;
- (ii) obligations of any of the following federal agencies which obligations represent full faith and credit of the United States of America, including:
 - Export-Import Bank
 - Farmers Home Administration
 - General Services Administration
 - U.S. Maritime Administration
 - Small Business Administration
 - Government National Mortgage Association (GNMA)
 - U.S. Department of Housing & Urban Development (PHA's)
 - Federal Housing Administration;
- (iii) bonds, notes or other evidences of indebtedness rated "AAA" by Standard & Poor's and "Aaa" by Moody's issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding three years;
- (iv) U.S. dollar denominated deposit accounts, federal funds and banker's acceptances with domestic commercial banks which have a rating on their short term certificates of deposit on the date of purchase of "A-1" or "A-1+" by Standard & Poor's and "P-1" by Moody's and maturing no more than 360 days after the date of purchase (ratings on holding companies are not considered as the rating of the bank);
- (v) commercial paper which is rated at the time of purchase in the single highest classification, "A-1+" by Standard & Poor's and "P-1" by Moody's and which matures not more than 270 days after the date of purchase;
- (vi) investments in a money market fund rated "AAAm" or "AAAm-G" or better by Standard & Poor's;
- (vii) Pre-refunded municipal obligations defined as follows: Any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and
 - (a) which are rated, based on an irrevocable escrow account or fund (the "escrow"), in the highest rating category of Standard & Poor's and Moody's; or
 - (b) (1) which are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in paragraph (i) above, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such

irrevocable instructions, as appropriate, and (2) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates specified in the irrevocable instructions referred to above, as appropriate;

(viii) investment agreements issued by any financial institution maintaining a rating of “A” or better by Standard & Poor’s or “A2” or better by Moody’s; or

(ix) fixed income securities issued by any state of the United States of America or any agency, instrumentality or political subdivision thereof which are rated not less than “A” by Standard & Poor’s or “A2” by Moody’s;

Person: any natural person, corporation, limited liability company, joint venture, cooperative, partnership, trust or unincorporated organization, government or governmental body or agency, political subdivision or other legal entity, as in the context may be appropriate;

Project: the Project Premises and the Facility including all Project Equipment, as they may at any time exist;

Project Equipment: any and all (i) fixtures or tangible personal property now or hereafter attached or affixed to the Project Premises, (ii) other tangible personal property now or hereafter located within or used in connection with the Project Premises or the Facility and (iii) any additions to, replacements of and substitutions for any of the foregoing;

Project Fund: the fund so designated in Section 5.2 hereof;

Project Premises: the real estate legally described in Exhibit A attached to the Loan Agreement, together with all additions to, replacements of and substitutions for the foregoing;

Rating Agency: Standard & Poor’s or Moody’s;

Rating Category: one of the generic rating categories of a Rating Agency, without regard to any refinement or gradation of such Rating Category by a numerical or other modifier;

Rebate Amounts: the amount determined pursuant to Section 7.7(13) of the Loan Agreement to be rebated to the United States;

Rebate Fund: the fund so designated in Section 5.5 hereof;

Record Date: the 15th day of the calendar month next preceding an Interest Payment Date, whether or not such day is a Business Day;

Redemption Date: when used with respect to any Bond to be redeemed shall mean the date on which it is to be redeemed pursuant hereto;

Redemption Price: when used with respect to any Bond to be redeemed shall mean the price at which it is to be redeemed pursuant hereto;

Regular Interest Payments: all interest payments on the Bonds, other than Special Interest Payments;

Regulatory Agreement: the Regulatory Agreement dated as of July 1, 2014, by and between the Trustee, the Issuer and the Borrower, as the same may be amended from time to time;

Related Documents: the Loan Agreement, the Regulatory Agreement, the Mortgage, the Security Documents and the Disbursing Agreement;

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

Representation Letter: such Letter of Representations to DTC or other documentation required by DTC as a condition to its acting as book-entry depository for any bond or bonds together with any replacement thereof or amendment or supplement thereto (and including any standard procedures or policies referenced therein or applicable thereto) respecting the procedures and other matters relating to DTC’s role as book-entry depository for the Bonds;

Representative: the City Manager of the Issuer or a general partner of the Borrower, or any other person at any time designated to act on behalf of the Issuer or the Borrower, as the case may be, as evidenced by a written certificate furnished to the other party and the Trustee containing the specimen signature of such person and signed for the Issuer by its City Manager or for the Borrower by a general partner of the Borrower;

Responsible Agent: any Person duly authorized and designated by the Trustee to act on its behalf in carrying out the applicable duties and powers of the Trustee as set forth in this Indenture (any action required by the Trustee under this Indenture may be taken by a Responsible Agent);

Restricted Project Funds: any Bond proceeds, including interest thereon, which are required to be transferred on the Completion Date from the Project Fund to the Bond Fund and which the Trustee is required under Section 5.3(2) to apply towards the prepayment or pro rata payment of Bonds;

[*Security Documents:* the Assignment of Capital Contributions, the Assignment of HOME Loan Proceeds, the Assignment of Partnership Interest, and the Guaranty;]

Series A Bonds: the Issuer’s Multifamily Housing Revenue Bonds (Yorktown Continental, LP Project), Series 2014A in the original aggregate principal amount of \$_____;

SLGS: United States Treasury Certificates of Indebtedness, Notes and Bonds State and Local Government Series;

Special Interest Payments: all payments of (or with respect to) interest on the Bonds made upon the acceleration of the Bonds pursuant to Section 8.2 hereof;

Special Limited Partner: _____, a _____, and its successors and assigns;

Special Record Date: the date fixed by the Trustee pursuant to Section 2.2 hereof relating to the payment of any Defaulted Interest;

[*Sponsor:* _____, a _____, and its successors and assigns;]

[*Sponsor Loan Documents:* the Sponsor Note and the Sponsor Mortgage;]

[Sponsor Mortgage: the mortgage, dated as of _____ 1, 20__, from the Borrower to Sponsor, securing the Sponsor Note;]

[Sponsor Note: the promissory note, dated as of _____ 1, 20__, from the Borrower to Sponsor, evidencing the obligation of the Borrower to repay the loan of the Sponsor Loan Proceeds to the Sponsor;]

Standard & Poor's: Standard & Poor's Ratings Group, a division of the McGraw Hill Companies, and its successors and their assigns, and if such entity shall be dissolved or liquidated or shall no longer perform the functions of a municipal securities rating agency, "Standard & Poor's" shall be deemed to refer to any other nationally recognized municipal securities rating agency designated by the Issuer (other than Moody's);

State: the State of Minnesota;

Stated Maturity: when used with respect to any Bond or any installment of interest thereon shall mean the date specified in such Bond as the fixed date on which principal of such Bond or such installment of interest is due and payable;

Substantial User: a "Substantial User" within the meaning of Section 147(a)(1) of the Code;

Trust Estate: the Trust Estate as defined and set forth in the Granting Clauses hereof;

Trustee: Wells Fargo Bank, National Association, and any co-trustee or successor trustee appointed, qualified and then acting as such under the provisions of this Indenture;

Underwriter: Dougherty & Company LLC;

Unpaid Bonds: all Outstanding Bonds and any other Bonds which have neither matured nor been redeemed or purchased and cancelled under this Indenture.

Section 1.2 Rules of Interpretation. This Indenture shall be interpreted in accordance with and governed by the laws of the State of Minnesota.

The words "herein" and "hereof" and "hereunder" and words of similar import, without reference to any particular section or subdivision, refer to this Indenture as a whole rather than to any particular section or subdivision of this Indenture.

References in this Indenture to any particular article, section or subdivision hereof are to the designated article, section or subdivision of this Indenture as originally executed.

All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles; and all computations provided for herein shall be made in accordance with generally accepted accounting principles consistently applied and applied on the same basis as in prior years.

The Table of Contents and titles of articles and sections herein are for convenience only and are not a part of this Indenture.

Unless the context hereof clearly requires otherwise, the singular shall include the plural and vice versa and the masculine shall include the feminine and vice versa.

Articles, sections, subsections and clauses mentioned by number only are those so numbered which are contained in this Indenture.

For purposes of this Indenture and the Loan Agreement, an Act of Bankruptcy shall be deemed no longer pending if either (a) the petition is dismissed by order of a court of competent jurisdiction and no further appeal rights exist from such order or (b) the Borrower notifies the Trustee that such a dismissal has occurred.

Any opinion of counsel called for herein shall be a written opinion of such counsel.

References to the Bonds as “tax-exempt” or to the “tax-exempt status of the Bonds” are to the exclusion of interest from gross income pursuant to Section 103(a) of the Code, irrespective of such forms of taxation as the alternative minimum tax or branch profits tax on foreign corporations, as is consistent with the approach taken in Section 59(i) of the Code.

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ARTICLE 2
THE BONDS

Section 2.1 Authorized Amount and Form of Bonds. Bonds secured by this Indenture shall be issued in fully registered form, without coupons, in any Authorized Denominations, in substantially the forms set forth in Exhibit A hereto with such appropriate variations, omissions and insertions as are permitted or required by this Indenture, and in accordance with the further provisions of this Article 2. The total principal amount of the Bonds that may be outstanding hereunder is expressly limited to \$_____. Portions of the text of the Bonds may be printed on the back of the Bonds to permit the printing of Bonds of a size which can be registered by machine. If a portion of the text of the Bond is to be printed on the back of the Bond, the face of the Bond shall contain a provision in substantially the following form:

“REFERENCE IS HEREBY MADE TO THE FURTHER PROVISIONS OF THIS BOND WHICH ARE SET FORTH ON THE REVERSE HEREOF, AND SUCH PROVISIONS SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS IF SET FORTH HERE.”

Section 2.2 Initial Issue. The Bonds shall be initially issued in the original aggregate principal amount of \$_____ and shall:

- (1) be dated as of their date of nominal original issuance, or the date of their registration as provided in Section 2.9;
- (2) be issued and delivered to the Original Purchaser as fully registered bonds without coupons in any Authorized Denomination and shall be numbered R-1 upward;
- (3) subject to the provisions of Section 3.1 and 3.7 hereof, mature in the principal amount and bear interest as provided below until paid or discharged as herein provided, with interest computed on the basis of a 360-day year composed of twelve 30-day months;

Stated Maturity (_____ 1)	Principal Amount	Interest Rate
20__	\$_____	___%

- (4) bear interest payable semiannually on each Interest Payment Date and continuing until payment in full of the Bonds;
- (5) be subject to redemption upon the terms and conditions and at the prices specified in Article 3 hereof;
- (6) be payable in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts, at the principal trust office of the Trustee acting as the Paying Agent, or a duly appointed successor Paying Agent, except that interest on the Bonds will be payable by check or draft mailed by the Trustee to the Holders of such Bonds on the applicable Record Date (the “Record Date Holders” as defined in the Bond) at the last addresses thereof as shown in the Bond Register on the applicable Record Date, and principal of and any premium on any Bonds shall be payable at the principal office of the Trustee; provided that any interest on any Bond which is payable but which is not punctually paid or duly provided (“Defaulted Interest”) shall be payable, on a date

selected by the Trustee, to the Person in whose name such Bond is registered in the Bond Register at the close of business on a Special Record Date selected by the Trustee and which shall be at least 10 days but not more than 30 days before the date selected by the Trustee for payment of such Defaulted Interest. The Trustee shall give Notice by Mail of the Special Record Date and date for payment of Defaulted Interest at least 10 days before the Special Record Date; and

(7) Notwithstanding the foregoing, if the date for payment of the principal of, premium, if any, or interest on any Bond shall be a day which is not a Business Day, then the date for such payment shall be the next succeeding day which is a Business Day, and payment on such later date shall have the same force and effect as if made on the nominal date of payment.

Notwithstanding the foregoing, any Record Holder of at least \$1,000,000 in principal amount of the Outstanding Bonds may file with the Trustee an instrument satisfactory to the Trustee requesting the interest payable by the Trustee to such Holder be paid by transferring by wire transfer in immediately available funds, on the day such payment is due, the amount to be distributed to such Holder to a designated account maintained by such Holder at any bank in the United States. The Trustee shall pay all amounts payable by the Trustee hereunder to such Holder by transfer directly to said designated bank in accordance with the provisions of any such instrument, provided that if such amount represents a payment of the principal of any Bond, such Bond shall have been presented to the Trustee. All payments so made shall be valid and effectual to satisfy and discharge the liability upon such Bonds.

Section 2.3 Execution. The Bonds shall be executed on behalf of the Issuer by the signatures of the officers of the Issuer designated to sign the Bonds in a resolution of the Issuer and be sealed with the seal of the Issuer; provided, however, that the seal of the Issuer may be a printed facsimile or may be omitted; provided further that all of such signatures may be printed or photocopied facsimiles, in which event the Bonds shall also be executed manually by the Trustee as authenticating agent as provided in Section 2.4 and Minnesota Statutes, Section 475.55, as amended. In the event of disability or resignation or other absence of either such officer, the Bonds may be signed by the manual or facsimile signature of that officer who may act on behalf of such absent or disabled officer. In case either such officer whose signature or facsimile of whose signature shall appear on the Bonds shall cease to be such officer before the delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery. The Bonds may be issued and delivered as typewritten bonds or as printed bonds, provided that if the typewritten bonds are delivered, the facsimile signatures of the Issuer may be conformed signatures.

Section 2.4 Authentication. No Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Indenture unless a Certificate of Authentication on such Bond, substantially in the form hereinabove set forth, shall have been duly executed manually by a Responsible Agent. Certificates of Authentication on different Bonds need not be signed by the same person. The Trustee shall authenticate the signatures of officers of the Issuer on each Bond by execution of the Certificate of Authentication on the Bond; and the executed Certificate of Authentication on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Indenture.

Section 2.5 Delivery of Initial Issue. Upon the execution and delivery of this Indenture the Issuer shall execute and deliver to the Trustee, and the Trustee shall authenticate, the Bonds in the original aggregate amount of \$_____ and the Trustee shall deliver the Bonds to the Original Purchaser as hereinafter provided after filing with the Trustee the following:

(1) original executed counterparts of the Loan Agreement, Regulatory Agreement, Disbursing Agreement, Mortgage, Assignment of Mortgage, the Security Documents, and this Indenture;

(2) a copy, duly certified by the Issuer's appropriate recording officer, of the resolutions adopted and approved by the governing body of the Issuer, authorizing the execution and delivery of this Indenture and the documents described in subparagraph (1) above;

(3) a request and authorization (which may be part of a certificate of the Issuer) to the Trustee on behalf of the Issuer, signed by the officers of the Issuer designated to sign the Bonds in a resolution of the Issuer, to deliver the Bonds to the Original Purchaser therein identified upon payment to the Trustee for the account of the Issuer of a specified sum plus accrued interest;

(4) the opinion of the Borrower's counsel in the form required by Bond Counsel and counsel to the Original Purchaser;

(5) the opinion of Bond Counsel approving the legality and tax-exempt status of the Bonds issued pursuant to this Indenture;

(6) any other documents or opinions as Bond Counsel may require for purposes of rendering its opinion required under subsection (5) of this Section; and

(7) evidence that the Series A Bonds have been authenticated and delivered.

Section 2.6 Mutilated, Lost, Stolen or Destroyed Bonds.

(1) In case any Bond issued hereunder shall become mutilated or be destroyed or lost, the Issuer shall, if not then prohibited by law, cause to be executed, and the Trustee shall authenticate and deliver, a new Bond of like series, amount, maturity date and tenor in exchange and substitution for and upon cancellation of any such mutilated Bond, or in lieu of and in substitution for any such Bond destroyed or lost, upon the Holder's paying the reasonable expenses and charges of the Trustee and Issuer and, in the case of a Bond destroyed or lost, the filing with the Trustee evidence satisfactory to the Trustee that such Bond was destroyed or lost, and of the ownership thereof, and furnishing the Issuer and the Trustee with indemnity satisfactory to them. If the mutilated, destroyed or lost Bond has already matured or been called for redemption in accordance with its terms, it shall not be necessary to issue a new Bond prior to payment.

(2) In executing a new Bond and in furnishing the Trustee with the written authorization to authenticate and deliver a new Bond as provided for in this Section, the Issuer may rely conclusively on a representation of the Trustee that the Trustee is satisfied with the adequacy of the evidence presented concerning the mutilation, loss, theft or destruction of any Bond.

Section 2.7 Ownership of Bonds. The Issuer, Trustee and Paying Agent may deem and treat the Holder of any Bond, whether or not such Bond shall be overdue, as the absolute owner of such Bond for the purpose of receiving payment thereof and for all other purposes whatsoever, and the Issuer (or any agent thereof), Trustee and Paying Agent shall not be affected by any notice to the contrary.

Section 2.8 Preparation of Bonds. The Bonds shall be printed or typewritten bonds substantially in the form attached hereto as Exhibit A.

Section 2.9 Registration, Transfer and Exchange of Bonds.

(1) The Issuer will cause to be kept at the principal corporate trust office of the Trustee a Bond Register in which, subject to such reasonable regulations as the Trustee may prescribe, the Issuer shall provide for the registration of Bonds and the registration of transfers of Bonds; and the Trustee is

hereby appointed “Bond Registrar” for the purpose of registering the Bonds and transfers of the Bonds as herein provided. The Bond Register shall contain a record of every Bond at any time authenticated hereunder, together with the name and address of the Holder thereof, the date of authentication, the date of transfer or payment, and such other matters as are appropriate for the Bond Register in the estimation of the Trustee.

(2) Upon surrender for transfer of any Bond at the principal corporate trust office of the Trustee, the Issuer shall execute (if necessary), and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees (but not registered in blank or to “bearer” or a similar designation), one or more new Bonds of any Authorized Denomination, having the same Stated Maturity and interest rate, as requested by the transferor. The execution by the Issuer of any Bond of any denomination shall constitute full and due authorization of such denomination and the Trustee shall thereby be authorized to authenticate and deliver such Bond.

(3) At the option of the Holder, Bonds may be exchanged for other Bonds of the same series of any Authorized Denomination of a like aggregate principal amount and Stated Maturity, upon surrender of the Bonds to be exchanged at the principal corporate trust office of the Trustee, and upon payment, if the Issuer shall so require, of the taxes, if any, hereinafter referred to. Whenever any Bonds are so surrendered for exchange, the Issuer shall execute, and the Trustee shall authenticate and deliver, the Bonds which the Holder making the exchange is entitled to receive.

(4) All Bonds surrendered upon any exchange or transfer provided for in this Indenture shall be promptly cancelled by the Trustee and thereafter disposed of as directed by the Issuer.

(5) All Bonds delivered in exchange for or upon transfer of Bonds shall be valid special obligations of the Issuer evidencing the same debt, and entitled to the same benefits under this Indenture, as the Bonds surrendered for such exchange or transfer.

(6) Transfer of a Bond may be made on the Issuer’s books by the registered owner in person or by the registered owner’s attorney duly authorized in writing. Every Bond presented or surrendered for transfer or exchange shall (if so required by the Issuer or the Trustee) be duly endorsed or be accompanied by a written instrument or instruments of transfer, in the form printed on the Bond or in another form satisfactory to the Trustee, duly executed and with guaranty of signature of the Holder thereof or his attorney duly authorized in writing and shall include written instructions as to the details of the transfer of the Bond.

(7) No service charge shall be made to the Holder for any registration, transfer or exchange, but the Trustee may require payment of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in connection with any transfer or exchange of Bonds, other than exchanges expressly provided in this Indenture to be made without expense or without charge to Bondholders.

(8) Subject to the provisions of subsection (9) below, the Trustee as Bond Registrar shall endeavor to comply with rules applicable to transfer agents registered with the Securities and Exchange Commission as to the 72-hour “turnaround” standard established for the transfer of registered corporate securities.

(9) The Trustee shall not be required (i) to transfer or exchange any Bond during a period beginning at the opening of business 10 days before the day of the first publication or the mailing (if there is no publication) of a notice of redemption of Bonds under this Indenture and ending at the close of business on the day of such publication or mailing, or (ii) to transfer or exchange any Bond so selected for redemption in whole or in part.

(10) The Bond Registrar shall insert in each Bond the date of registration which, for purposes of delivering the original Bonds to the Original Purchaser, shall be the date of original issue, and which for all other events shall be the last Interest Payment Date preceding the date of authentication to which interest on the Bond has been paid or made available for payment, unless the date of authentication is an interest payment date to which interest has been paid or made available for payment, in which case the Bond shall be dated as of the date of authentication. Each Bond shall be so dated that neither gain nor loss in interest shall result from any transfers, exchange or substitution provided for herein.

Section 2.10 Interest Rights Preserved. Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond.

Section 2.11 Cancellation of Bonds. Whenever any Outstanding Bond shall be delivered to the Trustee for cancellation pursuant to this Indenture, upon payment of the principal amount and interest represented thereby or for replacement pursuant to Section 2.6 or transfer pursuant to Section 2.9, such Bond shall be cancelled and, subject to the Trustee's business practices, destroyed by the Trustee.

Section 2.12 Book-Entry System. Upon request of a Holder any Bond may be registered in the Bond Register in the name of Cede & Co., as the nominee of DTC, who will thereafter act as securities depository for such Bond or Bonds.

With respect to Bonds registered in the Bond Register in the name of Cede & Co., as nominee of DTC, neither the Issuer, the Borrower nor the Trustee shall have any responsibility or obligation to any DTC Participant or to any Beneficial Owner. Without limiting the immediately preceding sentence, neither the Issuer, the Borrower, nor the Trustee shall have any responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co., or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant, any Beneficial Owner or any other Person, other than DTC, of any notice with respect to the Bonds, including any notice of redemption, (iii) the payment to any DTC Participant, any Beneficial Owner or any other Person, other than DTC, of any amount with respect to the principal of or premium, if any, or interest on the Bonds, or (iv) the failure of DTC to provide any information or notification on behalf of any DTC Participant or Beneficial Owner.

The Issuer, the Borrower and the Trustee may treat as and deem DTC to be the absolute owner of each Bond for the purpose of payment of the principal of and premium and interest on such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers with respect to such Bonds, and for all other purposes whatsoever (except for the giving of certain Bondholder consents). The Trustee shall pay all principal of and premium, if any, and interest on the Bonds to the Bondholders as shown on the Bond Register, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer's obligations with respect to the principal of and premium, if any, and interest on the Bonds to the extent of the sum or sums so paid.

Upon delivery by DTC to the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the transfer provisions in Section 2.9, references to "Cede & Co." in this Section shall refer to such new nominee of DTC.

Notwithstanding the provisions of this Indenture to the contrary (including without limitation surrender of Bonds, registration thereof, and Authorized Denominations), as long as the Bonds are in book-entry form, full effect shall be given to the Representation Letter and the procedures and practices of DTC thereunder.

Section 2.13 Termination of Book-Entry Only System. DTC may determine to discontinue providing its services with respect to any Bonds registered in the name of Cede & Co. at any time by giving written notice to the Trustee and discharging its responsibilities with respect thereto under applicable law. Upon the termination of the services of DTC as provided above, the Bonds may be registered in whatever name or names the Bondholders shall designate at that time, in accordance with Section 2.9. To the extent that the Beneficial Owners are designated as the transferee by the Bondholders, in accordance with Section 2.9 the Bonds will be delivered in appropriate form, content and Authorized Denomination to the Beneficial Owners.

So long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to the principal of and premium, if any, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, to DTC as provided in the Representation Letter.

ARTICLE 3

REDEMPTION OF BONDS BEFORE MATURITY

Section 3.1 Redemption Provisions. The Bonds are subject to redemption and prepayment as follows:

(1) Optional Prepayment. The Bonds are subject to redemption and prepayment upon request by the Borrower to the Trustee on any Business Day, in whole or in part, and if in part, in inverse order of their maturity dates in principal increments of \$5,000, so long as no Bond is Outstanding in an amount less than \$100,000, and by lot within any Stated Maturity, at a Redemption Price equal to the principal amount of the Bonds to be redeemed plus accrued interest thereon.

(2) Redemption from Moneys Remaining in Project Fund. The Bonds are subject to mandatory redemption in part, at a redemption price equal to the principal amount thereof, without premium, plus accrued interest thereon to the date fixed for redemption, on the earliest practicable date for which notice can be given pursuant to Section 3.3, to the extent of moneys remaining on deposit in the Project Fund that are transferred to the Bond Fund upon completion of the Project and payment of all Costs of the Project as provided in Section 5.2(2).

(3) Mandatory Redemption from Certain Moneys. The Bonds are subject to mandatory redemption in part, at a redemption price equal to the principal amount thereof, without premium, plus accrued interest thereon to the date fixed for redemption, on the earliest practicable date for which notice can be given pursuant to Section 3.3, in amounts equal to the proceeds of [(i) the Assigned Capital Contributions, (ii) the HOME Loan Proceeds, (iii) the GP Capital Contributions, and (iv) the Sponsor Loan Proceeds]; redemption of the Bonds in part to occur upon each receipt by the Borrower or its designee and deposit with the Trustee in accordance with Section 4.2(1)(c) of the Loan Agreement. If the mandatory redemption pursuant to this subsection (3) occurs resulting in the redemption of all Outstanding Bonds, remaining moneys on deposit in the Capitalized Interest Fund will be used to pay first the portion of the redemption price attributable to accrued interest on the Outstanding Bonds, and second the portion of the redemption price attributable to principal of the Outstanding Bonds.

(4) No Redemption Prior to Placed in Service Date. Notwithstanding anything to the contrary contained herein, the Bonds shall not be redeemed on or prior to the date upon which the Project has been placed in service for purposes of Section 42 of the Code.

Section 3.2 Partial Redemption of Bonds. In the case of any partial redemption of Bonds of the same maturity pursuant to any provision of this Indenture, the particular Bonds or portions thereof to be redeemed shall be selected by the Trustee in such manner as the Trustee shall deem fair and equitable. Notwithstanding the foregoing, DTC shall select the Bonds with respect to any Bonds registered in the name of Cede & Co. for redemption within particular maturities according to its stated procedures. In the case of any partial redemption of a Bond in a denomination greater than \$5,000 then for all purposes in connection with such redemption, the first \$5,000 of face value of such Bond shall be treated as though it were a separate Bond in the denomination of \$5,000 and each remaining \$5,000 of face value of such Bond shall be treated as though it were a separate Bond in the denomination of \$5,000, and such Bond shall be redeemed only in a principal amount sufficient to redeem one or more of such separate Bonds in full and so long as no Bond is Outstanding in an amount less than \$100,000. Any Bond which is to be redeemed only in part shall be surrendered to the Trustee (i) for payment of the Redemption Price (including accrued interest thereon to the Redemption Date) of the portion thereof called for redemption and (ii) for exchange for Bonds in any Authorized Denomination in aggregate principal amount equal to

the unredeemed portion of such Bond without charge therefor. For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Bonds shall relate, in the case of any Bond redeemed or to be redeemed only in part, to the portion of the principal of such Bond which has been or is to be redeemed.

Section 3.3 Procedure for Redemption.

(1) Notice of the intended redemption of Bonds shall be given by the Trustee not less than 15 nor more than 60 days prior to the date fixed for redemption by first class mail, to the registered owner of each Bond to be redeemed, at the address of such owner shown on the Bond Register; and a second notice of redemption shall be sent by first class mail, at such address to the registered owner of any Bond who has not submitted his Bond to the Trustee for payment on or before the date 60 days following the date fixed for redemption of such Bond in each case stating:

- (a) the complete official caption of which the Bonds being redeemed are a part;
- (b) the date of mailing of the notice of redemption;
- (c) the date fixed for redemption;
- (d) the redemption price or prices;
- (e) with respect to the redemption of the Bonds in part, the numbers of the Bonds to be redeemed, by giving the individual certificate number of each Bond to be redeemed (or stating that all Bonds between two stated certificate numbers, both inclusive, are to be redeemed or that all of the Bonds of one or more maturities have been called for redemption);
- (f) the CUSIP numbers of all Bonds being redeemed (provided that such notice may contain a disclaimer as to the accuracy of the CUSIP numbers);
- (g) in the case of a partial redemption of Bonds, the principal amount and maturity date of each Bond being redeemed;
- (h) the date of issue of the Bonds as originally issued;
- (i) the rate or rates of interest borne by each Bond being redeemed;
- (j) the maturity date of each Bond being redeemed; and
- (k) the place or places where amounts due upon such redemption will be payable.

The notice will state that Bonds must be surrendered at the payment office of the Trustee for redemption at the redemption price and shall state that further interest on such Bond will not accrue from and after the redemption date provided the Trustee has on deposit sufficient funds to redeem the Bonds on such date. CUSIP number identification with appropriate dollar amounts for each CUSIP number also shall accompany all redemption payments made by check or draft.

With respect to optional redemptions, such notice may be conditioned upon moneys being on deposit with the Trustee on or prior to the redemption date in an amount sufficient to pay the redemption price on the redemption date. If such notice is conditional and either the Trustee receives written notice from the Borrower that moneys sufficient to pay the redemption price will not be on

deposit on the redemption date, or such moneys are not received on or prior to the redemption date, then such notice shall be of no force and effect, the Trustee shall not redeem such Bonds and the Trustee shall give notice, in the same manner in which the notice of redemption was given, that such moneys were not or will not be so received and that such Bonds will not be redeemed.

(2) Notice of such redemption also shall be sent by certified mail, return receipt requested, overnight delivery service or other secure means (including electronic transmission), postage prepaid, to any registered owner of \$1,000,000 or more in aggregate principal amount of Bonds to be redeemed, to certain municipal registered securities depositories which are known to the Trustee to be holding Bonds and to at least two of the national information services that disseminate securities redemption notices, when possible, at least two days prior to the mailing of notices required by the first paragraph above, but in any event at least 15 days, but not more than 60 days, prior to the redemption date; provided that neither failure to receive such notice nor any defect in any notice so delivered shall affect the sufficiency of the proceedings for the redemption of such Bonds.

(3) Failure to give notice by mailing to the registered owner of any Bond designated for redemption or any defect in such notice shall not affect the validity of the proceedings for the redemption of such Bond.

(4) As long as DTC is effecting book-entry transfers of the Bonds or is acting as a registered securities depository with respect to any Bonds, the Trustee shall provide the notices specified in this Section 3.3 to the Securities Depository by overnight delivery service, facsimile transmission or by certified mail, return receipt requested at least one day prior to the mailing of the notice to Bondowners required pursuant to Section 3.3(1). It is expected that DTC shall, in turn, notify the DTC Participants and that the DTC Participants, in turn, will notify or cause to be notified the Beneficial Owners. Any failure on the part of DTC or a DTC Participant, or failure on the part of a nominee of a Beneficial Owner of a Bond (having been mailed notice from the Trustee, a DTC Participant or otherwise) to notify the Beneficial Owner of the Bond so affected, shall not affect the validity of the redemption of such Bond.

(5) Notice of redemption having been given in the manner provided above, and money sufficient for the redemption being held by the Trustee or Paying Agent for that purpose, thereupon the Bonds so called for redemption shall become due and payable on the redemption date, and interest thereon shall cease to accrue; and the owners of the Bonds so called for redemption shall thereafter no longer have any security or benefit under this Indenture except to receive payment of the redemption price for such Bonds.

Section 3.4 Payment of Bonds Upon Redemption. The Redemption Price of Bonds or portions thereof called for redemption in accordance with Section 3.3 shall be payable on the date of redemption upon presentation and surrender of such Bonds at the place or places of payment. If, on the Redemption Date, sufficient money shall have been deposited with the Trustee to effect such redemption in accordance with this Indenture, then interest shall cease to accrue on all Bonds or portions thereof so called for redemption.

Section 3.5 No Partial Redemption After Default. Anything in this Indenture to the contrary notwithstanding, if there shall have occurred and be continuing an Event of Default, there shall be no redemption of less than all of the Bonds at the time Outstanding.

Section 3.6 Cancellation. All Bonds which have been redeemed shall be cancelled by the Trustee as provided in Section 2.11 and shall not be reissued.

ARTICLE 4

GENERAL COVENANTS

Section 4.1 Payment of Principal, Premium and Interest. Solely from the money derived from the Loan Agreement (other than to the extent payable from proceeds of the Bonds or temporary investments), the Issuer will duly and punctually pay the principal of, premium, if any, and interest on the Bonds in accordance with the terms of the Bonds and this Indenture. Money derived from the Loan Agreement include all money derived from the Granting Clauses set forth herein, including, but not limited to, Basic Payments under the Loan Agreement and trust funds deposited in the funds and accounts established under Article 5 herein to the extent and in the manner provided in said Article. Nothing in the Bonds or in this Indenture shall be considered as assigning or pledging funds or assets of the Issuer other than those covered by the Granting Clauses set forth herein.

Section 4.2 Performance of and Authority for Covenants. The Issuer covenants that it is duly authorized under the Act to issue the Bonds authorized hereby, to execute this Indenture, to loan the Bond proceeds to the Borrower and to assign and pledge the payments from the Loan Agreement in the manner and to the extent herein set forth; that all action on its part for the issuance of the Bonds and the execution and delivery of this Indenture has been duly and effectively taken.

Section 4.3 Instruments of Further Assurance. The Issuer covenants that it has not made, done, executed or suffered, and will not make, do, execute or suffer, any act or thing whereby its interest in the Loan Agreement or any part thereof is now or at any time hereafter impaired, changed or encumbered in any manner whatsoever, except as may be expressly permitted herein; and that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such instruments supplemental hereto and such further acts, instruments and transfers as the Trustee may reasonably require for the better assuring, transferring, pledging, assigning and confirming unto the Trustee all and singular the sums assigned and pledged hereby to the payment of the principal of and interest on the Bonds.

Section 4.4 Recording and Filing. The Trustee covenants that solely from available Additional Charges it will require the Borrower to cause this Indenture, the Mortgage, the Security Documents and all supplements thereto, to be kept, recorded and filed in such manner and in such places as may be required by law in order to preserve and protect fully the security of the Holders of the Bonds and the rights of the Trustee hereunder and under any other instruments aforesaid.

Section 4.5 Books and Records. The Trustee covenants that so long as any Outstanding Bonds issued hereunder and secured by this Indenture shall be unpaid, the Trustee will keep proper books or records and accounts, in which full, true and correct entries will be made of all its financial dealings or transactions in relation to the Project and the payments derived from the Loan Agreement and this Indenture. At reasonable times and under reasonable regulations established by the Trustee, such books shall be open to the inspection of Holders and such accountants or other agencies as the Trustee may from time to time designate.

Section 4.6 Bondholders' Access to Bond Register. Except as otherwise may be provided by law, the Bond Register shall not be deemed a public record and shall not be made available for inspection by the public, unless and until notice to the contrary is given to the Trustee by the Issuer.

Section 4.7 Rights Under Loan Agreement. The Loan Agreement sets forth covenants and obligations of the Issuer and the Borrower, and reference is hereby made to the same for a detailed

statement of said covenants and obligations. The Issuer agrees to cooperate in the enforcement of all covenants and obligations of the Borrower under the Loan Agreement and agrees that the Trustee in its name or in the name of the Issuer may enforce all rights of the Issuer and all obligations of the Borrower under and pursuant to the Loan Agreement and on behalf of the Holders, whether or not the Issuer has undertaken to enforce such rights and obligations.

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ARTICLE 5

FUNDS AND ACCOUNTS

Section 5.1 “Trust Money” Defined. All money received by the Trustee:

- (1) as elsewhere herein provided to be held and applied under this Article 5, or required to be paid to the Trustee and whose disposition is not elsewhere herein otherwise specifically provided for, including, but not limited to the investment income of all Trust Funds held by the Trustee under this Indenture; or
- (2) as proceeds from the sale of the Bonds; or
- (3) as Basic Payments, or as otherwise payable under the Loan Agreement;

(all such money being herein sometimes called “Trust Money”) shall be held by the Trustee as a part of the Trust Estate, and, upon the exercise by the Trustee of any remedy specified in Article 8 hereof, such Trust Money shall be applied in accordance with Section 8.6 hereof, except to the extent that the Trustee is holding in Trust Money or Government Obligations, as the case may be, for the payment of any specified Bonds which are no longer deemed to be Outstanding under the provisions of Article 7 hereof, which money or Government Obligations shall be applied only as provided in said Article 7. Prior to the exercise of any such remedy, all or any part of the Trust Money shall be held, invested, withdrawn, paid or applied by the Trustee, from time to time, as provided in this Article 5, in Article 6 and Article 7 hereof.

Section 5.2 Project Fund.

(1) There is hereby created a Project Fund. Proceeds of the Bonds deposited in the Project Fund shall be disbursed by the Trustee in accordance with the applicable provisions of Article 3 of the Loan Agreement and the Disbursing Agreement. The Issuance Expenses of the Bonds may be disbursed by the Trustee from the Project Fund, upon a written request of the Borrower, without having to comply with the provisions of the Disbursing Agreement or the Loan Agreement regarding disbursement of Bond proceeds for the payment of Project Costs.

(2) Any sums in the Project Fund in excess of any amount required to pay Project Costs shall be transferred to the Bond Fund at the time or times and in the manner provided in Article 3 of the Loan Agreement.

(3) Any funds deposited in the Project Fund by the Borrower shall be disbursed before any proceeds of the Bonds, including any earnings thereon, shall be disbursed.

(4) Any interest earned on sums held in the Project Fund prior to the Completion Date shall remain a part of the Project Fund.

Section 5.3 Bond Fund.

(1) There is hereby created a Bond Fund.

(a) There shall be credited to the Bond Fund, as and when received:

(i) each payment received by the Trustee under and pursuant to any of the provisions of this Indenture or the Loan Agreement which is required to be paid into the Bond Fund, or which is accompanied by directions that such payment is to be credited to the Bond Fund;

(ii) funds transferred from the Capitalized Interest Fund pursuant to Section 5.4(1);

(iii) all income derived from the investment of amounts described in clause (i), as realized.

(b) The Trustee shall disburse, from time to time, sufficient money from the Bond Fund as specified below to pay the principal of, premium, if any, and the interest on, the Bonds as the same become due and payable.

(c) If any Bond shall not be presented for payment at maturity, provided money sufficient to pay such Bond shall have been made available to the Trustee and are held by the Trustee for the benefit of the Holder thereof, all liability of the Issuer to the Holder thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such money, without liability for interest thereon, for the benefit of the Holder of such Bond, who shall thereafter be restricted exclusively to such money for any claim of whatever nature on his part hereunder or on, or with respect to, such Bond.

(d) Any money remaining in the Bond Fund after payment in full of all Bonds, and payment of the fees, charges and expenses of the Trustee, the Paying Agent, the Issuer and any Co-Paying Agent which have accrued and which will accrue and all other items required to be paid hereunder shall be paid to the Borrower.

(e) Money in the Bond Fund shall be invested as provided in Section 6.1 hereof.

(f) At any time upon request, the Trustee shall advise the Borrower and the Investor Limited Partner of the amount of funds determined by the Trustee to be necessary to redeem the Bonds in full pursuant to Section 3.1(3) of the Indenture, which determination shall take into account any moneys on deposit in the Capitalized Interest Fund that may be applied to the redemption price of the Bonds pursuant to this Indenture.

(2) Any surplus money in the Project Fund at the Completion Date which are transferred to the Bond Fund as provided in Section 5.2(2) (and interest earned thereon) shall be used by the Trustee (a) to redeem the largest number of Bonds callable, without premium or penalty, under the terms of this Indenture at the first opportunity or (b) to pay that portion of the annual principal due on the Bonds in an amount that bears the same ratio to the annual principal due that the total of such surplus funds bears to the face amount of the Bonds; and such funds transferred to the Bond Fund shall not be invested in by the Trustee to produce a yield greater than the yield on the Bonds, as required by Internal Revenue Service Revenue Procedure 79-5, Revenue Procedure 81-22 and 26 CFR 601.201 (and any subsequent amendments, modifications or replacements thereof), provided that, if the Trustee receives a Favorable Opinion of Bond Counsel, the funds may be invested at a yield greater than the yield on the Bonds or the balance may be applied to meet current debt service requirements and accordingly become a part of the balance in the Bond Fund which may be credited against current installments of Basic Payments.

Section 5.4 Capitalized Interest Fund.

(1) There is hereby created a Capitalized Interest Fund. The Trustee shall credit to the Capitalized Interest Fund the amounts set forth in the Issuer Request to be delivered pursuant to Section 2.5 hereof. Funds in the Capitalized Interest Fund shall be transferred automatically by the Trustee to the Bond Fund on the last Business Day of the month prior to a month in which an Interest Payment Date occurs in full or partial satisfaction of the interest payment payable by the Borrower with respect to the Bonds until the Capitalized Interest Fund is fully depleted.

(2) Any interest earned on sums held in the Capitalized Interest Fund prior to the Completion Date shall remain a part of the Capitalized Interest Fund.

(3) Any funds remaining in the Capitalized Interest Fund following the Completion Date of the Project shall be transferred to the Bond Fund.

Section 5.5 Rebate Fund.

(1) There is hereby created a Rebate Fund. The Trustee shall deposit in the Rebate Fund, upon receipt, all rebate amounts deposited with the Trustee in accordance with Section 7.7(13) of the Loan Agreement; and for purposes of making such deposits the Trustee shall, at the direction of the Borrower, transfer from the appropriate fund to the Rebate Fund a sum equal to any rebate amounts attributable to sums held in the Project Fund.

(2) The Trustee shall cooperate with the Borrower in making the determinations for each computation required pursuant to 7.7(13) of the Loan Agreement; and to that end, the Trustee shall, within 30 days after the end of the fifth Bond Year, prepare and file with the Borrower a report with respect to the Project Fund setting forth the total amount invested during the preceding five Bond Years, the investments made with the money in the Project Fund and the investment earnings (and losses) resulting from such investments, together with such additional information concerning the Bond Fund and the investments therein as the Rebate Consultant (as defined in 7.7(13) of the Loan Agreement) or the Borrower shall reasonably request.

(3) The Trustee shall remit sums in the Rebate Fund to the United States as provided in Section 7.7(13) of the Loan Agreement.

(4) Upon written direction of the Borrower, the Trustee shall remit to the Borrower, or transfer to the Bond Fund, any surplus rebate sums held in the Rebate Fund as provided in Section 7.7(13) of the Loan Agreement.

Section 5.6 Deposit of Funds with Paying Agent.

(1) The Trustee shall transfer and remit sums from the Bond Fund to the Paying Agent in advance of each interest and principal due date and redemption date, from the balance then on hand in the Bond Fund, sufficient to pay all principal, interest and redemption premiums then due on the Bonds. The Paying Agent shall hold in trust for the Holders of such Bonds all sums so transferred to it until paid to such Holders or otherwise disposed of as herein provided.

(2) Interest on each Bond including accrued interest to the date of deposit and interest, to the extent permitted by law, on overdue installments of interest at the rate borne by such Bond, (a) shall cease on its Stated Maturity, or on any prior date on which it shall have been duly called for redemption as herein provided, provided that funds sufficient for the payment thereof with accrued interest and any redemption premium have been deposited with the Paying Agent on or before the Stated Maturity or

Redemption Date, as the case may be, and in the case of redemption, that the requirements of Article 3 have been complied with, or (b) shall cease on any date after Stated Maturity on which such deposit has been made, and the Holder shall have no further rights with respect to the Bonds or under this Indenture except to receive the payment so deposited.

(3) If any Bond is not presented for payment when due and funds sufficient to pay such Bond shall have been paid to the Trustee (or other Paying Agent, if any): (a) all liability of the Issuer for payment of such Bond shall forthwith cease, (b) such Bond shall forthwith cease to be entitled to any lien, benefit or security under this Indenture, and the Holder of such Bond shall forthwith have no rights in respect thereof except to receive payment thereof, and (c) the Trustee (or other Paying Agent, if any) shall hold such funds, without liability for interest thereon, for the benefit of the Holder of such Bond. Any money still held by the Trustee (or other Paying Agent, if any) after two years and eleven months from the date on which the Bond with respect to such amount was paid to the Trustee (or other Paying Agent, if any), shall, if and to the extent permitted by law, be paid by the Trustee (or other Paying Agent, if any) to the Borrower and shall be discharged from the trust and all liability of the Paying Agent or the Trustee with respect to such trust money shall cease; and the Bondholders shall thereafter be entitled to look only to the Borrower for payment, and the Borrower shall not be liable for any interest thereon.

(4) If there is any Paying Agent who is not the Trustee, the Trustee will cause such Paying Agent to execute and deliver to it an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section 5.7, that such Paying Agent will:

(a) hold all sums held by it for the payment of principal of (and premium, if any) or interest on Bonds in trust for the benefit of the Holders of such Bonds until such sums shall be paid to such Holders or otherwise disposed of as herein provided; and

(b) at any time during the continuance of any default in the making of any such payment of principal (and premium, if any) or interest, upon the written request of the Trustee forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

The Trustee, acting as Paying Agent, shall also be bound by the terms of the foregoing requirements.

ARTICLE 6

INVESTMENTS

Section 6.1 Investments by Trustee.

(1) Except during the continuance of an Event of Default, and subject to the provisions of Section 8.2, money held for the credit of the funds established by Article 5 shall be held by the Trustee as required by law and shall at the written request of the Representative of the Borrower, to the extent practicable and permitted by the Act, and except as provided below with respect to the moneys in the Bond Fund be invested as received and reinvested by the Trustee in Permitted Investments (including investments in securities authorized by the Act, through a common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank in its capacity as trustee, certificates of deposit, and repurchase agreements).

Subject to Minnesota Statutes, as to the investment of sums (other than Bond proceeds) held in the Bond Fund, the type, amount and maturity of such investments shall be as specified by the Representative of the Borrower, provided that sums in the Bond Fund may in any event only be invested in securities which mature or are subject to redemption or repurchase at the option of the Trustee on or prior to the date or dates on which the Trustee anticipates that cash funds will be required.

(2) The Trustee shall sell and reduce to cash funds a sufficient portion of investments under the provisions of this Section whenever the cash balance in the fund for which the investment was made is insufficient for its current requirements. Securities so purchased as an investment of money shall be held by the Trustee, shall be registered in the name of the Trustee if registration is required, and shall be deemed at all times a part of the applicable fund, and the interest accruing thereon and any profit realized from such investments shall be credited to the fund from which the investment was made, subject to any transfer to another fund as herein provided. Any loss resulting from such investment shall be charged to the fund from which the investment was made.

(3) The Trustee may purchase from or sell to itself, or through any affiliated company, as principal or agent, securities herein authorized so long as such purchase or sale is at fair market value.

Section 6.2 Return on Investments.

(1) In directing investments pursuant to Section 8.3 of the Loan Agreement, the Borrower will not instruct the Trustee to use the proceeds of the Bonds or other sums pledged to the payment of the Bonds, directly or indirectly, to acquire any securities or obligations the acquisition of which would cause any of the Bonds to be an “arbitrage bond” as defined in Section 148 of the Code, and for this purpose the Trustee, in order to restrict yield on investments, may invest in SLGS (and accordingly is hereby authorized to act as agent of the Issuer for such purpose). The Trustee shall be fully protected in relying on an opinion of Bond Counsel with respect to whether the acquisition of any securities or obligations would have the effect prohibited by this Section.

(2) No money in any fund or account shall be invested in investments which cause the Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code. If at any time the money in all funds and accounts relating to the Bonds exceed, within the meaning of Section 149(b) of the Code, (a) amounts invested for an initial temporary period until the money is needed for the purpose for which the Bonds were issued, (b) investments of a bona fide debt service fund, and (c) investments of a reserve which meet the requirement of Section 148(d) of the Code, then money in excess of such amounts shall

be invested at the direction of the Borrower pursuant to Section 8.3 of the Loan Agreement in (i) obligations issued by the United States Treasury, (ii) other investments permitted under regulations, or (iii) obligations which are (a) not issued by, or guaranteed by, or insured by, the United States or any agency or instrumentality thereof or (b) not federally insured deposits or accounts, all within the meaning of Section 149(b) of the Code. The Trustee shall not take any action or do anything the effect of which shall be to cause the Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code.

(3) The provisions of this Section 6.2 shall survive discharge and release of the Indenture.

Section 6.3 Computation of Balances in Funds. In computing the assets of any fund established hereunder, investments and accrued but unpaid interest thereon shall be deemed a part thereof, and such investments shall be valued at par value, or at the Redemption Price thereof, if then redeemable at the option of the holder; provided that in any event for purposes of determining whether any balance in a fund may only be invested at a restricted yield to comply with Section 148 of the Code and the federal arbitrage regulations, any investments in the fund shall be valued at their par value or the price (less accrued interest) at which they were purchased, whichever is the greater.

Section 6.4 Rebate to United States. The Bonds are subject to the rebate to the United States of earnings in excess of the yield on the Bonds imposed by Section 148 of the Code and Section 1.148-3 of the Treasury Regulations. The Trustee shall have no obligation to calculate the amount of, or make, any required rebate as provided in Section 5.5. The Trustee shall cooperate with the Borrower in determining the amount of any rebate.

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ARTICLE 7

DISCHARGE OF LIEN

Section 7.1 Payment of Bonds; Satisfaction and Discharge of Bonds and Obligation to Bondholders. Whenever the conditions specified in either clause (a) or clause (b) of the following subsection (1) and the conditions specified in the following subsections (2) and (3) to the extent applicable, shall exist, namely:

(1) either

(a) all Bonds have been cancelled by the Trustee or delivered to the Trustee for cancellation, excluding, however,

(i) Bonds for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Paying Agent or Trustee and thereafter repaid to the Borrower or discharged from such trust, and

(ii) Bonds alleged to have been destroyed, lost or stolen which have been replaced or paid as provided in Section 2.6 hereof, and (a) which, prior to the satisfaction and discharge of this Indenture as hereinafter provided, have not been presented to the Paying Agent or the Trustee with a claim of ownership and enforceability by the Holder thereof, or (b) whose enforceability by the Holder thereof has been determined adversely to the Holder by a court of competent jurisdiction or other competent tribunal; or

(b) the Issuer or the Borrower has deposited or caused to be deposited as trust funds:

(i) with the Paying Agent, cash which shall be sufficient, or

(ii) with the Trustee cash and/or Government Obligations, which do not permit the redemption thereof at the option of the issuer thereof, the principal of, premium, if any, and interest on which when due (or upon the redemption thereof at the option of the holder), will, without reinvestment, provide cash which together with the cash, if any, deposited with the Trustee at the same time, shall be sufficient,

to pay and discharge the entire indebtedness on Bonds not theretofore cancelled by the Trustee or delivered to the Trustee for cancellation by the payment of interest on and principal (and premium, if any) of the Bonds which have become due and payable or which shall become due at their Stated Maturity or Redemption Date, as the case may be, and which are to be discharged under the provisions hereof, and has made arrangements satisfactory to the Trustee for the giving of notice of redemption, if any, by the Trustee in the name, and at the expense, of the Borrower in the same manner as is provided by Section 3.2 hereof; and

(2) the Borrower has paid, caused to be paid or made arrangements satisfactory to the Trustee for the payment of all other sums payable hereunder and under the Loan Agreement, and the Related Documents by the Trustee or the Borrower until the Bonds are so paid; and

(3) the Borrower has delivered to the Trustee a report of an Independent Accountant stating that the payments to be made on the security referred to in clause (b)(ii) of subsection (1) above will be sufficient to pay when due the principal of, premium, if any, and interest on the Bonds to be defeased; and

(4) if discharge is to be effected under clause (b) of subsection (1), an opinion of Bond Counsel is delivered to the Trustee stating in effect that such discharge will not impair the tax exempt status of the Bonds;

then, except as otherwise provided in Article 7 and Sections 8.2 and 9.3, the rights of the Bondholders shall be limited to the cash or cash and securities deposited as provided in paragraph 1, clauses (a) or (b) above, and upon the Borrower's request the rights and interest hereby granted or granted by the Loan Agreement and the Collateral Documents to or for the benefit of the Trustee or Bondholders shall cease, terminate and become null and void, and the Issuer and the Trustee shall, at the expense of the Borrower, execute and deliver such instruments of satisfaction and transfer as may be necessary, and forthwith the estate, right, title and interest of the Trustee in and to all of the Project and in and to all rights under the Loan Agreement and this Indenture (except the money or securities or both deposited as required above and except as may otherwise be provided in Article 7 and Sections 8.2 and 9.3 shall thereupon be discharge and satisfied); except that in any event the obligations of the Borrower under Sections 7.4, 7.7, 7.8, 10.10, 10.11, 10.12, and 10.13 of the Loan Agreement shall survive.

Section 7.2 Discharge of the Indenture. Notwithstanding the fact that the lien of this Indenture upon the Trust Estate may have been discharged and cancelled in accordance with Section 7.1 hereof, this Indenture and the rights granted and duties imposed hereby, to the extent not inconsistent with the fact that the lien upon the Trust Estate may have been discharged and cancelled, shall nevertheless continue and subsist until the principal of and the interest on, all of the Bonds shall have actually been paid in full and the Trustee shall have applied all funds theretofore held by the Trustee for payment of any Bonds not theretofore presented for payment or purchase, as the case may be, which funds shall be held in trust solely for the Holders of such Bonds pending their application in accordance herewith.

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ARTICLE 8

DEFAULT PROVISIONS AND REMEDIES

Section 8.1 Events of Default. Each of the following events is hereby defined as, and declared to be and to constitute, an “Event of Default” hereunder:

- (1) default in the due and punctual payment of any interest on any Bond; or
- (2) default in the due and punctual payment of the principal of any Bond at its Stated Maturity; or
- (3) if default shall be made in the due and punctual payment of any other money required to be paid to the Trustee under the provisions hereof and such default shall have continued for a period of 30 days after written notice thereof, specifying such default, shall have been given by the Trustee to the Issuer and the Borrower, or to the Issuer, the Borrower and the Trustee by the Holders of not less than 25% in aggregate principal amount of the then Outstanding Bonds; or
- (4) if default shall be made in the performance or observance of any other of the covenants, agreements or conditions on the part of the Issuer contained in this Indenture or in the Bonds, and such default shall have continued for a period of 30 days after written notice thereof given in the manner provided in clause (3) above. Notwithstanding the foregoing, if the default reasonably requires more than 30 days to cure, such default shall not constitute an Event of Default, provided that the curing of the default is promptly commenced upon receipt by the Issuer of the notice of the default, and with due diligence is thereafter continuously prosecuted to completion and is completed within a reasonable period of time, and provided that Issuer keeps the Trustee well informed at all times of its progress in curing the default; provided in no event shall such additional cure period extend beyond 60 days; or
- (5) the occurrence of an Act of Bankruptcy; or
- (6) the occurrence of an “Event of Default” under the Loan Agreement, the Security Documents or the Mortgage.

The Investor Limited Partner or the Special Limited Partner in the Borrower shall have the right, but not the obligation, to cure Events of Default on behalf of the Borrower.

Section 8.2 Acceleration.

- (1) Upon the occurrence of an Event of Default referred to in Section 8.1 hereof, the Trustee may, and at the written request of the Holders of not less than 25% in aggregate principal amount of the Outstanding Bonds shall, by notice in writing delivered to the Issuer and the Borrower declare the principal of all Bonds immediately due and payable, whereupon the same shall become immediately due and payable any time herein or in the Bonds to the contrary notwithstanding.
- (2) Upon any declaration of acceleration, or occurrence resulting in acceleration under this Section 8.2, the Trustee shall immediately declare the Basic Payments required to be made by the Borrower under the Loan Agreement to be immediately due and payable in accordance with Section 9.2 of the Loan Agreement.

(3) Upon any acceleration required under this Section 8.2, interest shall cease to accrue on the Bonds as of the date of declaration of such acceleration.

(4) Except as provided in this Section 8.2, under no other circumstances may the Trustee accelerate the payment of the Bonds.

Section 8.3. Remedies.

(1) Subject to the provisions of Section 8.2, upon the occurrence of an Event of Default and acceleration of the Bonds, the Trustee may proceed to pursue any available remedy by suit at law or in equity to enforce all rights of the Bondholders, including without limitation the right to the payment of the principal or premium, if any, and interest on the then Outstanding Bonds. Upon the occurrence of an Event of Default under the Loan Agreement, the Trustee may also enforce any and all rights, if any, of the Issuer thereunder. The Issuer may also exercise any of its rights as provided in Section 9.12 of the Loan Agreement.

(2) If any Event of Default shall have occurred, and if it shall have been requested to do so by the Holders of 75% in aggregate principal amount of the then Outstanding Bonds, and if it shall have received an indemnity bond as provided in Section 9.1 hereof, the Trustee shall be obliged to exercise such rights and powers conferred on the Trustee by this Section and Section 8.2 as the Trustee (being advised by Independent Counsel), shall deem most expedient in the interests of the Bondholders; provided, however, that the Trustee shall have the right to decline to comply with any such request if the Trustee shall be advised by Independent Counsel that the action so requested may not lawfully be taken or if the Trustee in good faith shall determine that such action would be unjustly prejudicial to the Bondholders not parties to such request.

(3) No remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the Bondholders) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy (i) given to the Trustee or to the Holders hereunder or (ii) now or hereafter existing at law or in equity or by statute.

(4) No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default, or acquiescence therein; and every such right and power may be exercised from time to time and as often as may be deemed expedient.

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

Section 8.4 Direction of Proceedings By Bondholders. The Holders of a majority in aggregate principal amount of the then Outstanding Bonds shall have the right, at any time, 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, the Loan Agreement, the Collateral Documents or for the appointment of a receiver or any other proceedings hereunder; provided, that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture.

Section 8.5 Waiver of Stay or Extension Laws. Upon the occurrence of an Event of Default, to the extent that such rights may then lawfully be waived, neither the Issuer nor anyone claiming through it or under it shall or will set up, claim, or seek to take advantage of any appraisalment, valuation, stay,

extension or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement of this Indenture, but the Issuer, for itself and all who may claim through or under it, hereby waives to the extent that it lawfully may do so the benefit of all such laws and all right of appraisal and redemption to which it may be entitled under the laws of the State of Minnesota.

Section 8.6 Priority of Payment and Application of Money. All money received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of the costs and expenses of the proceedings resulting in the collection of such other money and of the related expenses, liabilities and advances incurred or made by the Issuer or the Trustee, be deposited in the Bond Fund. All money in the Bond Fund shall be applied, subject to the provisions of Article 5, as follows:

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

FIRST: To the payment to the Persons entitled thereto of all installments of interest then due on the Bonds, in the order of the maturity of the installments of such interest and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the Persons entitled thereto, without any discrimination or privilege;

SECOND: To the payment to the Persons entitled thereto the unpaid principal of any of the Bonds which shall have become due in the order of their due dates with interest on such Bonds at the applicable rate and, if the amount available shall not be sufficient to pay in full the unpaid principal on Bonds due on any particular due date, then to the payment ratably, according to the amount of principal and premium, if any, due on such date, to the Persons entitled thereto, without any discrimination or privilege; and

(2) If the principal of all Bonds shall have become due or shall have been declared due and payable, all such money shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds, without preference or priority of principal or any redemption premium over interest or of interest over principal or any redemption premium, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Persons entitled thereto, without any discrimination or privilege.

(3) If the principal of all the Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of this Article, then, subject to the provisions of paragraph (2) of this Section in the event that the principal of all the Bonds shall later become due or be declared due and payable, the money shall be applied in accordance with the provisions of paragraph (1) of this Section.

Whenever money is to be applied by the Trustee pursuant to the provisions of this Section, such money shall be applied by it at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such money available for application and the likelihood of additional money becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall (i) fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue and (ii) on or before such date set aside the money necessary to effect such application. The Trustee shall give to the Bondholders mailed notice of the deposit with it of any such money and of the fixing of any such date. Neither the Trustee nor any Paying

Agent shall be required to make payment to the Holder of any Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Whenever all Bonds and interest thereon have been paid under the provisions of this Section 8.6, and all expenses and charges of the Trustee and the Issuer have been paid, any balance remaining shall be paid to the person entitled to receive the same pursuant to Section 12.9.

Section 8.7 Remedies Vested in Trustee. All rights of action (including the right to file proof of claims) under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any Holders of the Bonds, and any recovery or judgment shall be for the equal benefit of the Holders of the Outstanding Bonds to the extent and in the manner provided herein. The Issuer and the Trustee hereby agree, without in any way limiting the effect and scope thereof, that the pledge and assignment hereunder to the Trustee of all rights included within the Trust Estate shall constitute an agency appointment coupled with an interest on the part of the Trustee which, for all purposes of this Indenture, shall be irrevocable and shall survive and continue in full force and effect notwithstanding the bankruptcy or insolvency of the Issuer or its default hereunder or on the Bonds.

Section 8.8 Rights and Remedies of Holders. No Holder of any Bond shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture, the Loan Agreement, or for the execution of any trust hereof or any remedy hereunder or thereunder or for the appointment of a receiver, unless: (1) a default thereunder shall have become an Event of Default and the Holders of 75% in aggregate principal amount of the Bonds then Outstanding shall have made written request to the Trustee and shall have offered it reasonable opportunity either to proceed to exercise the powers hereunder granted or to institute such action, suit or proceeding in its own name; (2) such Holders shall have offered to indemnify the Trustee as provided in Section 11.1(11); and (3) the Trustee shall thereafter fail or refuse to exercise within a reasonable period of time the remedies hereunder granted, or to institute such action, suit or proceeding in its own name. Such notification, request and offer of indemnity are hereby declared in every such case at the option of the Trustee to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, the Loan Agreement, or for the appointment of a receiver or for any other remedy hereunder; it being understood and intended that no one or more Holders of the Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture, by its, his or their action or to enforce any right thereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Holders of all Bonds then Outstanding, provided, however, that nothing herein shall be construed to preclude any Bondholder from enforcing, or impair the right of any Bondholder to enforce, the payment by the Trustee of principal of, and interest and premium, if any, on any Bond of such Bondholder at or after its date of maturity, if and to the extent that such payment is required to be made to such Bondholder by the Trustee from available funds in accordance with the terms hereof.

Section 8.9 Termination of Proceedings. In case the Trustee shall have proceeded to enforce any right under this Indenture or the Loan Agreement by the appointment of a receiver, by entry and possession or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then and in every such case the Issuer and the Trustee shall be restored to their former positions and rights hereunder with respect to the property herein conveyed, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 8.10 Waiver of an Event of Default. The Trustee may waive any Event of Default and its consequences and shall do so upon written request of the Holders of a majority in aggregate principal amount of the Bonds then Outstanding. No Event of Default giving rise to mandatory acceleration may be waived. No such waiver or rescission shall extend to any subsequent or other Events of Default, or impair any right consequent thereon.

Section 8.11 Borrower as Agent of Issuer.

(1) No default under Section 8.1(4) of this Indenture shall constitute an Event of Default until actual notice of such default by registered or certified mail shall be given by the Trustee to the Issuer, the Borrower, and the Issuer and the Borrower shall have had the time permitted by the applicable subsection after receipt of such notice to correct said default or cause said default to be corrected and the Issuer or Borrower shall not have corrected said default or caused said default to be corrected within said time.

(2) With regard to any alleged default concerning which notice is given to the Borrower under the provisions of this Section 8.11, the Issuer hereby names and appoints the Borrower as its attorney-in-fact and agent with full authority to perform any covenant or obligation of the Issuer alleged in said notice to constitute a default, in the name and stead of the Issuer with full power to do any and all things and acts to the same extent that the Issuer could do and perform any such things and acts and with power of substitution; provided that the Borrower shall give the Issuer notice of its intention so to perform on behalf of the Issuer, and provided further that the Issuer may at any time, by a writing addressed to the Borrower withdraw, limit or modify the appointment hereby made.

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ARTICLE 9

THE TRUSTEE

Section 9.1 Acceptance of the Trustee. The Trustee, prior to the occurrence of an Event of Default, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture; and no implied covenants or obligations should be read into this Indenture against the Trustee. In case an Event of Default has occurred, the Trustee agrees to perform such trusts as an ordinarily prudent trustee under a corporate indenture, but in any such event, only upon and subject to the following express terms and conditions:

(1) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers, or employees, but shall be answerable for the conduct of the same in accordance with the standard specified above, and shall be entitled to advice of counsel concerning all matters of trusts hereof and duties hereunder, and may in all cases pay such reasonable compensation to any attorney, agent, receiver or employee retained or employed by it in connection herewith. The Trustee may act upon the written opinion or written advice of any attorney, surveyor, engineer or accountant selected by it in the exercise of reasonable care or, if selected or retained by the Issuer, approved by the Trustee in the exercise of such care, provided that the only legal advice or opinion that the Trustee may rely upon for purposes of securing advice or an opinion relating to the tax exempt status of the Bonds is given by Bond Counsel. The Trustee shall not be responsible for any loss or damage resulting from any action or nonaction in good faith in reliance upon such opinion or advice.

(2) The Trustee shall not be responsible for any recital herein, or in the Bonds (except with respect to the certificate of the Trustee endorsed on the Bonds) or for the investment of money as herein provided, except as may be provided in Section 6.1, or for the validity of the execution by the Issuer of this Indenture, or of any supplemental indentures or instruments of further assurance, or for the sufficiency of any security for the Bonds issued hereunder or intended to be secured hereby, or for the value of title of the property herein conveyed, if any, or otherwise as to the maintenance of the security hereof; except as otherwise provided in Section 4.4 and except that in the event the Trustee enters into possession of a part or all of the property conveyed pursuant to any provisions of this Indenture, it shall use due diligence in preserving such property. The Trustee may, but shall be under no duty to, require of the Borrower full information and advice as to the performance of the covenants, conditions and agreements in the Loan Agreement as to the condition of the Project and the performance of all other obligations thereunder and shall use its best efforts, but without any obligation, to advise the Issuer and the Borrower of any impending Event of Default known to the Trustee.

(3) The Trustee shall not be accountable for the use or application by the Issuer or the Borrower of any of the Bonds or the proceeds thereof (except as herein expressly provided) or for the use or application of any money paid over by the Trustee in accordance with the provisions of this Indenture or for the use and application of money received by any Paying Agent. The Trustee may become the owner of Bonds secured hereby with the same rights it would have if not Trustee.

(4) The Trustee shall be protected in acting upon any written notice, order, requisition, request, consent, certificate, opinion (including an opinion of Independent Counsel or Bond Counsel), affidavit, letter, telegram or other paper or document reasonably believed by it to be genuine and correct and to have been signed or sent by the proper person or persons. 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, upon transfer thereof, or in place thereof.

(5) As to the existence or non-existence of any fact or as to the sufficiency or authenticity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a certificate of the Issuer signed by the Issuer Representative as sufficient evidence of the facts stated therein as the same appear from the books and records under the Issuer Representative's custody or control or are otherwise known to him. The Trustee may accept a certificate of the Issuer Representative under the seal of the Issuer to the effect that a motion, resolution or ordinance in the form therein set forth has been adopted by the governing body of the Issuer as conclusive evidence that such motion, resolution or ordinance has been duly adopted, and is in full force and effect, and may accept such motion, resolution or ordinance as sufficient evidence of the facts stated therein and the necessity or expediency of any particular dealing, transaction or action authorized or approved thereby, but may at its discretion, secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same.

(6) The Trustee shall not be answerable except for its own negligence, willful misconduct or willful default.

(7) 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 nonfulfillment of contracts during any period in which they may be in possession of or managing the real and tangible personal property as in this Indenture provided.

(8) At any and all reasonable times, the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right fully to inspect any and all of the property comprising the Project, including all books, papers and records of the Issuer pertaining to the Project and the Bonds, and to take such memoranda from and with regard thereto as may be desired.

(9) The Trustee shall not be required to give any bond or surety with respect to the execution of said trusts and powers or otherwise in respect to the premises.

(10) Notwithstanding anything elsewhere in this Indenture contained, the Trustee shall have the right, but shall not be required, to demand, with respect to the authentication of any Bonds, the withdrawal of any cash, the release of any property or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions (including opinions of Independent Counsel), appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action by the Trustee, deemed desirable for the purpose of establishing the right of the Issuer to the authentication of any Bonds, the withdrawal of any cash, the release of any property, or the taking of any other action by the Trustee.

(11) Before taking any action under this Indenture, the Trustee may require that they be furnished an indemnity bond satisfactory to them for the reimbursement of all expenses to which they may be put and to protect them against all liability except liability which is adjudicated to have resulted from the negligence, willful misconduct or willful default of the Trustee, by reason of any action so taken by the Trustee.

(12) All money received by the Trustee, the Paying Agent or any Co-Paying Agent for the Bonds shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required herein or by law. Neither the Trustee, the Paying Agent, nor any Co-Paying Agent shall be under any liability for interest on any money received hereunder except such as may be agreed upon.

(13) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of their duties hereunder, or in the exercise of any of their rights or powers, if they shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to them.

(14) The Trustee shall make no representation as to the validity or adequacy of this Indenture or the Bonds, it shall not be accountable for the Issuer's use of the proceeds of the Bonds or any money paid to the Issuer or upon the Issuer's direction under any provision hereof, it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee and it shall not be responsible for any statement or recital herein or any statement in the Bonds or any other document in connection with the sale of the Bonds or pursuant to this Indenture other than its certificate of authentication.

Section 9.2 Trustee's Fees, Charges and Expenses. The Trustee and any Paying Agent shall be entitled to payment and/or reimbursement for reasonable fees for services rendered hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Trustee in and about the execution of the trusts created by this Indenture and in and about the exercise and performance of the powers and duties of the Trustee hereunder and for the reasonable and necessary costs and expenses incurred in defending any liability in the premises of any character whatsoever (unless such liability is adjudicated to have resulted from the negligence, willful misconduct or willful default of the Trustee). In this regard the Issuer has made provisions in Section 4.4 of the Loan Agreement for the payment of said fees, advances, counsel fees, costs and expenses and reference is hereby made to the Loan Agreement for the provisions so made; and the Issuer shall not otherwise be liable for the payment of such sums. Upon an Event of Default, but only upon an Event of Default, the Trustee shall have a first lien with right of payment prior to payment on account of interest on or principal or premium, if any, of any Bond and upon the money received by it hereunder, for said fees, advances, counsel fees, costs and expenses incurred by it.

Section 9.3 Notice to Holders of Default. The Trustee shall give to the Bondholders written notice of all Events of Default known to the Trustee, within 90 days after the occurrence of an Event of Default; provided that, except in the case of an Event of Default in the payment of the principal of or interest on any of the Bonds, the Trustee shall be protected in withholding such notice if and so long as the Board of Directors, the executive committee or a trust committee of directors or chief executive officer of the Trustee in good faith determine that the withholding of such notice is in the interest of the Holders.

Section 9.4 Intervention by Trustee. In any judicial proceeding to which the Issuer is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of Holders of Bonds, the Trustee may intervene on behalf of Holders and shall do so if requested in writing by the Holders of at least 25% of the aggregate principal amount of Outstanding Bonds. The rights and obligations of the Trustee under this Section are subject to the approval of a court of competent jurisdiction in the premises.

Section 9.5 Successor Trustee. Any corporation, association or agency into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, ipso facto, shall be and become successor trustee and paying agent under this Indenture and vested with all of the title to the Trust Estate, and all the trusts, powers, discretions, immunities, privileges and

all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

Section 9.6 Resignation by Trustee. The Trustee and any successor trustee may at any time resign from the trusts hereby created by giving 30 days written notice to the Issuer and to the Borrower and by first class mail to each Holder of Bonds as shown on the Bond Register, and such resignation shall take effect upon the appointment of a successor trustee by the Holders or by the Issuer. Such notice to the Issuer and the Borrower may be served personally or sent by registered mail.

Section 9.7 Removal of Trustee. The Trustee may be removed at any time by an instrument or concurrent instruments in writing delivered to the Trustee, to the Borrower and to the Issuer, and signed by the Holders of a majority in aggregate principal amount of then Outstanding Bonds. Such removal shall only take effect upon the appointment of a successor trustee.

Section 9.8 Appointment of Successor Trustee. In case the Trustee shall resign or be removed, or be dissolved or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the Holders of a majority in aggregate principal amount of the then Outstanding Bonds, by an instrument or concurrent instruments in writing signed by such Holders, or by their attorney-in-fact, duly authorized. Nevertheless, in case of such vacancy the Issuer by resolution of its governing body may appoint a temporary trustee to fill such vacancy until a successor trustee shall be appointed by the Holders in the manner above provided; and any such temporary trustee so appointed by the Issuer shall immediately and without further act be superseded by the trustee so appointed by such Holders. Every such Trustee appointed pursuant to the provisions of this Section 9.8 shall be a trust company or bank having trust powers and having a reported capital and surplus not less than \$25,000,000, if there be such an institution willing, qualified and able to accept the trust upon reasonable or customary terms.

Section 9.9 Acceptance by Successor Trustees. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor, to the Borrower and also to the Issuer, an instrument in writing accepting such appointment hereunder, and thereupon such successor, without any further act, deed or conveyance shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessors as Trustee and Paying Agent; but such predecessor shall, nevertheless, on the written request of the Issuer, or of its successor Trustee, execute and deliver an instrument transferring to such successor Trustee all the estates, properties, rights, powers and trusts of such predecessor hereunder, and every predecessor Trustee shall deliver all securities and money held by it as Trustee hereunder to its successor. Should any instrument in writing from the Issuer be required by any successor Trustee for more fully and certainly vesting in such successor the estates, rights, powers and duties hereby vested or intended to be vested in the predecessor trustee, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article, shall be forthwith filed or recorded or both by the successor Trustee in each recording office where the Indenture shall have been filed or recorded or both.

Section 9.10 Right of Trustee to Pay Taxes and Other Charges. If any tax, assessment or governmental or other charge upon any part of the Trust Estate is not paid as required herein, the Trustee may pay such tax, assessment or charge, without prejudice, however, to any rights of the Trustee or the Bondholders hereunder arising in consequence of such failure; and any amount at any time so paid under this Section, or under the Loan Agreement, with interest thereon (to the extent permitted by law) from the

date of such payment until paid to the Trustee in full at a rate per annum equal to the prime rate, shall become so much additional indebtedness secured hereby, and the same shall be given a preference in payment over the principal of and the interest on, the Bonds and shall be paid out of the revenues and receipts from the Trust Estate, if not otherwise caused to be paid. The Trustee shall not be under an obligation to make any such payment unless it shall have been requested to do so by the Holders of at least 25% in principal amount of the Bonds then Outstanding and shall have been provided with sufficient money for the purpose of making such payment.

Section 9.11 Trustee Protected in Relying Upon Resolutions. The resolutions, orders, requisitions, opinions, certificates and other instruments provided for in this Indenture may be accepted by the Trustee as conclusive evidence of the facts and conclusions stated therein and shall be full warrant, protection and authority to the Trustee.

Section 9.12 Successor Trustee as Custodian of Bond Fund and Paying Agent. In the event of a change in the office of the Trustee the predecessor trustee which has resigned or been removed shall cease to be custodian of the funds described in Article 5 and shall cease to act as the Paying Agent for principal and interest on the Bonds, and the successor trustee shall be and become such custodian and Paying Agent.

Section 9.13 Co-Trustee. At any time or times, for the purpose of meeting any legal requirements of any jurisdiction in which any part of the Trust Estate may at the time be located, the Issuer and the Trustee shall have the power to appoint, and, upon the request of the Trustee or of the Holders of at least 51% in aggregate principal amount of the then Outstanding Bonds, 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 either to act as co-trustee or co-trustees, jointly with the Trustee, of all or any part of the Trust Estate, or to act as separate trustee or separate trustees of all or any part of the Trust Estate, and to vest in such person or persons, in such capacity, such right to the Trust Estate 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 9.13.

If the Issuer shall not have joined in such appointment within 15 days after the receipt by it of a request so to do, or in case an Event of Default shall have occurred and be continuing, the Trustee alone shall have power to make such appointment.

The Issuer shall 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.

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

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

(2) 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 jointly, 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.

(3) 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.

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

(5) The Trustee at any time, by an instrument in writing, with the concurrence of the Issuer, may accept the resignation of or remove any co-trustee or separate trustee appointed under this Section 9.13, and, in case of a continuing Event of Default 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 9.13.

(6) No trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder.

(7) Any demand, request, direction, appointment, removal, notice, consent, waiver or other action in writing delivered to the Trustee shall be deemed to have been delivered to each co-trustee or separate trustee.

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

Upon the acceptance in writing of such appointment by any such co-trustee or separate trustee, it or he shall be vested with such interest in and to the Trust Estate or any part thereof, and with such rights, powers, duties or obligations, as shall be specified in the instrument of appointment jointly with the Trustee (except insofar as local 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. Any co-trustee or separate trustee may, at any time by an instrument in writing, constitute the Trustee its or his attorney-in-fact and agent, with full power and authority to do all acts and things and to exercise all discretion on its or his behalf and in its or his name.

In case any co-trustee or separate trustee shall die, become incapable of acting, resign or be removed, the title to the Trust Estate 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 manner herein provided.

Section 9.14 Obligation to Trustee as to Reporting. The Trustee shall, at the request of the Borrower, cause to be filed any reports lawfully required by any public agency to be filed under any applicable security laws and any other reports lawfully required by any public agency to be filed under the Act or any other applicable state law. For this purpose the Trustee is entitled to require the Borrower to cause to be furnished to the Trustee whatever information is necessary to comply with such reporting requirements at the Borrower's sole expense.

Section 9.15 Successor Paying Agent. The provisions of Sections 9.5 through 9.9 with respect to removal, resignation and appointment of a successor trustee shall be equally applicable to resignation, removal and appointment of a successor to the Paying Agent. The Trustee shall be eligible for appointment as successor to the Paying Agent.

Section 9.16 Confirmation of the Trustee.

(1) At any time while Bonds remain Outstanding under this Indenture and in any of the following circumstances, to the extent permitted by law, to-wit:

(a) The Trustee is in doubt as to whether or not the Indenture or any Related Document or instrument requires Bondholders' consent or the consent of the Borrower, any guarantor, or the Issuer in connection with any proposed action;

(b) The Trustee has substantial doubt as to whether its consent to a proposed action, although authorized, should in the particular circumstances be given;

(c) The Trustee's consent is sought or deemed necessary in connection with a proposed action which is not specifically dealt with or contemplated by the Indenture or any other Related Document, or it is unclear whether the Indenture or other Related Document is intended to deal with the proposed action;

(d) There is a disagreement between any of the parties to the Indenture or any other Related Document as to whether a proposed action may be taken or is required to be taken;

(e) There appears to be a conflict, ambiguity or inconsistency between or among the provisions of the Indenture and any other Related Document other than as provided for in Sections 10.1 and 11.1 hereof;

(g) There is doubt as to whether or not a proposed action falls within one of the provisions of Sections 10.1 and 11.1 hereof authorizing such action without Bondholders' consent;

(g) Bondholders' consent is required by this Indenture or Related Document but consent cannot be obtained because:

(i) it is not possible to comply with requirements of this Indenture or any other Related Document as to the notice to be given to Bondholders with respect to the proposed matter requiring consent, or

(ii) if action is to be taken at a meeting of Bondholders, the requisite number of Bondholders (the quorum) necessary to be present at a meeting in order for a proposed action to be taken was not present at such meeting or any adjourned meeting;

(h) The Trustee wishes to depart from the procedures set forth in Section 12.3 for purposes of calling or conducting a meeting of the Bondholders; or in any other eventuality in which it shall be necessary to determine a question arising under or to construe this Indenture or any other Related Document, the Trustee may, and upon request of the Issuer, the Borrower or the Holders of 25% or more in principal amount of Outstanding Bonds shall, proceed in accordance with the provisions of Minnesota Statutes, Section 501.33 through 501.38, as amended.

If Bondholder's consent cannot be obtained because of the circumstances described in (1)(g) above a court of competent jurisdiction may amend or supplement the Loan Agreement or Indenture or any Related Document upon a proper showing of the necessity therefor.

(2) In construing and interpreting the Indenture and any other Related Document, the objective shall always be to ascertain and effectuate the intention of the parties. So far as possible and appropriate, and to the extent that it does not conflict with the provisions of the Indenture or the other Related Documents, the principles of statutory construction enunciated in Minnesota Statutes, Sections 645.16, 645.17, 645.18, 645.19 and 645.20, as amended, shall be applied in the interpretation and construction of the Indenture and other Related Documents.

(3) The Trustee or successor Trustee shall not be answerable for actions taken in compliance with any final order of the court. The Trustee or successor Trustee shall not be entitled to require an indemnity bond pursuant to Section 9.1, Subdivision (11), prior to taking any action directed by final order of the court.

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ARTICLE 10

SUPPLEMENTAL INDENTURES

Section 10.1 Supplemental Indentures Not Requiring Consent of Bondholders. The Issuer and the Trustee may, from time to time and at any time, without the consent of, or notice to, any of the Holders, and when so required by this Indenture shall, enter into an indenture or indentures supplemental to this Indenture as shall not be inconsistent with the terms and provisions hereof (which supplemental indenture or indentures shall thereafter form a part hereof), so as to thereby (1) cure any ambiguity or formal defect or omission in this Indenture or in any supplemental indenture, (2) grant to or confer upon the Trustee for the benefit of the Holders any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Holders or the Trustee, (3) more precisely identify the Trust Estate, or any other property which may become a part of the Trust Estate, (4) subject to the lien and pledge of this Indenture additional revenues, properties or collateral, (5) evidence the appointment of a separate trustee or a co-trustee or the succession of a new Trustee and/or Paying Agent hereunder, (6) modify, eliminate and/or add to the provisions of this Indenture to such extent as shall be necessary to prevent any interest on the Bonds from becoming taxable under the Federal income tax laws or to effect the qualification of this Indenture under the Trust Indenture Act of 1939, as then amended, or under any similar Federal statute hereafter enacted, and to add to this Indenture such other provisions as may be expressly permitted by said Trust Indenture Act of 1939, excluding however the provisions referred to in Section 316(a)(2) of said Trust Indenture Act of 1939, (7) make any other change which is required by any provision of this Indenture or which is deemed by the Trustee necessary to reconcile the Indenture with the Related Documents, or any amendments thereto, or (8) make any other change which in the judgment of the Trustee is necessary or desirable and will not materially prejudice any non-consenting Holder of a Bond.

Section 10.2 Supplemental Indentures Requiring Consent of Holders. Exclusive of supplemental indentures covered by Section 10.1 hereof and subject to the terms and provisions contained in this Section, and not otherwise, the Trustee, upon receipt of an instrument evidencing the consent to the below-mentioned supplemental indenture by the Holders of not less than 51% of the aggregate principal amount of the then Outstanding Bonds of the series affected thereby, shall join with the Issuer in the execution of such other indenture or indentures supplemental hereto as shall be deemed necessary and desirable 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; provided, however, that nothing herein contained shall permit or be construed as permitting (1) an extension of the maturity of the principal or of the interest on any Bond issued hereunder, or (2) a reduction in the principal amount of any Bond or the rate of interest thereon or any premium thereon, or (3) a privilege or priority of any Bond or Bonds over any other Bond or Bonds except as may be otherwise expressly provided herein, or (4) a reduction in the aggregate principal amount of the Bonds required for consent to such supplemental indenture, or (5) modifying any of the provisions of this Section without the consent of the Holders of 100% of the principal amount of all Bonds adversely affected thereby (“100% Bondholders’ Consent”).

If at any time the Issuer shall request the Trustee to enter into any such supplemental indenture for any of the purposes of this Section which does not require 100% Bondholders’ Consent, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such supplemental indenture to be mailed by first class mail, postage prepaid, to the Holders of the Bonds at the addresses shown on the Bond Register. Such notice shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on file at the principal office of the Trustee for inspection by all Bondholders. The Trustee shall not, however, be subject to any

liability to any Bondholder by reason of its failure to mail such notice to any particular Bondholder if notice was generally mailed to Bondholders, and any such failure shall not affect the validity of such supplemental indenture when consented to and approved as provided in this Section. If the Holders of not less than 51% in aggregate principal amount of the then Outstanding Bonds at the time of the execution of any such supplemental indenture shall have consented to and approved the execution thereof as herein provided, no Holder of any Bond shall have any right to object to any of the terms and provisions contained herein or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such supplemental indenture as in this Section permitted and provided, this Indenture shall be and is deemed to be modified and amended in accordance herewith.

Anything herein to the contrary notwithstanding, a supplemental indenture under this Article 10 which adversely affects the right of the Borrower under the Loan Agreement shall not become effective unless and until the Borrower shall have consented in writing to the execution and delivery of such supplemental indenture. In this regard, the Trustee shall cause notice of the proposed execution and delivery of any such supplemental indenture, together with a copy of the proposed supplemental indenture, to be mailed by certified or registered mail to the Borrower, the Investor Limited Partner and the Special Limited Partner at least 30 days prior to the proposed date of execution and delivery of any such supplemental indenture.

Section 10.3 Rights of Trustee. If, in the opinion of the Trustee, any supplemental indenture provided for in this Article affects the rights, duties or immunities of the Trustee under this Indenture or otherwise, the Trustee may, in its discretion, decline to execute such supplemental indenture, except to the extent that this may be required in the case of a supplemental indenture entered into under Section 10.1. The Trustee shall be entitled to receive, and shall be fully protected in relying upon, an opinion of Independent Counsel as conclusive evidence that any such supplemental indenture conforms to the requirements of this Indenture.

ARTICLE 11

AMENDMENTS TO AGREEMENT AND RELATED DOCUMENTS

Section 11.1 Amendments Not Requiring Bondholder Consent. The Issuer and/or the Trustee may, without the consent of or notice to the Bondholders, consent to any amendment, change or modification of the Related Documents:

(1) which may be required or permitted without Bondholder consent by the provisions of the Related Documents or this Indenture;

(2) for the purpose of curing any ambiguity or formal defect or omission;

(3) to reconcile the Related Documents with any amendment or supplement to the Indenture;
or

(4) to effect any other change to the Related Documents which, in the judgment of the Trustee, will not materially prejudice any non-consenting Holder of a Bond.

Section 11.2 Amendments Requiring Bondholder Consent. Except for amendments, changes or modifications as provided in Section 11.1, neither the Issuer nor the Trustee shall consent to any other amendment, change or modification of the Related Documents, without the giving of notice and the written approval or consent of the Holders of not less than 51% in aggregate principal amount of the Bonds of the series affected thereby, then Outstanding given and procured as provided in this Section; provided that in no event shall such amendment, change or modification relieve the Borrower of the obligation under the Related Documents to make when and as due any payments required for the payment of principal, interest and any premium due or to become due on the Bonds unless the consent of the Holders of all Bonds adversely affected thereby is first secured. If at any time the Issuer and the Borrower shall request the consent of the Trustee to any such proposed amendment, change or modification any Related Documents the Borrower shall request consent of the Trustee to any such proposed amendment, change or modification, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of such proposed amendment, change or modification to be given in the same manner as provided in Section 10.2 hereof with respect to supplemental indentures. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the principal office of the Trustee for inspection by all Holders. The Trustee shall not, however, be subject to any liability to any Holder by reason of its failure to mail such notice to any particular Bondholder if notice was generally mailed to Bondholders, and any such failure shall not affect the validity of such amendment, change or modification when consented to and approved as provided in this Section. If the Holders of not less than 51% in aggregate principal amount of the Bonds then Outstanding at the time of the execution of any such amendment shall consent to the execution thereof as herein provided, no Holder of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such amendment, the affected Related Document shall be deemed to be modified and amended in accordance therewith. Nothing in this Section contained shall permit or be construed as permitting any reduction in the payments required to be made (i) by Section 4.2 of the Loan Agreement or (ii) permitting a reduction or change in the Stated Maturities of the Bonds.

ARTICLE 12

MISCELLANEOUS PROVISIONS

Section 12.1 Consent of Holders. Any consent, request, direction, approval, objection or other instrument required by this Indenture to be signed and executed by the Holders may be in any number of concurrent writings of similar tenor and must be signed or executed by such Holders in person or by agent appointed in writing. Proof of the execution of any such consent, request, direction, approval, objection or other instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken by it under such request or other instrument, namely:

(1) The fact and date of the execution by any Person of any such writing may be proved by the 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 the execution thereof, or by an affidavit of any witness to such execution.

(2) The fact of the ownership by any Person of Bonds and the amounts and numbers of such Bonds, and the date of the holding of the same, may be proved only by reference to the Bond Register.

Section 12.2 Rights Under Indenture. 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 any person or company other than the parties hereto, and the Bondholders, 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 hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the Holders of the Bonds hereby secured as herein provided.

Section 12.3 Meetings of Bondholders.

(1) A meeting of Bondholders may be called at any time and from time to time pursuant to this Section to facilitate any of the following purposes:

(a) to give any notice to the Issuer, the Borrower or the Trustee, or to give any directions to the Trustee, or to consent to the waiving of any default under this Indenture, or to take any other action authorized to be taken by the Bondholders under this Indenture;

(b) to remove the Trustee or to appoint a successor trustee pursuant to Sections 9.7 and 9.8 of this Indenture;

(c) to consent to the execution of a supplemental indenture pursuant to Section 10.2 hereof, or to consent to the execution of an amendment, change or modification of any Related Document pursuant to Section 11.2 hereof; or

(d) to take any other action authorized to be taken by or on behalf of the Holders of any specified aggregate principal amount of the Bonds under any other provision of this Indenture or under applicable law.

(2) Meetings of Bondholders may be held at such place or places as the Trustee or, in case of its failure to act, the Bondholders calling the meeting, shall from time to time determine.

(3) The Trustee may at any time call a meeting of Bondholders to be held at such time and at such place as the Trustee shall determine. Notice of every meeting of Bondholders setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting, shall be mailed by first class mail, postage prepaid, to the Holders of the Bonds at the address shown on the Bond Register. Any failure of the Trustee to mail such notice to a particular Bondholder, or any defect therein shall not, however, in any way impair or affect the validity of any such meeting if notice was generally mailed to Bondholders. In the event that the Holders of at least 10% in aggregate principal amount of the Outstanding series of Bonds affected shall have requested the Trustee to call a meeting of the Bondholders by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have accomplished the mailing of notice of such meeting within 20 days after receipt of such request, then such Bondholders may determine the time and the place for such meeting and may call such meeting to take any action authorized in paragraph (1) of this Section by giving notice of such meeting in accordance with the provisions of this paragraph (3).

(4) To be entitled to vote at any meeting of Bondholders, a person shall be a Holder of one or more Bonds Outstanding, or a person appointed by an instrument in writing as proxy for a Bondholder by such Bondholder. The only persons who shall be entitled to be present or to speak at any meeting of Bondholders shall be the persons entitled to vote at such meeting and their counsel and any representatives of the Trustee, Borrower, and Issuer and their counsel.

(5) Notwithstanding any other provisions of this Indenture, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of Bondholders in regard to proof of the ownership of Bonds and of the appointment of proxies and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidence of the right to vote, and such other matters concerning the conduct of the meeting as it shall deem appropriate. Except as otherwise permitted or required by any such regulations, the ownership of Bonds shall be proved in the manner specified in Section 12.1 of this Indenture and the appointment of any proxy shall be proved in the manner specified in said Section or by having the signature of the person executing the proxy witnessed or guaranteed by any bank, banker or trust company authorized by said Section to certify to the ownership of Bonds:

(a) The Trustee or, if the Bondholders have called the meeting, the Bondholders shall, by an instrument in writing, appoint a temporary chairperson of the meeting. A permanent chairperson and a permanent secretary of the meeting shall be elected by vote of the Holders of a majority of the Bonds represented at the meeting and entitled to vote.

(b) At any meeting such Bondholder or proxy shall be entitled to one vote for each \$5,000 of principal amount of Outstanding Bonds owned or represented by him or her; provided, however, that no vote shall be cast or counted at any meeting in respect of any Bond challenged as not Outstanding and ruled by the chairperson of the meeting to be not Outstanding. The chairperson of the meeting shall have no right to vote, except as a Bondholder or proxy.

(c) At any meeting of Bondholders, the presence of persons owning or representing Bonds in an aggregate principal amount sufficient under the appropriate provision of this Indenture to take action upon the business for the transaction of which such meeting was called shall constitute a quorum. Any meeting of Bondholders duly called pursuant to this Section may be adjourned from time to time by vote of the Holders (or proxies for the Holders) of a majority

of the Bonds represented at the meeting and entitled to vote, whether or not a quorum shall be present; and the meeting may be held as so adjourned without further notice.

(6) The vote upon any resolution submitted to any meeting of Bondholders shall be by written ballots on which shall be subscribed the signatures of the Bondholders or of their proxies and the number or numbers of the Bonds Outstanding held or represented by them. The permanent chairperson of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in triplicate of all votes cast at the meeting. A record, at least in triplicate, of the proceedings of each meeting of Bondholders shall be prepared by the secretary of the meeting. The original reports of the inspectors of votes on any vote by ballot taken at such meeting, and affidavits by one or more persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was published or mailed as provided in this Section shall be attached to such record. Each copy shall be signed and verified by the affidavits of the permanent chairperson and secretary of the meeting and one such copy shall be delivered to the Issuer, another to the Borrower and another to the Trustee to be preserved by the Trustee, which copy shall have attached thereto the ballots voted at the meeting. Any record so signed and verified shall be conclusive evidence of the matters therein stated.

(7) At any time prior to the preparation of the record of the meeting in accordance with the terms of this Section for delivery to the Trustee evidencing the taking of any action by the Holders of the percentage in aggregate principal amount of the Bonds specified in this Indenture in connection with such action, any Holder of a Bond the number of which is included in the Bonds, the Holders of which have consented to such action, may, by filing written notice with the Trustee at its principal corporate trust office and upon proof of holding as provided in Section 12.1 of this Indenture, revoke such consent so far as it concerns such Bond. Except as aforesaid, any such consent given by the Holder of any Bond shall be conclusive and binding upon such Holder and upon all future Holders and owners of such Bond and of any Bond issued in exchange therefor, upon transfer thereof, or in lieu thereof, irrespective of whether or not any notation in regard thereto is made upon such Bond. Any action taken by the Holders of the percentage in aggregate principal amount of the Bonds specified in this Indenture in connection with such action shall be conclusively binding upon the Issuer, the Borrower, the Trustee and the Holders of all the Bonds.

(8) Nothing in this Section 12.3 is intended to limit or prevent the Trustee from taking any action permitted under Section 9.16 of this Indenture, including but not limited to the Trustee's right to apply to a court of competent jurisdiction for confirmation of appointment, or for instructions in accordance with the provisions of Minnesota Statutes, Sections 501.33 through 501.38, as amended.

Section 12.4 Severability. If any provision of this Indenture shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions or in all cases because it conflicts with any provisions of any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

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

Section 12.5 Notices. All notices, certificates or other communications hereunder shall be in writing (except as otherwise expressly provided herein) and shall be sufficiently given and shall be deemed given when mailed by first class mail, postage prepaid, with proper address as indicated below.

The Issuer, the Borrower, the Bondholders and the Trustee may, by written notice given by each to the others, designate any address or addresses to which notices, certificates or other communications to them shall be sent when required as contemplated by this Indenture. Until otherwise provided by the respective parties, all notices, certificates and communications to each of them shall be addressed as follows:

To the Issuer:	City of Edina, Minnesota 4801 West 50 th Street Edina, Minnesota 55424 Attn: City Finance Director
To the Borrower:	Yorktown Continental, LP _____ _____ Attn: _____
With a copy to:	Winthrop & Weinstine P.A. 222 South Sixth Street, Suite 3500 Minneapolis, MN 55402-4629 Attn: Norman Jones, Esq.
And:	_____ _____ _____ Attn: _____
To the Trustee:	U.S. Bank National Association _____ _____ St. Paul, MN _____ Attn: Corporate Trust Services
To the Original Purchaser of the Bonds:	Dougherty & Company LLC 90 South 7 th , Suite 4300 Minneapolis, MN 55402-4108 Attn: Frank J. Hogan, Senior Vice President

Section 12.6 Required Approvals. Consents and approvals required by this Indenture to be obtained from the Borrower, the Issuer or the Trustee shall be in writing and shall not be unreasonably withheld or delayed.

Section 12.7 Counterparts. This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 12.8 Limitation of Liability of Issuer and its Officers, Employees and Agents. No covenant, provision or agreement of the Issuer herein or in the Bonds or in any other document executed by the Issuer in connection with the issuance, sale and delivery of the Bonds, or any obligation herein or

therein imposed upon the Issuer or breach thereof, shall give rise to a pecuniary liability of the Issuer or a charge against their general credit or taxing powers or shall obligate the Issuer financially in any way except with respect to this Indenture and the application of revenues therefrom and the proceeds of the Bonds. No failure of the Issuer to comply with any term, condition, covenant or agreement therein shall subject the Issuer to liability for any claim for damages, costs or other financial or pecuniary charges except to the extent that the same can be paid or recovered from this Indenture or revenues therefrom or proceeds of the Bonds. No execution on any claim, demand, cause of action or judgment shall be levied upon or collected from the general credit, general funds or taxing powers of the Issuer. In making the agreements, provisions and covenants set forth herein, the Issuer has not obligated itself except with respect to this Indenture and the application of revenues hereunder as hereinabove provided. The Bonds constitute special obligations of the Issuer, payable solely from the revenues pledged to the payment thereof pursuant to this Indenture, and does not now and shall never constitute an indebtedness or a loan of the credit of the Issuer, or the State of Minnesota or any political subdivision thereof or a charge against general taxing powers within the meaning of any constitutional or statutory provision whatsoever. It is further understood and agreed by the Borrower and the Holders that the Issuer shall not incur any pecuniary liability hereunder nor shall it be liable for any expenses related hereto, all of which the Borrower agrees to pay. If, notwithstanding the provisions of this Section, the Issuer incurs any expense, or suffers any losses, claims or damages or incurs any liabilities, the Borrower will indemnify and hold harmless the Issuer from the same and will reimburse the Issuer for any legal or other expenses incurred by the Issuer in relation thereto, and this covenant to indemnify, hold harmless and reimburse the Issuer shall survive delivery of and payment for the Bonds. The liability of the Issuer is further restricted as provided in the Act.

Section 12.9 Amounts Remaining in Funds. Upon expiration or sooner termination of the Loan Agreement as provided therein and after adequate provision has been made to discharge the Bonds in accordance with Article 7 hereof and make all other payments required hereunder and under the Loan Agreement, the Trustee forthwith shall, pay all remaining amounts in the funds established in Article 5 hereof to the Borrower.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Issuer has caused this Indenture of Trust to be signed in its name on its behalf by its duly authorized officials, and to evidence its acceptance of the trusts hereby created the Trustee has caused these presents to be signed in its name and behalf by its duly authorized officers, all as of 1st day of July, 2014.

CITY OF EDINA, MINNESOTA

By _____
Its Mayor

By _____
Its City Clerk

Indenture of Trust by and between the City of Edina, Minnesota and U.S. Bank National Association.

U.S. BANK NATIONAL ASSOCIATION
As Trustee

By: _____
Its: Vice President

Indenture of Trust by and between the City of Edina, Minnesota and U.S. Bank National Association.

EXHIBIT A

Form of Bond

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF HENNEPIN

No. R-1

\$ _____

CITY OF EDINA, MINNESOTA
MULTIFAMILY HOUSING REVENUE BOND
(YORKTOWN CONTINENTAL, LP PROJECT)
SERIES 2014B

<u>Interest Rate</u>	<u>Stated Maturity</u>	<u>Date of Original Issue</u>	<u>CUSIP Number</u>
	_____ 1, 20__	July __, 2014	

REGISTERED HOLDER: CEDE & CO.

PRINCIPAL AMOUNT: _____ MILLION _____ THOUSAND AND 00/100 DOLLARS

(1) KNOW ALL PERSONS BY THESE PRESENTS that the City of Edina, Minnesota, in the County of Hennepin and the State of Minnesota (the "Issuer"), for value received, promises to pay to the registered holder named above, or registered assigns, but only from the Bond Fund (as defined in the Indenture described below), and upon presentation and surrender hereof at the principal corporate trust office of the Trustee named below, the principal sum specified above, on the maturity date specified above, or, if this Bond is prepayable as stated below, or a prior date on which it shall have been duly called for redemption, and to pay interest on said principal sum to the Record Date Holder hereof, as defined below, semiannually on _____ 1 and _____ 1 of each year (each, an "Interest Payment Date") commencing _____ 1, 20__, solely from the Bond Fund, until the principal sum is paid or discharged at the rates per annum specified above on the basis of a 360-day year.

This Bond shall bear interest from the date of original issue set forth above, or in the case of transfer or exchange, from the most recent Interest Payment Date (hereinafter defined) to which interest has been paid or provided for. The "Record Date Holder" is the person in whose name this Bond is registered in the Bond Register maintained by the Trustee named below or its successor in trust (the "Registered Holder" or "Holder" hereof) on the fifteenth day of the calendar month next preceding an Interest Payment Date, whether or not such day is a Business Day. Interest shall be payable by check or draft mailed to the Registered Holder at his or her address as it appears on the Bond Register on the Record Date, except as otherwise provided in the Indenture.

The principal of and interest and premium, if any, on this Bond are payable in lawful money of the United States of America. Upon notice to the Trustee accompanied by proper wire instructions, any Holder of Bonds in an aggregate principal amount equal to or greater than \$1,000,000 may elect to be paid the interest on such Bonds payable on any Interest Payment Date by Federal Reserve wire transfer in immediately available funds to any bank in the United States specified by such Holder.

Interest not timely paid or duly provided for will be paid by check mailed to the person in whose name this Bond is registered on the Bond Register at the close of business on a date (the “Special Record Date”) fixed by the Trustee, notice of which is to be mailed to all Bondholders.

(2) This Bond is one of an issue in the original aggregate principal amount of \$_____, all of like nominal date of original issue and tenor, except as to number and amount, issued in accordance with an Indenture of Trust, dated as of July 1, 2014 (the “Indenture”), duly executed and delivered by the Issuer to U.S. Bank National Association (the “Trustee”), setting forth the terms upon which the Bonds are issued. The Bonds are equally and ratably secured and entitled to the protection of the Indenture. The Bonds are issued for the purpose of financing the acquisition and renovation of a multifamily rental housing project (the “Project”) within the meaning of Minnesota Statutes, Chapter 462C and 474A, as amended, to be owned by Yorktown Continental, LP, a Minnesota limited partnership (the “Borrower”). The Borrower has agreed under a Loan Agreement dated as of July 1, 2014 (the “Loan Agreement”), between the Issuer and the Borrower to repay all amounts necessary to repay the Bonds, together with interest thereon, in amounts and at times sufficient to pay the principal of, premium, if any, and interest on the Bonds as the same shall become due and payable (the “Basic Payments”). The Borrower, the Issuer and the Trustee have entered into a Regulatory Agreement dated as of July 1, 2014 (the “Regulatory Agreement”), requiring compliance with certain requirements of federal and state law relating to the operation of the Project as a multifamily rental housing project. Pursuant to the Indenture, the Issuer has assigned and pledged to the Trustee, for the equal and ratable benefit of the Holders of the Bonds, the Basic Payments due under the Loan Agreement. Pursuant to a Combination Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Financing Statement dated as of July 1, 2014 (the “Mortgage”), executed by the Borrower in favor of the Issuer and assigned by the Issuer to the Trustee, the Borrower has granted an equal and ratable benefit of the Holders of the Bonds, a second mortgage lien on and a security interest in the Project to secure repayment of the Bonds. [As additional security for the Bonds, the Borrower has delivered an Assignment of Capital Contributions, from the Borrower to the Trustee, acknowledged by the Investor Limited Partner, an Assignment of Partnership Interest, from the Borrower and _____ (the “General Partner”) to the Trustee, whereby the General Partner and the Borrower assign to the Trustee the General Partner’s interest in the Borrower and the Borrower’s interest in the capital contributions of the General Partner, an Assignment of HOME Loan Proceeds, between the Borrower and the Trustee and a Guaranty Agreement from _____ (all dated as of _____ 1, 20__) (collectively, the “Security Documents”). Proceeds of the Bonds will be disbursed to or for the benefit of the Borrower pursuant to the Disbursing Agreement, dated as of July 1, 2014 (the “Disbursing Agreement”), among the Borrower, the Trustee and [Commercial Partners Title, LLC.]

(3) Reference is hereby made to the Loan Agreement, the Regulatory Agreement, the Mortgage, the Disbursing Agreement, the Security Documents and the Indenture, including all indentures supplemental thereto, for a description of the property encumbered and assigned, the provisions, among others, with respect to the nature and extent of the security, the rights of the Issuer, and the rights, duties and obligations of the Borrower, the Trustee and the Holders of the Bonds and the terms upon which the Bonds are issued and secured.

(4) The term “Business Day” shall mean any day on which the Trustee or the Federal Reserve Bank of New York are not authorized by law to close. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Bond, is not a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day.

(5) The Bonds are subject to redemption prior to maturity as provided in the Indenture as follows:

(a) Optional Prepayment. The Bonds are subject to redemption and prepayment upon request by the Borrower to the Trustee on any Business Day, in whole or in part, and if in part, in inverse order of maturity date, in principal increments of \$5,000, so long as no Bond is Outstanding in an amount less than \$100,000, and by lot within a maturity, at a Redemption Price equal to the principal amount of the Bonds to be redeemed, plus accrued interest thereon.

(b) Mandatory Redemption from Moneys Remaining in Project Fund. The Bonds are subject to mandatory redemption in part, at a redemption price equal to the principal amount thereof, without premium, plus accrued interest thereon to the date fixed for redemption, on the earliest practicable date for which notice can be given pursuant to the Indenture, to the extent of moneys remaining on deposit in the Project Fund that are transferred to the Bond Fund upon completion of the Project and payment of all Costs of the Project as provided in Indenture.

(c) Mandatory Redemption from Certain Moneys. The Bonds are subject to mandatory redemption in part, at a redemption price equal to the principal amount thereof, without premium, plus accrued interest thereon to the date fixed for redemption, on the earliest practicable date for which notice can be given pursuant to the Indenture, [from the Assigned Capital Contributions, the GP Capital Contributions, the HOME Loan Proceeds and the Sponsor Loan Proceeds] described in the Indenture, redemption of the Bonds in part to occur upon each receipt by the Borrower or its designee and deposit with the Trustee in accordance with the Loan Agreement.

(d) No Redemption Prior to Placed in Service Date. Notwithstanding anything to the contrary contained herein, the Bonds shall not be redeemed prior to the date upon which the Project has been placed in service for purposes of Section 42 of the Code.

(6) In the case of any partial redemption of the Bonds of the same maturity, the particular Bonds to be redeemed shall be selected by the Trustee in such manner as the Trustee shall deem fair and equitable and the Bonds shall be redeemed in the principal amounts specified in the Indenture. Any Bond which is to be redeemed only in part shall be surrendered to the Trustee (i) for payment of the Redemption Price (including accrued interest thereon to the Redemption Date) of the portion thereof called for redemption and (ii) for exchange for Bonds in any authorized denomination or denominations in aggregate principal amount equal to the unredeemed portion of such Bond.

(7) Notice of the intended redemption of Bonds shall be given by first class mail, to the registered owner of each Bond to be redeemed, at the address of such owner shown on the Bond Register. Notice by publication shall not be required. All such redemption notices shall be given not less than 15 days nor more than 60 days prior to the date fixed for redemption. Each notice with respect to a partial redemption of Bonds shall specify the numbers of the Bonds being called, the redemption date, and the place or places where amounts due upon such redemption will be payable. Such notice shall further state that payment of the applicable redemption price plus accrued interest (if not previously paid) to the date fixed for redemption will be made upon presentation and surrender of the Bonds. Failure to give notice by mailing to the registered owners of any Bonds designated for redemption or any defect in such notice shall not affect the validity of the proceedings for the redemption of such Bonds.

With respect to optional redemptions, such notice may be conditioned upon moneys being on deposit with the Trustee on or prior to the redemption date in an amount sufficient to pay the redemption price on the redemption date. If such notice is conditional and either the Trustee receives written notice from the Borrower that moneys sufficient to pay the redemption price will not be on deposit on the redemption date, or such moneys are not received on or prior to the redemption date, then

such notice shall be of no force and effect, the Trustee shall not redeem such Bonds and the Trustee shall give notice, in the same manner in which the notice of redemption was given, that such moneys were not or will not be so received and that such Bonds will not be redeemed.

Notice of redemption having been given in the manner provided above, and money sufficient for the redemption being held by the Trustee for that purpose, thereupon the Bonds so called for redemption shall become due and payable on the redemption date, and interest thereon shall cease to accrue; and the owners of the Bonds so called for redemption shall thereafter no longer have any security or benefit under the Indenture except to receive payment of the redemption price for such Bonds.

(8) In addition to the foregoing, if under certain circumstances an Event of Default, as defined in the Indenture, shall occur, the principal of all the Bonds and all interest accrued thereon may, without prior notice to the Bondholders, be declared due and payable in the manner and with the effect provided in the Loan Agreement and Indenture.

(9) This Bond and the series of which it forms a part are issued pursuant to and in full compliance with the Constitution and laws of the State, particularly Minnesota Statutes, Chapters 462C and 474A, and pursuant to a resolution adopted and approved by the governing body of the Issuer on July __, 2014], which resolution authorized the financing of the Project and the execution and delivery of the Indenture, and the issuance of the Bonds as special, limited obligations payable solely from revenues derived from the Loan Agreement, the Security Documents and the Mortgage except that under certain circumstances the Bonds may be payable from Bond proceeds. The loan repayments under the Loan Agreement are scheduled to be sufficient to pay the principal of, premium, if any, and interest on the Bonds as the same become due and payable and are to be paid to the Trustee for the account of the Issuer and credited to the Bond Fund as a special trust fund account created by the Issuer and have been and are hereby pledged for that purpose.

(10) The Bonds, including principal, premium and any other payments however designated, and the interest due thereon do not and shall never constitute a general indebtedness of the Issuer within the meaning of any state constitutional or statutory provision and do not and shall not constitute or give rise to a pecuniary liability or moral obligation of the Issuer, the State or any of its political subdivisions, or a charge against its general credit or taxing powers, or to the extent permitted by law, any pecuniary liability of any officer, employee or agent of the Issuer. The provisions of this paragraph are controlling notwithstanding anything herein to the contrary.

(11) The Registered Holder of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any Event of Default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. Modifications or alterations of the Indenture, or of any indenture supplemental thereto, may be made only to the extent and in the circumstances permitted by the Indenture.

(12) With the consent of the Issuer, the Borrower and the Trustee, as appropriate, and to the extent permitted by and as provided in the Indenture, the terms and provisions of the Indenture, the Loan Agreement, or of any instrument supplemental thereto relating to the Bonds, may be modified or altered by the consent of the Registered Holders of at least 51% in aggregate principal amount of the Bonds then Outstanding thereunder.

(13) The Indenture also contains provisions permitting Holders of a majority in aggregate principal amount of the Bonds at the time Outstanding, on behalf of all the Holders of all the Bonds, to waive compliance by the Issuer with certain provisions of the Indenture and certain past defaults under

the Indenture and their consequences. Any such consent or waiver by the Registered Holder of this Bond shall be conclusive and binding upon such Registered Holder and on all future Registered Holders of this Bond and of any Bond issued in lieu hereof whether or not notation of such consent or waiver is made upon this Bond.

(14) The Bonds are issued as fully registered Bonds without coupons in the Authorized Denominations. No single Beneficial Owner of Bonds is authorized to own a Bond in an amount less than an Authorized Denomination. The Bonds are interchangeable for one or more Bonds in Authorized Denominations and of the same series, aggregate principal amount, interest rate and maturity date, upon surrender thereof by the Holder at the principal office of the Trustee, in the manner and subject to the limitations provided in the Indenture. The Issuer, the Trustee and any additional paying agents may deem and treat the Registered Holder hereof as the absolute owner hereof (whether or not this Bond shall be overdue) for the purpose of receiving payment of or on account of principal hereof and interest (except as otherwise hereinabove provided with respect to the Record Date) due hereon and for all other purposes, and the Issuer, the Trustee and any additional paying agents shall not be affected by any notice to the contrary.

(15) Subject to the limitations provided in the Indenture, this Bond is only transferable by the Registered Holder hereof upon surrender of this Bond for transfer at the principal corporate trust office of the Trustee, duly endorsed or accompanied by a written instrument or instruments of transfer in the form printed on this Bond or in another form satisfactory to the Trustee and executed and with guaranty of signature by the Registered Holder hereof or his attorney duly authorized in writing, containing written instructions as to the details of the transfer of the Bond. Thereupon the Issuer shall execute (if necessary) and the Trustee shall authenticate and deliver, in exchange for this Bond, one or more new Bonds in the name of the transferee (but not registered in blank or to "bearer" or a similar designation), of an authorized denomination, in aggregate principal amount equal to the principal amount of this Bond, of the same maturity, and bearing interest at the same rate.

(16) No service charge shall be made to the Registered Holder for any registration, transfer or exchange hereinbefore referred to, but the Trustee may require payment of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in connection with any transfer or exchange of Bonds, other than exchanges expressly provided in the Indenture to be made without charge to Bondholders.

(17) IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, to happen and to be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Bond do exist, have happened and have been performed in due time, form and manner, as required by law, and that the issuance of this Bond and the series of which it forms a part, together with all other obligations of the Issuer, does not exceed or violate any constitutional or statutory limitation.

(18) This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture unless the Certificate of Authentication hereon shall have been executed by the Trustee.

IN WITNESS WHEREOF, the City of Edina, Minnesota, by its governing body, has caused this Bond to be executed in its name by the facsimile signatures of its duly authorized officials and by the manual signature of a Responsible Agent of the Trustee acting as authenticating agent.

CITY OF EDINA, MINNESOTA

By _____
Its Mayor

By _____
Its City Clerk

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds described in the within mentioned Indenture and is one of the Multifamily Housing Revenue Bonds (Yorktown Continental, LP Project) Series 2014B of the City of Edina, Minnesota.

Date of Authentication: July ____, 2014

U.S. BANK NATIONAL ASSOCIATION,
Trustee

By _____
Responsible Agent

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto _____ the within Bond and does hereby irrevocably constitute and appoint _____ attorney to transfer the Bond on the books kept for the registration thereof, with full power of substitution in the premises.

Dated: _____

Notice: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or any change whatever.

Signature Guaranteed:

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

The Trustee will not effect transfer of this Bond unless the information concerning the transferee requested below is provided.

Name and Address:

(Include information for all joint owners if the Bond is held by joint account)

Insert social security or other identifying number of Transferee

ABBREVIATIONS

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

TEN COM - as tenants in common
TEN ENT - as tenants by entireties
JT TEN - as joint tenants with right of survivorship
and not as tenants in common
UTMA - _____ as custodian for _____ under the
(cust) (minor)
_____ Uniform Transfers to Minors Act.
(state)

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

