
TRUST INDENTURE

Dated as of October 1, 2015

between

AUSTIN HOUSING FINANCE CORPORATION,
as Issuer

and

WILMINGTON TRUST, NATIONAL ASSOCIATION
as Trustee

Relating to

\$ _____
Austin Housing Finance Corporation
Multifamily Housing Revenue Bonds
(The Timbers Apartments Project)
Series 2015

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(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 dated as of October 1, 2015 (the “**Indenture**”), is made by and between the **AUSTIN HOUSING FINANCE CORPORATION** a public nonprofit housing finance corporation organized under the laws of the State of Texas (the “**Issuer**”) and **WILMINGTON TRUST, NATIONAL ASSOCIATION**, a national banking association, with its designated corporate trust office located in Dallas, Texas, 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):

A. Pursuant to and in accordance with the laws of the State, including without limitation, the Act, the Issuer has determined to issue and sell the Bonds in the aggregate principal amount of \$_____ and to use the proceeds to be derived from the sale thereof to make a loan to the Borrower to assist in the financing of the Project to be undertaken by the Borrower;

B. 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;

C. 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

D. 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 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 of which is acknowledged, the Issuer has executed and delivered this Indenture and absolutely assigns hereby to the Trustee (except Reserved Rights), and to its successors in trust, and its and their assigns, all right, title and interest of the Issuer in and to (i) the Revenues, including, without limitation, all Loan Payments, Collateral Payments and other amounts receivable by or on behalf of the Issuer under the Financing 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) subject to the provisions of the Bond Resolution, 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 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 the Indenture, (iv) the Note and (v) the Financing Agreement, except for the Reserved 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, it being intended that the lien and security of this Indenture shall take effect from the date hereof, without regard to the date of the actual issue, sale or disposition of the Bonds, as though upon that date all of the Bonds were actually issued, sold and delivered to purchasers for value; 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 VIII 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 all sums of money due or to become due to them in accordance with the terms and provisions hereof,

(iii) this Indenture and the rights assigned hereby shall cease, determine and be void, except as provided in Section 8.03 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 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:

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ARTICLE I

DEFINITIONS

Section 1.01 Definitions.

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

“Act” means Texas Local Government Code, Chapter 394, as amended.

“Act of Bankruptcy” means notice to the Trustee that the Borrower has become insolvent or has failed to pay its debts generally as such debts become due or has admitted in writing its inability to pay any of its indebtedness or has consented to or has petitioned or applied to any court or other legal authority for the appointment of a receiver, liquidator, trustee or similar official for itself or for all or any substantial part of its properties or assets or that any such trustee, receiver, liquidator or similar official has been appointed or that insolvency, reorganization or liquidation proceedings (or similar proceedings) have been instituted by or against the Borrower.

“Additional Payments” means the amounts required to be paid by the Borrower pursuant to the provisions of Section 4.4 of the Financing Agreement.

“Administrative Expenses” means the Ordinary Trustee Fees and Expenses, the Dissemination Agent Fee and the Issuer Administration Fee.

“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 Secretary of the Issuer, or such other officer or official 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 any person who, at any time and from time to time, is designated as the Borrower’s authorized representative 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 or on behalf of any authorized general partner of the Borrower if the Borrower is a general or limited partnership, by any authorized managing member of the Borrower if the Borrower is a limited liability company, or by any authorized officer of the Borrower if the Borrower is a corporation, which certificate may designate an alternate or alternates. The Trustee may conclusively presume that a person designated in a written certificate filed with it as an Authorized Borrower Representative is an Authorized Borrower Representative until such time as the Borrower files with it (with a copy to the Issuer) a written certificate revoking such person’s authority to act in such capacity.

“Authorized Denomination” means \$5,000, or any integral multiple of \$5,000 in excess thereof.

“Authorized Official” means the President or Vice President or Program Manager and any other officer or employee 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.

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

“Beneficial Owner” means with respect to the Bonds, the Person owning the Beneficial Ownership Interest therein, as evidenced to the satisfaction of the Trustee.

“Beneficial Ownership Interest” means the right to receive payments and notices with respect to the Bonds held in a Book Entry System.

“Bond Fund” means the Bond Fund created in Section 4.01 hereof.

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

“Bond Purchase Agreement” means the Bond Purchase Agreement, dated _____, 2015, among the Underwriter, the Issuer and the Borrower.

“Bond Resolution” means the certain resolution relating to the issuance and sale of the Bonds, adopted by the Governing Body on October 1, 2015.

“Bond 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.

“Bonds” means the Issuer’s Multifamily Housing Revenue Bonds (The Timbers Apartments Project) Series 2015, authorized in the Bond Resolution and Section 2.01 hereof in an amount not to exceed \$8,000,000.

“Bond Counsel” means McCall, Parkhurst & Horton L.L.P. or other counsel nationally recognized as having an expertise in connection with the exclusion of interest on obligations of states and local governmental units from the gross income of owners thereof for federal income tax purposes.

“Bond Year” means each annual period of twelve months ending on October 1; provided; however, that the first annual period commences on the date of the original issuance and delivery of the Bonds and ends on October 1, 2016 and the last of which ends on the maturity of the Bonds.

“Book Entry Form” or “Book Entry System” means, with respect to the Bonds, a form or system, as applicable, under which (a) 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 (b) the ownership of book entry interests in Bonds and Bond Service Charges thereon may be transferred only through a book entry made by others than the Issuer or the Trustee. The records maintained by others than the Issuer or the Trustee constitute the written record that identifies the owners, and records the transfer, of book entry interests in those Bonds and Bond Service Charges thereon.

“Borrower” means Timbers Clayton 104 Apartments, L.P., a Texas limited partnership, the General Partner of which is AHFC 1034 Clayton Lane Non-Profit Corporation, a Texas nonprofit corporation.

“Borrower Documents” means the Financing Documents and the Mortgage Loan Documents to which the Borrower is a party.

“Borrower’s Tax Certificate” means the Borrower’s Federal Tax Certificate delivered to the Issuer by the Borrower on the Closing Date in which the Borrower certifies to various facts relating to the Project that bear on the exclusion of interest on the Bonds from gross income for purposes of federal income taxation.

“Business Day” means a day, other than a Saturday or a Sunday, on which (a) banking institutions in the City of Dallas, Texas or in the city in which the principal office of the Trustee is located are authorized or obligated by law or executive order to be closed, or (b) The New York Stock Exchange is closed.

“Cash Flow Projection” means a cash flow projection prepared by an independent firm of certified public accountants qualified and experienced in the preparation of cash flow projections for structured finance transactions similar to the Bonds, designated by the Borrower and acceptable to the Trustee, establishing, to the satisfaction of the Trustee, the sufficiency of (a) the amount on deposit in the Special Funds, (b) projected investment income to accrue on amounts on deposit in the Special Funds during the applicable period and (c) any additional Eligible Funds delivered to the Trustee by or on behalf of the Borrower to pay Bond Service Charges, in each instance, when due and payable, including, but not limited to, any cash flow projection prepared in connection with the initial issuance and delivery of the Bonds.

“City” means Austin, Texas.

“Closing Date” means October __, 2015.

“Code” means the Internal Revenue Code of 1986, as amended and in force and effect on the date hereof.

“Collateral Fund” means the Collateral Fund created in Section 4.01 hereof.

“Collateral Payments” means the amounts required to be paid by the Mortgage Lender, for the benefit of the Borrower in respect to the repayment of the Loan, to the Trustee for deposit into the Collateral Fund pursuant to Section 4.2 of the Financing Agreement and the Funding Agreement and Section 4.06 hereof as a prerequisite to the advance of money in the Project Fund.

“Completion Certificate” means the certificate attached as Exhibit C to the Financing Agreement.

“Completion Date” has the meaning set forth in the Completion Certificate.

“Computation Date” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“Conditional Redemption” shall have the meaning set forth in Section 3.03 hereof.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement dated as of the date hereof between the Borrower and the Dissemination Agent, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

“Controlling Holders” means in the case of consent or direction to be given hereunder, the Holders of the majority in aggregate principal amount of the Outstanding Bonds.

“Controlling HUD and GNMA Requirements” means the National Housing Act and any applicable HUD or GNMA regulations, and related HUD or GNMA administrative requirements and prohibitions.

“Costs of Issuance” means the “issuance costs” with respect to the Bonds within the meaning of Section 147(g) of the Code.

“Costs of Issuance Fund” means the Costs of Issuance Fund created in Section 4.01 hereof.

“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 a federal law operating and maintaining, with its participants or otherwise, a Book Entry System to record ownership of book entry interests in Bonds or Bond Service Charges thereon, and to effect transfers of book entry interests in Bonds.

“Designated Office” of the Trustee means the office of the Trustee at the Notice Address set forth in this Section 1.01 or at such other address as may be specified in writing by the Trustee as provided in Section 12.03.

“Designated Operations Office” of the Trustee means Wilmington Trust, National Association, Rodney Square North, 1100 N. Market Street, Wilmington, Delaware 19890, Attention: Corporate Trust Operations, or such other office as may be specified in writing by the Trustee according to the provisions described in Section 12.03.

“Dissemination Agent” means Wilmington Trust, National Association, or any successor, as Dissemination Agent under the Continuing Disclosure Agreement.

“Dissemination Agent Fee” means the fee payable to the Dissemination Agent as compensation for its services and expenses in performing its obligations under the Continuing Disclosure Agreement.

“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 Funds” means, as of any date of determination, any of:

- (a) the proceeds of the Bonds;
- (b) moneys received by the Trustee from the Mortgage Lender as Collateral Payments;
- (c) any supplemental purchase price of the Bonds received from the Underwriter or any purchaser of Bonds (other than funds provided by the Borrower, the Issuer, any Affiliate of either the Borrower or the Issuer);
- (d) the Underwriter’s Premium;
- (e) any other amounts, including the proceeds of refunding bonds, for which, in each case, the Trustee has received an Opinion of Counsel (which opinion may assume that no Holder or Beneficial Owner of Bonds is an “insider” within the meaning of the Bankruptcy Code) to the effect that (A) 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 and (B) payments of such amounts to Holders would not 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) any payments made by the Borrower and held by the Trustee for a continuous period of 123 days, provided that no Act of Bankruptcy has occurred during such period; and
- (g) investment income derived from the investment of the moneys described in (a) through (f).

“Eligible Investments” means:

- (a) Government Obligations; or
- (b) Money market funds rated AAAM by S&P which are registered with the Securities and Exchange Commission and which meet the requirements of Rule 2(a)(7) of the Investment Company Act of 1940, as amended, which may be administered by the Trustee or its affiliates.

“Event of Default” means any of the events described as an Event of Default in Section 6.01 hereof or Section 7.1 of the Financing Agreement.

“Expense Fund” means the Expense Fund created in Section 4.01 hereof.

“Extraordinary Issuer Fees and Expenses” means the expenses and disbursements payable to the Issuer under this Indenture for Extraordinary Services and Extraordinary Expenses, including extraordinary fees, costs and expenses incurred by Bond Counsel and counsel to the Issuer which are to be paid by the Borrower pursuant to Section 4.4 of the Financing Agreement.

“Extraordinary Services” and **“Extraordinary Expenses”** mean all services rendered and all reasonable expenses properly incurred by the Trustee or the Issuer under this Indenture, other than Ordinary Services and Ordinary Expenses. Extraordinary Services and Extraordinary Expenses shall specifically include but are not limited to services rendered or expenses incurred by the Trustee or the Issuer in connection with, or in contemplation of, an Event of Default.

“Extraordinary Trustee Fees and Expenses” means the expenses and disbursements payable to the Trustee under this Indenture for Extraordinary Services and Extraordinary Expenses, including extraordinary fees, costs and expenses incurred by Bond Counsel and counsel to the Issuer which are to be paid by the Borrower pursuant to Section 4.4 of the Financing Agreement.

“Federal Tax Status” means, as to the Bonds, the status of the interest on the Bonds as excludible from gross income for federal income tax purposes of the Holders of the Bonds (except on Bonds while held by a substantial user or related person, each as defined in the Code).

“FHA” means the Federal Housing Administration of HUD or any successor entity and any authorized representatives or agents thereof, including the Secretary of HUD, the Federal Housing Commissioner and their representatives or agents.

“FHA Commitment” means the Commitment for Insurance of Advances issued by FHA with respect to FHA Insurance on the Mortgage Loan, as the same may be amended.

“FHA Insurance” means the insurance of the Mortgage Note by FHA pursuant to Section 223(f) of the National Housing Act, as amended.

“Financing Agreement” means the Financing Agreement dated as of even date with this Indenture, between the Issuer and the Borrower, and assigned by the Issuer, except for Reserved Rights, to the Trustee, as amended or supplemented from time to time.

“Financing Documents” means this Indenture, the Bonds, the Financing Agreement, the Note, the Funding Agreement, the Tax Certificate, the Tax Regulatory Agreement, the Bond Purchase Agreement, the Continuing Disclosure Agreement and any other instrument or document executed in connection with the Bonds, together with all modifications, extensions, renewals and replacements thereof, but excluding the Mortgage Loan Documents.

“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 Financing Agreement.

“Funding Agreement” means the Loan Funding Agreement dated as of October 1, 2015, by and among the Borrower and the Mortgage Lender, as amended, supplemented or restated from time to time, relating to the funding of Mortgage Loan advances with proceeds of the Bonds in exchange for Collateral Payments.

“GAAP” means generally accepted accounting principles applied on a consistent basis.

“GNMA” means the Government National Mortgage Association, an organizational unit within HUD, or any successor entity and any authorized representatives or agents thereof, including the Secretary of HUD and his representatives or agents.

“GNMA Certificate” means a mortgage backed security issued by the Lender, guaranteed as to timely payment of principal and interest by GNMA pursuant to the National Housing Act and the regulations thereunder, and issued with respect to and backed by the Mortgage Loan.

“GNMA Documents” means any GNMA Certificate, the commitment issued by GNMA to the Lender to guarantee the GNMA Certificate and all other documents, certifications and assurances executed and delivered by the Lender, GNMA or the Borrower in connection with the GNMA Certificate.

“Governing Body” means the Board of Directors of the Issuer.

“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.

“Government Obligations” means direct obligations of the United States of America (including, without limitation, obligations issued or held in book-entry form on the books of the Department of Treasury and United States Treasury Securities - State and Local Government Series), and obligations on which the full and timely payment of principal and interest is unconditionally guaranteed by, the United States of America.

“Gross Proceeds” means any proceeds, as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds, as defined in Section 1.148-1(c) of the Regulations, of the Bonds.

“Holder” or **“Holder of a Bond”** means the Person in whose name a Bond is registered on the Register.

“HUD” means the United States Department of Housing and Urban Development.

“HUD Regulatory Agreement” means the Regulatory Agreement for Multifamily Projects between the Borrower and HUD with respect to the Project, as the same may be supplemented, amended or modified from time to time.

“Indenture” means this Trust Indenture, dated as of October 1, 2015, between the Issuer and the Trustee, as amended or supplemented from time to time.

“Independent” when used with respect to a specified Person means such Person has no specific financial interest direct or indirect in any Borrower or any Affiliate of any Borrower and in the case of an individual is not a director, trustee, officer, partner or employee of any Borrower or any Affiliate of any 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 any Borrower or any Affiliate of any Borrower.

“Initial Bond” means the initial Bond registered by the Comptroller of Public Accounts of the State of Texas, and subsequently cancelled and replaced by definitive Bond(s) pursuant to this Indenture.

“Initial Borrower Deposit” means funds in the amount of \$_____ provided by or on behalf of the Borrower, which are to be deposited as provided in Section 4.02(b).

“Initial Deposit” means funds in the amount of \$_____ from the Underwriter’s Premium paid on the Closing Date for deposit by the Trustee to the Negative Arbitrage Account of the Bond Fund as provided in Section 4.02(b).

“Interest Payment Date” means (a) April 1 and October 1 of each year beginning April 1, 2016, (b) each Redemption Date, (c) the Maturity Date and (d) the date of acceleration of the Bonds. In the case of payment of defaulted interest, “Interest Payment Date” also means the date of such payment established pursuant to Section 2.05.

“Interest Period” means, initially, the period from the Closing Date to but not including April 1, 2016, and thereafter, the period commencing on each succeeding Interest Payment Date and ending on the last day of the month preceding the next Interest Payment Date.

“Interest Rate” means ____%.

“Investor Partner” means _____, an affiliate of Aegon, its permitted successors and assigns.

“Issuer” means the Austin Housing Finance Corporation, a public nonprofit housing finance corporation organized under the laws of the State of Texas, or its successor.

“Issuer Administration Fee” means the annual prorated amount payable January 20 of each year beginning January 20, 2016 to the Issuer for its ordinary monitoring fees and expenses under the Indenture in an amount equal to not less than the greater of (a) .0003 times the amount of Bonds Outstanding on January 20, (b) \$12 times the number of units in the Project, or (c) \$1,200 per year..

“Issuer Documents” means the Financing Documents to which the Issuer is a party.

“Issuer Fees and Expenses” means collectively, the Issuer Administration Fee and the Extraordinary Issuer Fees and Expenses.

“Loan” means the loan financed by the Issuer to the Borrower of the proceeds received from the sale of the Bonds.

“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 Financing Agreement.

“Local Time” means Central time (daylight or standard, as applicable) in Austin, Texas.

“Maturity Date” means _____.

“Maximum Interest Rate” means the interest rate equal to the lesser of: (a) 12% per annum, or (b) the maximum interest rate per annum permitted by applicable State law.

“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.

“Mortgage” means the Deed of Trust from the Borrower in favor of the Mortgage Lender, as the same may be supplemented, amended or modified.

“Mortgage Lender” means Dougherty Mortgage LLC, a Delaware limited liability company, its successors and assigns.

“Mortgage Loan” means the loan in the original principal amount of \$_____ from the Mortgage Lender to the Borrower evidenced by the Mortgage Note and secured by the Mortgage.

“Mortgage Loan Documents” means the Mortgage, Mortgage Note, HUD Regulatory Agreement and all other documents required by the Mortgage Lender and/or HUD in connection with the Mortgage Loan.

“Mortgage Note” means the Mortgage Note of the Borrower payable to the order of the Mortgage Lender, as the same may be supplemented, amended, or modified.

“Negative Arbitrage Account” means the Negative Arbitrage Account of the Bond Fund created in Section 4.01 hereof.

“Nonpurpose Investments” means any investment property (as defined in Section 148(b) of the Code) that is acquired with the Gross Proceeds of the Bonds and which is not acquired to carry out the governmental purpose of the Bonds.

“Note” means the promissory note of the Borrower, dated as of even date with the Bonds initially issued, in the form attached to the Financing Agreement as Exhibit A and in the principal amount of up to \$_____, evidencing the obligation of the Borrower to make Loan Payments.

“Notice Address” means:

To the Issuer:	Austin Housing Finance Corporation P.O. Box 1088 Austin, Texas 78767 Attention: Program Manager Telephone: 512-974-3192 Facsimile: 512-974-3161
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To the Trustee:	Wilmington Trust, National Association 15950 N. Dallas Parkway, Suite 550 Dallas, Texas 75248 Attention: Dayna Smith Telephone: (972) 383-3154 Facsimile: (972) 385-0844
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To the Borrower: Timbers Clayton 104 Apartments, L.P
29700 Woodford –Tenahapi
Keave, CA 9331
Attention: Paul Parcel
Telephone: (213) 362-0260
Facsimile: (213) 362-0265

With a copy to: Coats Rose
901 S. Mopac Blvd
Building 1, Suite 500
Austin, TX 78746
Attention: Scott Marks

To the Mortgage Lender: Dougherty Mortgage LLC
90 South 7th Street, Suite 4300
Minneapolis, Minnesota 55402-4108
Attn: FHA Servicing
Phone: 612-317-2124

To the Rating Agency: Standard & Poor’s Ratings Services
38th Floor, 55 Water Street
New York, NY 10041-0003
Attention: Public Finance Surveillance
Electronic notices shall be delivered to:
Pubfin_structured@standardandpoors.com

To the Investor Partner: _____

Attention: _____

With a copy to: _____

Attention: _____

or such additional or different address, notice of which is given under Section 12.03 hereof.

“Opinion of Bond Counsel” means an opinion of Bond Counsel.

“Opinion of Counsel” means an opinion from an attorney or firm of attorneys, acceptable to the Trustee, with experience in the matters to be covered in the opinion.

“Ordinary Services” and **“Ordinary Expenses”** mean those services normally rendered, and those expenses normally incurred, by a trustee under instruments similar to this Indenture.

“Ordinary Trustee Fees and Expenses” means amounts due to the Trustee for the Ordinary Services and the Ordinary Expenses of the Trustee incurred in connection with its duties under the Indenture, payable annually in advance beginning on the Closing Date and on each annual anniversary thereafter while the Bonds are outstanding in an annual amount equal to

\$3,500; provided, however, the amount of Ordinary Trustee Fees and Expenses payable under this Indenture is limited to moneys withdrawn from the Expense Fund and the Borrower will be responsible to pay the remaining amount of the Ordinary Trustee Fees and Expenses pursuant to Section 4.4 of the Financing Agreement. In addition, all amounts due to the Trustee for Extraordinary Services and all Extraordinary Expenses of the Trustee will be paid directly by the Borrower pursuant to Section 4.4 of the Financing Agreement. Additionally provided, however, that the first year Ordinary Trustee Fees and Expenses and the acceptance fee shall be paid on the Closing Date.

“Organizational Documents” means the Partnership Agreement of the Borrower.

“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 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 2.07 of 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 provided in the Financing Agreement or the Mortgage Loan Documents.

“Portfolio Securities” shall have the meaning set forth in Section 4.10 hereof.

“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 2.07 of this Indenture in lieu of a lost, stolen or destroyed Bond shall, except as otherwise provided in Section 2.07, be deemed to evidence the same debt as the lost, stolen or destroyed Bond.

“Project” means the 104-unit residential rental housing project located in Austin, Texas known as The Timbers Apartments Project.

“Project Costs” means the costs of the Project specified in Section 3.6 of the Financing Agreement.

“Project Fund” means the Project Fund created in Section 4.01 hereof.

“Project Purposes” means the making of a loan to finance the Project in accordance with the Act.

“Qualified Project Period” shall have the meaning ascribed to such term in the Tax Regulatory Agreement.

“Rating Agency” means any national rating agency then maintaining a rating on the Bonds, and initially means S&P.

“Rating Category” means one of the generic rating categories of the Rating Agency.

“Rebate Amount” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“Rebate Analyst” means a certified public accountant, financial analyst or attorney, or any firm of the foregoing, or a financial institution experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code and retained by the Borrower.

“Rebate Analyst Fee” means a fee paid or payable to the Rebate Analyst for each rebate calculation.

“Rebate Fund” means the Rebate Fund created in Section 4.01 hereof.

“Redemption Date” means any date upon which Bonds are to be redeemed pursuant to this Indenture.

“Register” means the books kept and maintained by the Trustee for registration and transfer of Bonds pursuant to Section 2.06 hereof.

“Regular Record Date” means, with respect to any Bond, the fifteenth day of the calendar month next preceding each Interest Payment Date.

“Regulations” means any proposed, temporary, or final Income Tax Regulations issued pursuant to sections 103 and 141 through 150 of the Code. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amended or replace the specific Regulation referenced.

“Reserved Rights” of the Issuer means (a) the right of the Issuer to amounts payable to it pursuant to Section 4.4 of the Financing Agreement, (b) all rights which the Issuer or its officers, officials, agents or employees may have under this Indenture and the Financing Documents to indemnification by the Borrower and by any other persons and to payments for expenses incurred by the Issuer itself, or its officers, officials, agents or employees; (c) the right of the Issuer to receive notices, reports or other information, make determinations and grant approvals hereunder and under the other Financing Documents; (d) all rights of the Issuer to enforce the representations, warranties, covenants and agreements of the Borrower pertaining in any manner or way, directly or indirectly, to the requirements of the Act or of the Issuer, and set forth in any of the Financing Documents or in any other certificate or agreement executed by the Borrower; (e) all rights of the Issuer in connection with any amendment to or modification of the Financing Documents; and (f) all enforcement remedies with respect to the foregoing.

“Revenues” means (a) the Loan Payments, (b) the Collateral Payments, (c) all other moneys received or to be received by the Trustee in respect of repayment of the Loan, including without limitation, all moneys and investments in the Bond Fund, (d) any moneys and investments in the Project Fund and the Collateral Fund, and (e) all income and profit from the investment of the foregoing moneys. The term *“Revenues”* does not include any moneys or investments in the Rebate Fund.

“S&P” means Standard & Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business and its successors and assigns, or if it shall for any reason no longer perform the functions of a securities rating agency, then any other nationally recognized rating agency designated by the Borrower and acceptable to the Trustee.

“Special Funds” means, collectively, the Bond Fund, the Project Fund and the Collateral Fund, and any accounts therein, all as created in this Indenture.

“Special Partner” means Timbers North 104, LLC, a Texas limited liability company, its permitted successors and assigns.

“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 Texas.

“Supplemental Indenture” means any indenture supplemental to this Indenture entered into between the Issuer and the Trustee in accordance with Article VII hereof.

“Surplus Cash” has the meaning specified in the HUD Regulatory Agreement.

“Tax Regulatory Agreement” means the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of even date with this Indenture, among the Issuer, the Trustee and the Borrower.

“Trust Estate” means the property rights, money, securities and other amounts pledged and assigned to the Trustee hereunder pursuant to the Granting Clauses hereof.

“Trustee” means Wilmington Trust, 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.

“Underwriter” means Dougherty & Company LLC.

“Underwriter’s Premium” means an amount equal to the Initial Deposit paid by the Underwriter to the Issuer in excess of the par public offering price of the Bonds pursuant to the Bond Purchase Agreement.

“Yield” of (1) any investment has the meaning set forth in Section 1.148-5 of the Regulations, and (2) the Bonds has the meaning set forth in Section 1.148-4 of the Regulations.

Section 1.02 Interpretation.

Any reference herein to the Issuer, to the 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 Texas 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 or the Borrower under the Bond Resolution, the Bonds, the Financing Documents 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 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.

Section 1.04 Content of Certificates and Opinions.

Every certificate or opinion provided for in this Indenture with respect to compliance with any provision hereof made or given by an Authorized Official of the Issuer or Authorized Borrower Representative may be based, insofar as it relates to legal or accounting matters, upon a certificate or opinion or representation given by counsel or an accountant, unless such Authorized Representative knows, or in the exercise of reasonable care should have known, that the certificate, opinion or representation with respect to the matters upon which such certificate or statement is based is erroneous. Any such certificate or opinion made or given by counsel or an accountant may be based, insofar as it relates to factual matters with respect to which information is in the possession of the Issuer or the Borrower, as applicable, upon a certificate or opinion of or representation by an Authorized Official of the Issuer or Authorized Borrower Representative, unless such counsel or accountant knows, or in the exercise of reasonable care should have known, that the certificate or opinion or representation with respect to the matters upon which such certificate, opinion or representation is based is erroneous. The same Authorized Official of the Issuer or Authorized Borrower Representative, or the same counsel or accountant, as the case may be, need not certify to all of the matters required to be certified under any provision of this Indenture, but different officers, counsel or accountants may certify to different matters.

(End of Article I)

ARTICLE II

AUTHORIZATION AND TERMS OF BONDS

Section 2.01 Authorization and General Terms of Bonds.

(a) Issuance of Bonds. It is determined to be necessary to, and the Issuer shall, issue, sell and deliver up to \$8,000,000 principal amount of Bonds for the Project Purposes. 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 may be issued under the provisions of this Indenture is \$_____.

(b) General Terms. The Bonds shall be designated “**Austin Housing Finance Corporation Multifamily Housing Revenue Bonds (The Timbers Apartments Project) Series 2015;**” shall be in substantially the form as set forth in Exhibit A to this Indenture; shall be numbered from R-1 upwards bearing numbers not then contemporaneously outstanding (in order of issuance) according to the records of the Trustee, except the Initial Bond shall be numbered T-1; shall be in Authorized Denominations; and shall be dated the Closing Date, except the Initial Bond which shall be dated October 1, 2015.

(c) Registered Form. All Bonds, unless a Supplemental Indenture shall have been executed and delivered pursuant to Section 7.02 hereof, shall be in fully registered form, and, except as provided in Section 2.06 hereof, the Holder of a Bond shall be regarded as the absolute owner thereof for all purposes of this Indenture.

(d) Further Details. 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 2.02 Maturity and Interest.

(a) General. The Bonds shall bear interest on the principal amount Outstanding from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or provided for, from the Closing Date, payable on each Interest Payment Date. The Bonds shall bear interest for each Interest Period at the Interest Rate. Interest on the Bonds shall be calculated on the basis of a 360-day year consisting of twelve 30-day months. The Bonds shall mature on the Maturity Date, subject to prior redemption as set forth in Section 3.01 hereof.

Section 2.03 Execution and Authentication of Bonds.

Unless otherwise provided in the Bond Resolution or a Supplemental Indenture, each Bond shall be signed by the President or Vice President of the Issuer and attested by the Secretary or Assistant Secretary of the Issuer 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, such signature or the facsimile thereof nevertheless shall be valid and sufficient for all purposes, the same as if he or she 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. In lieu of the certificate of authentication of the Trustee, the Initial Bond shall contain the Registration Certificate of the Comptroller of Public Accounts of the State of Texas substantially in the form set forth in Exhibit A hereto. Upon receipt of the Initial Bond by the Issuer, with the registration certificate thereon so executed, the Issuer shall deliver such Initial Bond to the Trustee. The Trustee, upon satisfaction of the conditions specified below in Section 2.11, shall cancel the Initial Bond and shall deliver the Bonds to the initial purchasers thereof or their designee, in substitution of the Initial Bond.

Section 2.04 Source of Payment of Bonds.

THE BONDS AND THE BOND SERVICE CHARGES ARE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE EXCLUSIVELY FROM THE TRUST ESTATE. THE BONDS ARE NOT A DEBT OR OTHER OBLIGATION, EITHER GENERAL OR SPECIAL, OF THE ISSUER (EXCEPT TO THE EXTENT OF THE TRUST ESTATE), ANY OFFICER, DIRECTOR OR MEMBER OF THE ISSUER, AUSTIN, TEXAS OR THE STATE OF TEXAS, OR OF ANY POLITICAL SUBDIVISION THEREOF, WITHIN THE MEANING OF ANY STATE CONSTITUTIONAL PROVISION OR STATUTORY LIMITATION AND SHALL NEVER CONSTITUTE NOR GIVE RISE TO A PECUNIARY LIABILITY OF THE ISSUER, ANY OFFICER, DIRECTOR OR MEMBER OF THE ISSUER, AUSTIN, TEXAS OR THE STATE OF TEXAS. THE BONDS SHALL NOT CONSTITUTE A GENERAL OBLIGATION OF OR A CHARGE AGAINST THE GENERAL CREDIT OF THE ISSUER OR AUSTIN, TEXAS OR ANY OFFICER, DIRECTOR OR MEMBER OF THE ISSUER OR AUSTIN, TEXAS, BUT SHALL BE A SPECIAL, LIMITED OBLIGATION OF THE ISSUER PAYABLE SOLELY FROM THE SOURCES DESCRIBED THEREIN AND IN THE INDENTURE, BUT NOT OTHERWISE. THE ISSUER HAS NO TAXING POWER. THE BONDS ARE ISSUED UNDER CHAPTER 394, TEXAS LOCAL GOVERNMENT CODE, AS AMENDED. THE STATE OF TEXAS IS NOT OBLIGATED TO PAY THE PRINCIPAL OF OR ANY PREMIUM OR INTEREST ON THE BONDS AND THE FULL FAITH AND CREDIT AND THE TAXING POWER OF THE STATE OF TEXAS ARE NOT PLEDGED, GIVEN, OR LOANED TO THE PAYMENT OF THE BONDS.

Section 2.05 Payment and Ownership of Bonds.

Bond Service Charges shall be payable in lawful money of the United States of America without deduction for the services of the Trustee. Subject to the provisions of Sections 2.09 and 2.10 of this Indenture, (a) the principal of any Bond shall be payable when due to a Holder upon presentation and surrender of such Bond at the Designated Operations Office of the Trustee, and (b) interest on any Bond shall be paid on each 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 (or one or more Predecessor Bonds) is registered at the close of business on the Regular Record Date applicable to that Interest Payment Date on the Register at the 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 (or of one or more Predecessor Bonds)

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, (a) the Trustee shall, pursuant to Section 6.06(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 (b) 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 (or their respective Predecessor 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 2.07 hereof, (a) the Holder of any Bond shall be deemed and regarded as the absolute owner thereof for all purposes of this Indenture, (b) payment of or on account of the Bond 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 (c) neither the Issuer nor the Trustee 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. Notwithstanding anything to the contrary herein or in any of the Borrower Documents, the Trustee is authorized to use funds on deposit in the Special Funds, as and when provided, to pay principal and interest on the Bonds when due.

Section 2.06 Registration and Transfer of Bonds; Restrictions on Transfer.

So long as any of the Bonds remain Outstanding, the registration and transfer of Bonds, as provided in this Indenture, will be maintained and kept at the Designated Operations Office of the Trustee.

Subject to the provisions set forth above and in Section 2.07 hereof, any Bond may be transferred upon the Register, upon presentation and surrender thereof at the Designated Office of the Trustee, together with an assignment duly executed by the Holder or its duly authorized attorney in any form which shall be satisfactory to the Trustee. Upon transfer of any Bond and on request of the Trustee, the Issuer shall execute in the name of the transferee, and the Trustee shall authenticate and deliver, a new Bond or Bonds, of any Authorized Denomination or Denominations in an aggregate principal amount equal to the unmatured and unredeemed principal amount of, and bearing interest at the same rate and maturing on the same date or dates as, the Bonds presented and surrendered for transfer.

In all cases in which Bonds shall be transferred hereunder, the Issuer shall execute, and the Trustee shall authenticate and deliver, Bonds in accordance with the provisions of this Indenture. The transfer shall be made without charge; provided, that the Issuer and the Trustee may make a charge for every exchange or transfer of Bonds sufficient to reimburse them for any tax or excise required to be paid with respect to the transfer. The charge shall be paid before a new Bond is delivered.

All Bonds issued upon any transfer of Bonds shall be the valid obligations of the Issuer, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Bonds surrendered upon transfer.

Section 2.07 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 Trustee that a lost, wrongfully taken or destroyed Bond has been acquired by a bona fide purchaser, the Issuer shall execute, and the Trustee 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 Trustee, and (b) in the case of any lost, wrongfully taken or destroyed Bond, there first shall be furnished to the Trustee and the Issuer evidence of the loss, wrongful taking or destruction satisfactory to the Trustee, together with indemnity satisfactory to the Authorized Borrower Representative, the Trustee and the Authorized Official.

If any lost, wrongfully taken or destroyed Bond shall have matured, instead of issuing a new Bond, the Issuer may direct the Trustee to pay that Bond without surrender thereof upon the furnishing of satisfactory evidence and indemnity as in the case of issuance of a new Bond. The Issuer 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 (a) 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 (b) 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 2.08 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 Trustee.

Notwithstanding any provision of this Indenture to the contrary, the Issuer, or the Borrower on behalf of the Issuer, may deliver at any time to the Trustee 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 Trustee. Certification of the surrender and cancellation shall be made to the Issuer by the Trustee upon the request of the Issuer. Unless otherwise directed by the Issuer, cancelled Bonds shall be retained and stored by the Trustee for a period of four years after their cancellation. Should the Trustee destroy cancelled Bonds, it shall provide certificates describing the destruction of cancelled Bonds to the Issuer.

Section 2.09 Reserved.

Section 2.10 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 Interests 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 (a) 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 any notice with respect to the Bonds or (b) the payment to any participant in the Depository or any other Person, other than a registered owner of the Bonds, as shown in the Register, 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 (a) 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 (b) 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 (c) 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 (b) or (c) 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 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, (a) 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 (b) 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.

Section 2.11 Delivery of the Bonds.

Prior to or simultaneously with the delivery of any Bonds against payment therefor, the Trustee shall have received or shall receive the following:

- (a) a certified copy of the Bond Resolution;
- (b) executed counterparts of this Indenture and the other Financing Documents specifically set forth in the definition of Financing Documents;
- (c) an Opinion of Bond Counsel substantially to the effect that the Bonds constitute legal, valid and binding obligations of the Issuer and that under existing statutes, regulations, published rulings and judicial decisions, the interest on the Bonds is not includable in gross income for federal income tax purposes except with respect to the interest on any Bond for any period during which such Bond is held by a "substantial user" of the Project or a "related person," as those terms are defined for purposes of Section 147(a) of the Code;
- (d) funds the Trustee is required to receive for deposit pursuant to Section 4.02 hereof;
- (e) a Collateral Payment in the amount of \$_____;
- (f) written evidence that the Bonds have been rated AA+ by the Rating Agency; and
- (g) any other documents or opinions which the Trustee, the Issuer or Bond Counsel may reasonably require, which requirement shall be deemed to be satisfied upon the delivery of the Opinion of Bond Counsel.

(End of Article II)

ARTICLE III

REDEMPTION OF BONDS

Section 3.01 Terms of Redemption of Bonds.

Optional Redemption. The Bonds are subject to optional redemption; in whole but not in part, on and after [_____ 1, 20__] from a prepayment of the Note at a price equal to the principal amount of the Bonds so redeemed plus accrued interest on such principal to the Redemption Date (the "Redemption Price"). Notwithstanding the foregoing, the Note shall not be subject to prepayment and the Bonds shall not be subject to optional redemption unless there shall be in place at the time the Trustee gives the notice of redemption arrangements enabling the Trustee to liquidate on or prior to the Redemption Date the Portfolio Securities and any other Eligible Investments on deposit in the Project Fund, the Collateral Fund or the Bond Fund , without need for further investment, for an aggregate amount of money sufficient to pay the Redemption Price of the Bonds on the date fixed for redemption.

Section 3.02 Reserved.

Section 3.03 Notice of Redemption.

Unless waived by any Holder of Bonds to be redeemed, official notice of redemption shall be given by the Trustee on behalf of the Issuer by mailing a copy of an official redemption notice by first class mail, postage prepaid, to the Holder of each Bond to be redeemed, at the address of such Holder shown on the Register at the opening of business on the fifth day prior to such mailing, not less than 20 days nor more than 30 days prior to the date fixed for redemption. A second notice of redemption shall be given, as soon as practicable, by first class mail to the Holder of each Bond which has been so called for redemption but has not been presented and surrendered to the Trustee within 60 days following the date fixed for redemption of that Bond.

All official notices of redemption shall be dated and shall state:

- (a) the redemption date,
- (b) the redemption price,
- (c) the identification by designation, letters, numbers or other distinguishing marks of the Bonds to be redeemed,
- (d) that on the redemption date the redemption price will become due and payable upon each such Bond called for redemption, and that interest thereon shall cease to accrue from and after said date,
- (e) the place where such Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the Designated Operations Office of the Trustee, and
- (f) that the notice of redemption is conditioned upon there being deposited with the Trustee on or prior to the date of redemption moneys sufficient to pay the redemption price of the Bonds.

Notices of redemption shall be revocable in the event that there is not on deposit with the Trustee prior to the date of redemption moneys sufficient to pay the redemption price of the Bonds. The notice of redemption shall state that it is conditioned upon receipt by the Trustee of sufficient moneys to redeem the Bonds to pay the redemption price in full ("Conditional Redemption"), and such notice and optional redemption shall be of no effect if, by no later than the scheduled redemption date, sufficient moneys to redeem the Bonds and sufficient moneys to pay the redemption price have not been deposited with the Trustee, or if such moneys are deposited, are not available on the redemption date.

If the Bonds are not then held in a Book Entry System, in addition to the foregoing notice, further notice shall be given by the Trustee as set out below, but no defect in said 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 plus (i) the CUSIP numbers of all Bonds being redeemed; (ii) the date of issue of the Bonds as originally issued; (iii) the rate of interest borne by each Bond being redeemed; (iv) the maturity date of each Bond being redeemed; and (v) any other descriptive information deemed necessary in the sole discretion of the Trustee to identify accurately the Bonds being redeemed.

Each further notice of redemption shall be sent at least 15 days before the redemption date by telecopy, registered or certified mail or overnight delivery service to the Rating Agency if the Bonds are then rated by the Rating Agency and to all registered securities depositories then in the business of holding substantial amounts of obligations of types comprising the Bonds and to one or more national information services that disseminate notices of redemption of obligations such as the Bonds.

Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number (if any) identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

Failure to receive notice by mailing or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any other Bond.

Notice of any redemption hereunder with respect to Bonds held under a Book Entry System shall be given by the Trustee to the Rating Agency if the Bonds are then rated by the Rating Agency and to the Depository, or its nominee, as the Holder of the Bonds. Selection of Beneficial Ownership Interests in the Bonds called for redemption is the responsibility of the Depository and any failure of such Depository to notify the Beneficial Owners of any such notice and its contents or effect will not affect the validity of such notice of any proceedings for the redemption of the Bonds.

Section 3.04 Payment of Redeemed Bonds.

Notice having been mailed in the manner provided in Section 3.03 hereof, the Bonds shall become due and payable on the redemption date, and upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, including interest accrued to the redemption date.

Upon the payment of the price of Bonds, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Bonds with the proceeds of such check or other transfer.

If money for the redemption of the Bonds , together with interest accrued thereon to the redemption date, is held by the Trustee on the redemption date, so as to be available therefor on that date and if notice of redemption has been deposited in the mail as aforesaid, then from and after the redemption date, the Bonds shall cease to bear interest and no longer shall be considered to be Outstanding hereunder. If those moneys shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, the Bonds shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption.

All moneys deposited in the Bond Fund and held by the Trustee for the redemption, purchase or prepayment of the Bonds shall be held in trust for the account of the Holders thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds.

(End of Article III)

ARTICLE IV
REVENUES AND FUNDS

Section 4.01 Creation of Funds.

There are hereby established with the Trustee the following funds and accounts (the “**Funds**”), to be held in trust and maintained by the Trustee under this Indenture:

- (a) the Bond Fund, and therein the Negative Arbitrage Account (but only at such times as moneys are to be deposited or held in such Account as provided in this Indenture);
- (b) the Project Fund;
- (c) the Costs of Issuance Fund;
- (d) the Collateral Fund;
- (e) the Rebate Fund; and
- (f) the Expense Fund.

Each fund and account therein shall be maintained by the Trustee as a separate and distinct trust fund or account to be held, managed, invested, disbursed and administered as provided in this Indenture. All money deposited in the funds and accounts created hereunder shall be used solely for the purposes set forth in this Indenture. The Trustee shall keep and maintain adequate records pertaining to each fund and account, and all disbursements therefrom, in accordance with its general practices and procedures in effect from time to time. The Trustee may also terminate funds and accounts that are no longer needed.

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

Section 4.02 Allocation of Bond Proceeds and Other Deposits.

(a) Allocation of Bond Proceeds. The principal proceeds of the Bonds of \$_____ shall be allocated, deposited or delivered by the Trustee to the Project Fund.

(b) Allocation of Borrower and Mortgage Lender Funds. On the Closing Date, the Trustee shall receive any Initial Borrower Deposit from or on behalf of the Borrower and the Initial Deposit, from money other than the proceeds of the Bonds, which the Trustee shall deposit as follows:

- (i) to the Negative Arbitrage Account of the Bond Fund, \$_____ from the Initial Deposit;

- (ii) to the Expense Fund, ____ from the Initial Borrower Deposit; and
- (iii) to the Cost of Issuance Fund, \$ ____ from the Initial Borrower Deposit.

Section 4.03 Bond Fund.

So long as there are any Outstanding Bonds, to the extent the Borrower has not received a credit against Loan Payments, all Loan Payments under the Financing Agreement shall be paid on or before each Bond Payment Date directly to the Trustee, and deposited in the Bond Fund, in at least the amount necessary to pay the interest and the principal due on the Bonds on the next succeeding Bond Payment Date.

The Bond Fund (and accounts therein for which provision is made in this Indenture) and the moneys and Eligible Investments therein shall be used solely and exclusively for the payment of Bond Service Charges as they become due.

Bond Service Charges shall be payable, as they become due, (a) in the first instance from the moneys on deposit in the Bond Fund and (b) thereafter, from moneys on deposit in the Collateral Fund or the Project Fund and transferred as necessary to the Bond Fund.

Section 4.04 Project Fund.

Moneys in the Project Fund shall be disbursed in accordance with the provisions of Section 3.6 of the Financing Agreement and this Section 4.04. To the extent moneys are not otherwise available to the Trustee, including moneys on deposit in the Bond Fund or the Collateral Fund, the Trustee shall transfer from the Project Fund to the Bond Fund sufficient moneys to make the necessary interest payments on each Interest Payment Date without further written direction. The Trustee shall cause to be kept and maintained adequate records pertaining to the Project Fund and all disbursements therefrom. If requested by the Issuer, the Investor Partner or the Borrower, after the Project has been completed and a Completion Certificate is filed as provided in Section 4.07 hereof, the Trustee shall file copies of the accounting records pertaining to the Project Fund and disbursements therefrom with the Issuer, the Borrower and Investor Partner. The Trustee shall satisfy this obligation by providing trust statements for all periods in which there are funds in the Project Fund.

Notwithstanding any provision of the Financing Agreement or any other provision of this Indenture to the contrary and except to make necessary interest payments, the Trustee shall not disburse moneys from the Project Fund unless and until (i) Collateral Payments in amount equal to or greater than the requested disbursement amount have been deposited in the Collateral Fund and (ii) the Trustee has verified that the sum of the Eligible Funds then held in the Collateral Fund and the Eligible Funds then on deposit in the Project Fund, less the anticipated amount of the disbursement from the Project Fund, is at least equal to the then outstanding principal amount of the Bonds.

On the Maturity Date, any moneys remaining in the Project Fund shall be transferred to the Bond Fund.

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 6.03 hereof, any moneys remaining in the Project Fund shall be promptly transferred by the Trustee to the Bond Fund.

Section 4.05 Costs of Issuance Fund.

Amounts on deposit in the Cost of Issuance Fund shall be used by the Trustee to pay costs of issuance as directed by the Issuer and approved by the Borrower and the Investor Partner. Any amounts remaining on deposit in the Costs of Issuance Fund 30 days after the Closing Date shall be returned to or at the direction of the Borrower.

Section 4.06 Collateral Fund.

The Trustee shall deposit into the Collateral Fund all Collateral Payments received pursuant to Section 4.2 of the Financing Agreement. Section 4.2 of the Financing Agreement requires the Borrower to cause the Mortgage Lender to make Collateral Payments to the Trustee for deposit into the Collateral Fund in a principal amount equal to, and as a prerequisite to the disbursement of, the amount of Bond proceeds on deposit in the Project Fund to be disbursed by the Trustee to fund the Loan.

The Trustee shall transfer moneys in the Collateral Fund as follows: (a) on each Interest Payment Date, to the Bond Fund interest earnings on amounts on deposit in the Collateral Fund to be used to pay the interest on the Bonds on such Interest Payment Date; and (b) on the Maturity Date, to the Bond Fund the amount necessary to pay the principal due on the Bonds on such date.

The Bonds shall not be, and shall not be deemed to be, paid or prepaid by reason of any deposit into the Collateral Fund unless and until the amount on deposit in the Collateral Fund is transferred to the Bond Fund and applied to the payment of the principal of any of the Bonds or the principal component of the redemption price of any of the Bonds, all as provided in this Indenture.

Section 4.07 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 3.9 of the Financing 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 Authorized Borrower Representative pursuant to Section 3.6 of the Financing Agreement.

Section 4.08 Expense Fund.

The Trustee shall deposit to the Expense Fund the Additional Payments received from the Borrower pursuant to Section 4.4 of the Financing Agreement and shall apply those amounts to the payment of the amounts required by this Section 4.08. The Trustee shall apply moneys on deposit in the Expense Fund solely for the following purposes, on the dates specified below, in the following order of priority:

- (a) to pay the Issuer Administration Fee when due;
- (b) to pay the Issuer Fees and Expenses not previously paid;

(c) to transfer money to the Rebate Fund to the extent necessary to pay the Rebate Amount (if any) on or before the Computation Date to pay the Rebate Amount pursuant to Section 4.09 hereof;

(d) to pay the Ordinary Trustee's Fees and Expenses when due; and

(e) to pay the Dissemination Agent Fee when due.

To the extent moneys in the Expense Fund are not sufficient to pay the foregoing fees and expenses, such deficiency shall be paid by the Borrower pursuant to Section 4.4 of the Financing Agreement immediately upon written demand.

Additionally, following the repayment of the Bonds in full, to the extent that there are not adequate funds available in the Expense Fund to make full payment of the Issuer Administration Fee when due and the Issuer Fees and Expenses not previously paid, then such fees or any amount remaining unpaid shall be paid to the Expense Fund as a disbursement from the Project Fund prior to the disbursement from the Project Fund for any other costs or expenses.

Section 4.09 Rebate Fund.

(a) The Trustee shall maintain the Rebate Fund, for the benefit of all persons who are or have at any time been Holders, at all times prior to the final payment to the United States of America of the amounts described in Subsection (c) of this Section which fund shall not be part of the trust estate established hereunder. The money deposited to the Rebate Fund, together with all investments thereof and investment income therefrom, shall be held in trust separately and apart from the other funds held under the Indenture and applied solely as provided in this Section, unless in the opinion of Bond Counsel failure to make such application will not adversely affect any exclusion from gross income of interest on the Bonds under the Code.

(b) The Trustee shall deposit or transfer to the credit of the account of the Rebate Fund each amount delivered to the Trustee by the Borrower for deposit thereto and each amount directed by the Borrower to be transferred thereto. The Trustee shall credit all earnings and debit all losses from the investment of money held for the account of the Rebate Fund to such fund. The Trustee shall furnish to the Borrower and the Investor Partner all information reasonably requested by the Borrower or the Investor Partner with respect to the Bonds and investment of funds and accounts maintained by the Trustee hereunder.

(c) (i) Within 30 days after each Computation Date, the Trustee, on behalf of the Issuer, shall withdraw from the Rebate Fund and pay to the United States of America the appropriate portion of the Rebate Amount (determined by the Rebate Analyst on behalf of the Borrower) in the installments, to the place and in the manner required by section 148(f) of the Code, the Regulations, and rulings thereunder as instructed by the Borrower or its legal counsel and as provided in subsection (iii) below.

(ii) Within five days after receipt from the Borrower or the Rebate Analyst of written notification of any amount due to the United States of America pursuant to Section 1.148-3(h) of the Regulations accompanied by relevant IRS forms including IRS Form 8038-T, the Trustee shall withdraw from the Rebate Fund an amount which when added to all prior payments to the United States of America equals the correct appropriate portion of the Rebate Amount, plus any penalties and interest and pay such correction amount to the United States of America.

(iii) All payments to the United States of America pursuant to this subsection shall be made by the Trustee for the account and in the name of the Issuer and shall be paid by draft posted by certified United States Mail (return receipt requested), addressed to the appropriate Internal Revenue Service Center (and, if appropriate, accompanied by the relevant Internal Revenue Service Form, such as Form 8038-T or such other statements, explanations or forms required pursuant to the Regulations or other Internal Revenue Service promulgations).

(d) The Trustee shall preserve all statements, forms, and explanations received from the Borrower or the Issuer pursuant to this Section and all records of transactions in the Rebate Fund until six years after the discharge of the Bonds.

(e) The Trustee may conclusively rely on the information provided, instructions of and forms prepared by the Borrower or the Rebate Analyst with regard to any actions to be taken by it, including payments to be made, pursuant to this Section and shall have no liability for any consequences of any failure of the Borrower to supply accurate or sufficient instructions or to compute correctly any payment due pursuant to this Section. The Trustee shall have no responsibility or duty to perform any rebate calculation or to expend its own funds to make any rebate payments.

(f) If at any time during the term of this Indenture the Borrower or the Issuer desires to take any action which would otherwise be prohibited by the terms of this Section, such Person shall be permitted to take such action if it shall first obtain and provide at the expense of the Borrower to the other Persons named herein an opinion of Bond Counsel to the effect that such action shall not adversely affect the exclusion of interest on the Bonds from gross income of the owners of any Bond for Federal income tax purposes and shall be in compliance with the laws of the State of Texas.

(g) Notwithstanding any provision of the bond documents or Mortgage Loan Documents and unless otherwise specifically agreed to in a separate written agreement, the Trustee shall not be liable or responsible for any method of calculation, or any calculation or determination which may be required in connection with or for the purpose of complying with Section 148 of the Code or any successor statute or any regulation, ruling, or other judicial or administrative interpretation thereof, including, without limitation, the calculation of amounts required to be paid the United States of America or the determination of the maximum amount which may be invested in Nonpurpose Investments having a higher yield than the yield on the Bonds, in connection with any such investments. The method of calculation, calculation and determination required by section 148 of the Code shall be accomplished by a Rebate Analyst engaged by the Borrower. The Trustee shall not be liable or responsible for the negligence or misconduct of the Rebate Analyst. The Trustee shall not be liable or responsible for monitoring the compliance by the Borrower or the Issuer of any of the requirements of Section 148 of the Code or any applicable regulation, ruling, or other judicial or administrative interpretation thereof (except for the administrative functions described in this Section and in this Indenture), it being acknowledged and agreed that the sole obligation of the Trustee in this regard shall be (i) to invest the moneys received by the Trustee pursuant to the written instructions of the Borrower in the specific investments identified by the Borrower or, in the absence of such identification, to make investments as otherwise provided herein and to disburse said moneys in accordance with the terms of this Indenture and (ii) to follow instructions contained in this Section and in this Indenture. The Trustee shall not be liable for the Bonds becoming "arbitrage bonds" within the meaning of the Code, as a result of investments it makes in compliance with the instructions it receives or pursuant to or in compliance with the terms of this Indenture.

Any provision hereof to the contrary notwithstanding, amounts credited to the Rebate Fund shall be free and clear of any lien hereunder.

Section 4.10 Investment of Special Funds and Rebate Fund.

Funds on deposit in the Project Fund may be held uninvested (but not for more than 365 days) or invested in Eligible Investments as directed by the Borrower that mature or are redeemable without penalty on or before the Maturity Date or such earlier date selected by the Borrower in the investment direction that will allow for funds to be available on or before the date said funds are needed to be withdrawn from the Project Fund.

Any amounts deposited in the Collateral Fund shall be invested in Eligible Investments as provided below that mature or are redeemable by the Trustee without penalty at times sufficient to meet the interest payment dates on the Bonds and to pay the principal on the Bonds when due on the Maturity Date. Such investments shall not bear a yield that is in excess of the yield on the Bonds. The Trustee may not sell any investment at a loss.

The investments described in each of the above paragraphs shall be made by the Trustee pursuant to the written direction of the Borrower which shall be provided on the Closing Date as provided in the following paragraph.

Notwithstanding the foregoing or any other provisions of this Section 4.10, the Trustee is hereby directed to invest all amounts on deposit in the Project Fund, the Collateral Fund or the Bond Fund on the Closing Date in a portfolio of direct noncallable Government Obligations (the "Portfolio Securities") purchased with Eligible Funds in accordance with the cash flow statement attached hereto as Exhibit B, to pay Bond Service Charges on the Bonds as such Bond Service Charges become due and payable under this Indenture. Except as such Portfolio Securities may be liquidated by the Trustee in connection with an optional redemption of the Bonds pursuant to Section 3.01 hereof, the Trustee shall not sell or otherwise dispose of the Portfolio Securities unless the Trustee has received a Cash Flow Projection as well as written confirmation from S&P that such proposed change in the investments under the Indenture will not result in a suspension, reduction or withdrawal in the rating then in effect on the Bonds. Any amounts on deposit in the Project Fund, the Collateral Fund or the Bond Fund on the Closing Date or thereafter which are not invested in the Portfolio Securities shall be invested in Eligible Investments of the type specified in paragraph (b) of the definition of Eligible Investments.

Any moneys held as part of the Rebate Fund, and not immediately required for the purposes of the Rebate Fund, shall be invested or reinvested by the Trustee, at the written direction of the Authorized Borrower Representative, in Eligible Investments or in any money market or short term investment fund investing in or consisting solely of and secured by Government Obligations, including any such fund maintained by the Trustee or an affiliate thereof having maturities consistent with the need for funds as estimated by the Borrower.

Section 4.11 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 under any provision of this Indenture or the Note, and any investments thereof, shall be held by the Trustee in trust. Except for moneys held by the Trustee pursuant to Section 4.09 hereof, all moneys described in the preceding sentence held by the Trustee shall be subject to the lien of the Indenture hereof while so held.

The moneys in any fund or account established under this Indenture shall be subject to the unclaimed property laws of the State.

Section 4.12 Valuation.

For the purpose of determining the amount on deposit to the credit of any Special 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 Authorized Borrower Representative 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. Receipt by the Borrower of monthly account statements shall constitute valuation in accordance with this Section.

Section 4.13 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.

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 three years after the due date thereof, shall be paid to the State of Texas free of any trust or lien, upon a request in writing by the Borrower. 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 4.14 Repayment to the Borrower from the Bond Fund.

Except as provided in Section 4.09 and Section 4.13 hereof, any amounts remaining in the Bond Fund (a) after all of the Outstanding Bonds shall be deemed paid and discharged under the provisions of this Indenture, and (b) after payment of all fees, charges and expenses of the Issuer and the Trustee and of all other amounts required to be paid under this Indenture, the Financing Agreement, the Tax Certificate, the Tax 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.

(End of Article IV)

ARTICLE V
THE TRUSTEE

Section 5.01 Standard of Care.

The Trustee, prior to an Event of Default as defined in Section 6.01 and after the curing or waiver of all such events which may have occurred, shall perform such duties and only such duties as are specifically set forth in this Indenture. The Trustee, during the existence of any such Event of Default (which shall not have been cured or waived), shall exercise such rights and powers vested in it by this Indenture and use the same degree of care and skill in its exercise as a prudent Person would exercise or use under similar circumstances in the conduct of such Person's own affairs.

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

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

(i) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

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

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

(i) the Trustee shall not be liable for any error of judgment made in good faith by an officer or employee of the Trustee except for willful misconduct or negligence by the officer or employee of the Trustee as the case may be; and

(ii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding (or such lesser or greater percentage as is specifically required or permitted by this Indenture) relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture.

Section 5.02 Regarding the Trustee.

Except as otherwise provided in Section 5.01:

(a) the Trustee may rely upon the authenticity or truth of the statements and the correctness of the opinions expressed in, and shall be, protected in acting upon any resolution, certificate, statement, instrument, opinion (including an opinion of independent counsel), report,

notice, notarial seal, stamp, acknowledgment, verification, request, consent, order, bond, requisition, affidavit, letter, telegram or other paper or document in good faith deemed by it to be genuine and correct and to have been signed or sent by the party or parties;

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

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

(d) reserved;

(e) in the administration of the trusts of this Indenture, the Trustee may execute any of the trusts or powers hereby granted directly or through its agents, receivers or attorneys, and shall not be responsible for any misconduct or negligence on the part of any agents, receivers, or attorneys appointed with due care by the Trustee hereunder, and the Trustee may consult with counsel (who may be counsel for the Issuer) and the opinion or advice of such counsel shall be full and complete authorization and protection in respect of any action taken or permitted by it hereunder in good faith and in accordance with the opinion of such counsel;

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

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

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

(i) the Trustee shall not be required to ascertain or inquire as to the performance or observance of any of the covenants or agreements herein or in any contracts or securities assigned or conveyed to or pledged with the Trustee hereunder, except Events of Default that are evident under Section 6.01(a) or Section 6.01(b) hereof. The Trustee shall not be required to take notice or be deemed to have notice or actual knowledge of any default or Event of Default specified in Section 6.01 hereof (except defaults under Section 6.01(a) or Section 6.01(b) hereof) unless the Trustee shall receive from the Issuer or the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding written notice stating that a default or Event of Default has occurred and specifying the same, and in the absence of such notice the Trustee may conclusively assume that there is not such default. Every provision contained in this Indenture or related instruments or in any such contract or security wherein the duty of the Trustee depends on the occurrence and continuance of such default shall be subject to the provisions of this subsection (i);

(j) the Trustee shall be under no duty to confirm or verify any financial or other statements or reports or certificates furnished to it pursuant to any provisions hereof, except to the extent such statement or reports are furnished by or under the direction of the Trustee, and shall be under no other duty in respect of the same except to retain the same in its files and permit the inspection of the same at reasonable times by the Holder of any Bond. The Trustee shall not be deemed to have notice of any information contained therein or event of default which may be disclosed therein in any manner;

(k) the Trustee shall be under no obligation to exercise those rights or powers vested in it by this Indenture, other than such rights and powers which it shall be obliged to exercise in the ordinary course of its trusteeship under the terms and provisions of this Indenture, and as required by law at the request or direction of any of the Holders pursuant to Sections 6.03 and 6.08 of this Indenture, unless such Holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in the compliance with such request or direction, including, but not limited to, any liability arising directly or indirectly under any federal, state or local statute, rule, law or ordinance related to the protection of the environment or hazardous substances;

(l) The Trustee may consult with counsel, and the advice of such counsel or any opinion of counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by the Trustee hereunder in good faith and in reliance thereon subject to the Trustee's own negligence or willful misconduct in carrying out any such action or omitting to take such action upon such advice or opinion of counsel;

(m) The Trustee shall not be accountable for the use or application by the obligor of any of the Bonds or the proceeds thereof 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;

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

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

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

(q) The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligation under this Indenture arising out of 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; riots; interruptions; loss or malfunctions of utilities, computer (hardware or software) or 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 the circumstances; and

(r) The Trustee agrees to accept and act upon written instructions or directions pursuant to this Indenture sent by the Issuer or the Borrower, as the case may be, by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that the Issuer and the Borrower, respectively, shall provide to the Trustee an incumbency certificate listing designated persons with the authority to provide such instructions, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the Issuer or the Borrower, as applicable, elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The Issuer and the Borrower, as applicable, agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

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

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

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

The Trustee agrees to accept and act upon facsimile transmission of written instructions and/or directions pursuant to this Indenture provided, however, that: (a) subsequent to such facsimile transmission of written instructions and/or directions the Trustee shall forthwith receive the originally executed instructions and/or directions, (b) such originally executed instructions

and/or directions shall be signed by a person as may be designated and authorized to sign for the party signing such instructions and/or directions, and (c) the Trustee shall have received a current incumbency certificate containing the specimen signature of such designated person.

Any resolution, certification, notice, request, direction, election, order or demand delivered to the Trustee pursuant to this Section 5.02 shall remain in effect until the Trustee receives written notice to the contrary from the party that delivered such instrument accompanied by revised information for such party.

The Trustee shall have no responsibility for the value of any collateral or with respect to the perfection or priority of any security interest in any collateral except as otherwise provided in Section 5.16 hereof.

Section 5.03 Use of Proceeds.

The Trustee shall not be accountable for the use or application of any of the Bonds authenticated or delivered hereunder or of the proceeds of the Bonds except as provided herein.

Section 5.04 Trustee May Hold Bonds.

The Trustee and its officers and directors may acquire and hold, or become pledgees of Bonds and otherwise may deal with the Issuer and the Borrower in the same manner and to the same extent and with like effect as though it were not Trustee hereunder.

Section 5.05 Trust Imposed.

All money received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received.

Section 5.06 Compensation of Trustee.

The Trustee shall be entitled to its Ordinary Trustee's Fees and Expenses in connection with the services rendered by it in the execution of the trusts hereby created and in the exercise and performance of any of the powers and duties of the Trustee hereunder or under any Financing Documents to the extent money is available therefor, in accordance with Section 4.08 hereof, exclusive of Extraordinary Services. The Trustee shall be entitled to Extraordinary Trustee Fees and Expenses in connection with any Extraordinary Services performed consistent with the duties hereunder or under any Bond Financing Documents; provided the Trustee shall not incur any Extraordinary Trustee Fees and Expenses without the consent of the Mortgage Lender (unless requested by the Issuer, the Borrower or the Investor Partner) (except that no consent shall be required if an Event of Default under 6.01(b) has occurred and is continuing). If any property, other than cash, shall at any time be held by the Trustee subject to this Indenture, or any supplemental indenture, as security for the Bonds, the Trustee, if and to the extent authorized by a receivership, bankruptcy, or other court of competent jurisdiction or by the instrument subjecting such property to the provisions of this Indenture as such security for the Bonds, shall be entitled to make advances for the purpose of preserving such property or of discharging tax liens or other liens or encumbrances thereon. Payment to the Trustee for its services and reimbursement to the Trustee for its expenses, disbursements, liabilities and advances, shall be limited to the sources described in Sections 4.08 and 6.06 hereof and in the Financing Agreement. The Trustee shall have no right to setoff or banker's lien against, and, except as expressly provided pursuant to Section 4.08 hereof, no right to otherwise deduct from, any funds held pursuant to this

Indenture. The Issuer shall have no liability for Trustee's fees, costs or expenses. Subject to the provisions of Section 5.09 hereof, the Trustee agrees that it shall continue to perform its duties hereunder (including, but not limited to, its duties as Paying Agent and Bond Registrar) and under the Financing Documents even in the event that money designated for payment of its fees shall be insufficient for such purposes or in the event that the Borrower fails to pay the Ordinary Trustee's Fees and Expenses or, if applicable, the Extraordinary Trustee Fees and Expenses, as required by the Financing Agreement.

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 AGAINST, ALL LIABILITIES, CLAIMS, COSTS AND EXPENSES AND ATTORNEYS' FEES IMPOSED UPON, INCURRED OR ASSERTED AGAINST THE ISSUER OR THE TRUSTEE ON ACCOUNT OF: (A) 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, DESIGN, 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; (B) ANY BREACH OR DEFAULT ON THE PART OF THE BORROWER IN THE PERFORMANCE OF ANY COVENANT OR AGREEMENT OF THE BORROWER UNDER THE FINANCING AGREEMENT, THE TAX 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; (C) THE BORROWER'S FAILURE TO COMPLY WITH ANY REQUIREMENT OF THE FINANCING AGREEMENT INCLUDING THE COVENANT IN SECTION 5.4 THEREOF; (D) ANY ACTION TAKEN OR OMITTED TO BE TAKEN BY THE ISSUER OR THE TRUSTEE AT THE REQUEST OF OR WITH THE CONSENT OF THE BORROWER; (E) THE ISSUANCE, OFFERING, SALE OR DELIVERY OF THE BONDS; AND (F) ANY CLAIM, ACTION OR PROCEEDING BROUGHT WITH RESPECT TO ANY MATTER SET FORTH IN CLAUSE (A), (B), (C), (D) OR (E) ABOVE; PROVIDED, HOWEVER, THAT THE INDEMNIFICATION PROVIDED IN THIS SECTION SHALL NOT APPLY TO ANY MATTER ARISING OR RESULTING FROM THE WILLFUL MISCONDUCT OF THE ISSUER OR THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE TRUSTEE OR ANY INFORMATION PROVIDED BY THE ISSUER OR THE TRUSTEE IN WRITING FOR USE IN CONNECTION WITH THE OFFERING AND SALE OF THE BONDS.

THE BORROWER AGREES TO INDEMNIFY AND HOLD THE TRUSTEE (IN ITS CAPACITY AS SUCH, IN ITS INDIVIDUAL CAPACITY, AND IN ANY OTHER CAPACITY IT ASSUMES UNDER OR PURSUANT TO ANY FINANCING DOCUMENT), ITS EMPLOYEES, OFFICERS, REPRESENTATIVES, AND AGENTS HARMLESS FROM AND AGAINST ANY AND ALL LOSSES, COSTS, DAMAGES, EXPENSES AND LIABILITIES OF WHATSOEVER NATURE OR KIND (INCLUDING, BUT NOT LIMITED TO, ANY TAXES DUE AND PAYABLE IN CONNECTION WITH THE LOAN, REASONABLE ATTORNEYS' FEES, INCLUDING ANY AND ALL OF THOSE INCURRED PRIOR TO LITIGATION AND AT ALL TRIBUNAL LEVELS; LITIGATION AND COURT COSTS, AMOUNTS PAID IN SETTLEMENT BY OR WITH THE APPROVAL OF THE BORROWER, AND AMOUNTS PAID TO DISCHARGE JUDGMENTS) DIRECTLY OR INDIRECTLY RESULTING FROM, ARISING OUT OF, OR RELATED TO (I) THE ISSUANCE, OFFERING, SALE OR DELIVERY OR RESALE ON THE SECONDARY MARKET OF THE BONDS; (II) THE ENFORCEMENT OF PROVISIONS OF THE FINANCING

AGREEMENT, THE NOTE, THE INDENTURE, THE TAX REGULATORY AGREEMENT, OR ANY OTHER FINANCING DOCUMENT; (III) ANY WRITTEN STATEMENTS OR REPRESENTATIONS MADE OR GIVEN BY BORROWER OR BY ANY PARTNER, DIRECTOR, OFFICER, EMPLOYEE, ATTORNEY, OR AGENT OF THE BORROWER OR PERSON UNDER DIRECT CONTRACT TO THE BORROWER OR ACTING ON THE BORROWER'S BEHALF TO ANY INDEMNIFIED PERSONS; (IV) THE DESIGN, CONSTRUCTION, REHABILITATION, INSTALLATION, OPERATION, USE, OCCUPANCY, MAINTENANCE OR OWNERSHIP OF THE PROJECT; OR (V) THE ADMINISTRATION OF THE TRUSTS CREATED BY THE INDENTURE; PROVIDED, HOWEVER, THE TRUSTEE SHALL NOT BE INDEMNIFIED HEREUNDER FOR ANY CLAIMS OR DAMAGES ARISING FROM ITS OWN GROSSLY NEGLIGENT ACTS OR OMISSIONS OR FROM ANY WILLFUL MISCONDUCT BY THE TRUSTEE IN CARRYING OUT ITS DUTIES SET FORTH IN THE INDENTURE. NOTWITHSTANDING ANY PROVISIONS OF ANY FINANCING DOCUMENTS TO THE CONTRARY, THE TRUSTEE'S RIGHTS UNDER THIS SECTION SHALL SURVIVE THE TRUSTEE'S RESIGNATION OR REMOVAL AND THE DISCHARGE OF THE INDENTURE.

NOTWITHSTANDING THE FOREGOING, THE INDEMNIFICATION DESCRIBED IN THIS SECTION 5.06 SHALL RELATE TO INDEMNIFIED OBLIGATIONS ARISING FROM TRUSTEE'S OWN NEGLIGENCE.

THE INDEMNIFICATION OBLIGATIONS DESCRIBED IN THIS SECTION 5.06 SHALL ONLY BE PAID FROM SURPLUS CASH, INSURANCE PROCEEDS AND FROM NON-PROJECT ASSETS (AS DEFINED IN THE HUD REGULATORY AGREEMENT) OF THE BORROWER.

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. At the Borrower's expense, an indemnified party may employ separate counsel and participate in the defense. The Borrower shall not be liable for any settlement made without its consent.

The indemnification set forth above is intended to and shall include the indemnification of all affected officials, directors, officers and employees of the Issuer and the Trustee, and any predecessor 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 5.07 Qualifications of Trustee.

There shall at all times be a Trustee hereunder which shall (a) be a bank with trust powers or a corporation organized and doing business under the laws of the United States or any state thereof, authorized under such laws to exercise corporate trust powers, and (b) have a Minimum Trustee Rating. Any successor Trustee shall have a combined capital and surplus of at least \$50,000,000 (or shall be a wholly-owned subsidiary of an association or corporation that has such combined capital and surplus), and be subject to supervision or examination by federal or state authority, or shall have been appointed by a court of competent jurisdiction pursuant to Section 5.11. If such association or corporation publishes reports of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority referred to above,

then for the purposes of this Section, the combined capital and surplus of such association or corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section and another association or corporation is eligible, the Trustee shall resign immediately in the manner and with the effect specified in Section 5.09.

Section 5.08 Merger of Trustee.

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

Section 5.09 Resignation by the Trustee.

The Trustee may at any time resign from the trusts hereby created by giving written notice to the Issuer and the Borrower, and by giving notice by certified mail or overnight delivery service to each Holder of the Bonds then Outstanding. Such notice to the Issuer and the Borrower may be served personally or sent by certified mail or overnight delivery service. The resignation of the Trustee shall not be effective until a successor Trustee has been appointed as provided herein and such successor Trustee shall have agreed in writing to be bound by the duties and obligations of the Trustee hereunder.

Section 5.10 Removal of the Trustee.

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

Section 5.11 Appointment of Successor Trustee.

(a) In case at any time the Trustee shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or shall be adjudged a bankrupt or insolvent, or if a receiver of the Trustee or of its property shall be appointed, or if a public supervisory office shall take charge or control of the Trustee or of its property or affairs, a vacancy shall forthwith and ipso facto be created in the office of such Trustee hereunder, and the Issuer, shall promptly appoint a successor Trustee and give notice of such appointment to the Borrower, the Investor Partner and the Rating Agency. Any such appointment shall be made by a written instrument executed by an Authorized Officer of the Issuer.

(b) If, in a proper case, no appointment of a successor Trustee shall be made pursuant to subsection (a) of this Section within sixty (60) days following delivery of all required notices of resignation given pursuant to Section 5.09 or of removal of the Trustee pursuant to Section 5.10, the retiring Trustee may apply to any court of competent jurisdiction to appoint a successor Trustee. The court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

Section 5.12 Concerning Any Successor Trustee.

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

Section 5.13 Successor Trustee as Trustee, Paying Agent and Bond Registrar.

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

Section 5.14 Appointment of Co-Trustee or Separate Trustee.

It is the intent of the Issuer and the Trustee that there shall be no violation of any law of any jurisdiction (including particularly the laws of the State) denying or restricting the right of banking corporations or associations to transact business as Trustee in such jurisdiction. It is recognized that in case of litigation under or connected with this Indenture, the Financing Agreement or any of the other Bond Financing Document, and, in particular, in case of the enforcement of any remedies on default, or in case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein or therein granted to the Trustee or hold title to the properties in trust, as herein granted, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee, with the consent of the Issuer, appoint an additional individual or institution as a co-trustee or separate trustee.

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

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

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

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

(a) all rights, powers, trusts, duties and obligations conferred or imposed upon the Trustee shall be conferred or imposed upon or exercised or performed by the Trustee, or by the

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

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

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

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

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

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

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

The total compensation of the Trustee and co-trustee or separate trustee shall be as, and may not exceed the amount, provided in Section 5.06 hereof.

Section 5.15 Notice of Certain Events.

The Trustee shall give written notice to the Issuer and the Investor Partner of any failure by the Borrower to comply with the terms of the Tax Regulatory Agreement or any Event of Default of which a responsible officer has actual knowledge.

Section 5.16 Filing of Financing Statements.

At the cost of the Borrower, the Trustee shall file or record or cause to be filed or recorded all UCC continuation statements for the purpose of continuing without lapse the effectiveness of those financing statements which have been filed on or approximately on the Closing Date in connection with the security for the Bonds pursuant to the authority of the UCC. Upon the filing of any such continuation statement the Trustee shall immediately notify the Issuer and the

Borrower that the same has been done. If direction is given by the Issuer or Borrower, the Trustee shall file all continuation statements in accordance with such directions.

Notwithstanding anything to the contrary contained herein, the Trustee shall not be responsible for any initial filings of any financing statements or the information contained therein (including the exhibits thereto).

(End of Article V)

ARTICLE VI

DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND HOLDERS

Section 6.01 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; and

(d) The occurrence and continuance of an Event of Default as defined in Section 7.1 of the Financing 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 Financing Agreement, exclusive of any period of grace or notice required to constitute a default or failure an Event of Default, as provided above or in the Financing Agreement.

Section 6.02 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 and the Investor Partner, within five days after the Trustee has notice of the Event of Default pursuant to Section 5.02(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; provided, that except in the case of a default in the payment of the principal of or interest on any Bond, 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 responsible officers of the Trustee in good faith determine that the withholding of notice to the Holders is in the interests of the Holders.

Section 6.03 Acceleration.

Upon the occurrence of an Event of Default described in Section 6.01(a) and (b), the Trustee may declare, and upon the written request of the Holders of at least 51% in aggregate principal amount of Bonds then Outstanding the Trustee shall declare, by a notice in writing delivered to the Borrower and the Rating Agency, 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 6.01(a) and (b), the Trustee may, with the written consent of all Holders of Bonds then Outstanding, declare by a notice in writing delivered to the Borrower, the principal of all Bonds then Outstanding (if not then due and payable), and the interest thereon, to be due and payable immediately. Upon such declaration, that principal and interest 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, 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.

The Investor Partner and its designee(s) shall be entitled to cure any Event of Default hereunder within the time frame provided to the Borrower hereunder. Issuer and Trustee agree that cure of any default or Event of Default made or tendered by the Investor Partner or its designee(s) 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 6.04 Other Remedies; Rights of Holders.

With or without taking action under Section 6.03 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 Service Charges or the observance and performance of any other covenant, agreement or obligation under this Indenture, the Financing Agreement, the Tax 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 5.01 and 5.02), shall exercise any rights and powers conferred by this Section.

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 Financing Agreement (except for the Reserved Rights), the Trustee is empowered to enforce each remedy, right and power granted to the Issuer under the Financing Agreement. In exercising any remedy, right or power thereunder or hereunder, the Trustee shall take any action which would best serve the interests of the Holders in the judgment of the Trustee, applying the standards described in Sections 5.01 and 5.02 hereof.

Section 6.05 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 (a) any direction shall not be other than in accordance with the provisions of law and of this Indenture, (b) the Trustee shall be entitled to the protections and be indemnified as provided in Sections 5.01, 5.02 and 5.06, and (c) the Trustee may take any other action which it deems to be proper and which is not inconsistent with the direction.

Section 6.06 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 Financing Agreement, the Tax 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 VI), all moneys received by the Trustee, shall be applied as follows, subject to Section 2.05 hereof and any provision made pursuant to Section 4.10 or 4.11 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 6.03 or 6.10 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 II.

(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 2.05 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 6.07 Remedies Vested in Trustee.

All rights of action (including without limitation, 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 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 6.08 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 5.02 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 Section 5.02 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 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 6.09 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 6.10 Waivers of Events of Default.

Except as hereinafter provided, at any time, in its discretion, the Trustee may 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. The Trustee shall do so upon the written request of the Holders of a majority in aggregate principal amount of all Bonds then Outstanding.

There shall not be so waived, however, any Event of Default described in paragraph (a) or (b) of Section 6.01 hereof or any declaration of acceleration in connection therewith rescinded or annulled, unless at the time of that waiver or rescission and annulment payments of the amounts provided in Section 6.03 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 VI)

ARTICLE VII

SUPPLEMENTAL INDENTURES

Section 7.01 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.

Section 7.02 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 which shall not, in the opinion of the Issuer and the Trustee, be inconsistent with the terms and provisions hereof 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 Financing Agreement and the Bonds;
- (g) To facilitate (i) the transfer of Bonds issued by the Issuer under this Indenture and held in Book Entry Form from one Depository to another and the succession of Depositories, or (ii) the withdrawal of Bonds issued by the Issuer under this Indenture and delivered to a Depository for use in a Book Entry System and the issuance of replacement Bonds in fully registered form and in the form of physical certificates to others than a Depository;
- (h) To permit the Trustee to comply with any obligations imposed upon it by law;
- (i) To specify further the duties and responsibilities of, and to define further the relationship among, the Trustee;
- (j) To achieve compliance of this Indenture with any applicable federal securities or tax law;

(k) 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 adversely affect the Federal Tax Status of the Bonds 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

(l) To permit any other amendment which, in the judgment of the Trustee, is not to the prejudice of the Trustee or the Holders.

The provisions of Subsections 7.02(i) and (k) shall not be deemed to constitute a waiver by the Trustee, 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 7.03 Supplemental Indentures Requiring Consent of Holders.

Exclusive of Supplemental Indentures to which reference is made in Section 7.02 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 7.04 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 7.02 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 7.04 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 principal 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). A consent may be revoked in writing, however, by the Holder who gave the consent or by a subsequent Holder of the Bond by a revocation of such consent received by the Trustee prior to the execution and delivery by the Trustee of 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 7.04 Consent of Borrower and Mortgage Lender.

Anything contained herein to the contrary notwithstanding, a Supplemental Indenture executed and delivered in accordance with this Article VII which affects in any material respect any rights or obligations of the Borrower shall not become effective unless and until the Borrower and Investor Partner 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 and Investor Partner, as provided in Section 12.03 hereof, (a) at least 30 days (unless waived by the Borrower and Investor Partner) before the date of the proposed execution and delivery in the case of a Supplemental Indenture to which reference is made in Section 7.02 hereof, and (b) at least 30 days (unless waived by the Borrower and Investor Partner) 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 7.03 hereof.

Anything contained herein to the contrary notwithstanding, a Supplemental Indenture executed and delivered in accordance with this Article VII which affects in any material respect any rights or obligations of the Mortgage Lender shall not become effective unless and until the Mortgage Lender 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 Mortgage Lender, as provided in Section 12.03 hereof, (a) at least 30 days (unless waived by the Mortgage Lender) before the date of the proposed execution and delivery in the case of a Supplemental Indenture to which reference is made in Section 7.02 hereof, and (b) at least 30 days (unless waived by the Mortgage Lender) 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 7.03 hereof.

Section 7.05 Responsibilities of Trustee.

Notwithstanding anything else contained herein, the Trustee shall not be required to enter into any Supplemental Indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

Section 7.06 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 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 7.02 hereof, shall be mailed by the Trustee. The Trustee shall not be required to execute any supplemental indenture containing provisions adverse to the Trustee.

Section 7.07 Opinion of Counsel.

The Trustee shall receive, and shall be fully protected in relying upon, an Opinion of Counsel as conclusive evidence that (a) any proposed Supplemental Indenture complies with the provisions of this Indenture, and (b) it is proper for the Trustee to join in the execution of that Supplemental Indenture under the provisions of this Article. Counsel for the Issuer may render such an Opinion of Counsel.

Before the Issuer and the Trustee shall enter into any Supplemental Indenture, there shall have been delivered to the Trustee an Opinion of Bond Counsel to the effect that such Supplemental Indenture will not adversely affect the Federal Tax Status of the Bonds.

Section 7.08 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 (a) the Issuer, (b) the Holders of all of the Bonds then Outstanding, (c) the Borrower and Investor Partner and (d) if such modification or alteration contains provisions adverse to the Trustee, the Trustee.

(End of Article VII)

ARTICLE VIII

DEFEASANCE

Section 8.01 Release of Indenture.

If (a) 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 Service Charges due or to become due thereon, and (b) provision also shall be made for the payment of all other sums payable hereunder or under the Financing Agreement, the Tax 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 8.03 hereof in the event the Bonds are deemed paid and discharged pursuant to Section 8.02 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 8.03 hereof if applicable,

(a) the Trustee shall release this Indenture (except for those provisions surviving by reason of Section 8.03 hereof in the event the Bonds are deemed paid and discharged pursuant to Section 8.02 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 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 (i) to be paid to the Borrower under Section 4.14 hereof, or (ii) to be held by the Trustee under Section 4.13 hereof or otherwise for the payment of Bond Service Charges.

Section 8.02 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 8.01 hereof, if:

(a) the Trustee as paying agent 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 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 committed, except as provided herein), for the payment of all Bond 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 to the Bond Fund.

If any Bonds shall be deemed paid and discharged pursuant to this Section 8.02, 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 and to the Rating Agency. Such notice shall state the numbers of the Bonds deemed paid and discharged or state that all Bonds are deemed paid and discharged, set forth a description of the obligations held pursuant to subparagraph (b) of the first paragraph of this Section 8.02.

Section 8.03 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, 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 4.09 hereof, and the rights and duties of the Trustee in connection with all of the foregoing, shall remain in effect and be binding upon the Trustee 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 VIII)

ARTICLE IX

COVENANTS AND AGREEMENTS OF THE ISSUER

Section 9.01 Covenants and Agreements of the Issuer.

In addition to any other covenants and agreements of the Issuer contained in this Indenture or the Bond Resolution, the Issuer further covenants and agrees with the Holders and the Trustee as follows:

(a) Payment of Bond Service Charges. The Issuer will cause all Bond Service Charges to be paid solely from the sources provided herein, on the dates, at the places and in the manner provided in this Indenture.

(b) Revenues and Assignment of Revenues. The Issuer will not assign the Revenues or create or authorize to be created any debt, lien or charge thereon, other than the assignment thereof under this Indenture.

(c) Recordings and Filings. At the expense of the Borrower, the Issuer will cause this Indenture, and any related instruments or documents relating to the assignment made by it under this Indenture to secure the Bonds, to be recorded and filed in the manner and in the places which may be required by law in order to preserve and protect fully the security of the Holders and the rights of the Trustee hereunder.

(d) Inspection of Project Books. All books, instruments and documents in the Issuer's possession relating to the Project and the Revenues shall be open to inspection and copying at all times during the Issuer's regular business hours by any accountants or other agents of the Trustee which the Trustee may designate from time to time.

(e) Register. At reasonable times and under reasonable regulations established by the Trustee, the Register may be inspected and copied (at the expense of the person making such copies) by the Borrower, the Trustee, by Holders of 25% or more in principal amount of the Bonds then Outstanding, or a designated representative thereof.

(f) Rights and Enforcement of the Financing Agreement. 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 Reserved Rights, and may enforce all covenants, agreements and obligations of the Borrower under and pursuant to the Financing 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 Financing Agreement, and will take all actions within its authority to keep the Financing Agreement in effect in accordance with the terms thereof.

(g) Issuer Tax Covenants.

(i) The Issuer shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction, rehabilitation or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds) in a manner which, if made or omitted, respectively, would cause the interest on the Bonds to become includable in the gross income, as defined in section 61 of the

Code, of the owners thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the Issuer shall have received a written opinion of Bond Counsel to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on the Bonds, the Issuer shall comply with each of the specific covenants in this Section.

(ii) The Issuer shall not direct or make any investment of the proceeds of the Bonds or any other funds of the Issuer in a manner which would result in the Bonds becoming “arbitrage bonds” within the meaning of section 148 of the Code or “hedge bonds” within the meaning of section 149 of the Code. In the event the Issuer or the Borrower is of the opinion that it is necessary to restrict or limit the Yield on the investment of any money paid to or held by the Trustee hereunder in order to avoid classification of the Bonds as “arbitrage bonds” or “hedge bonds,” the Issuer or the Borrower may issue to the Trustee a written instrument to such effect (along with appropriate written instructions), in which event the Trustee will take such action as is necessary to effect such written instructions so to restrict or limit the Yield on such investment in accordance with such instrument and instructions, irrespective of whether the Trustee shares such opinion. The Trustee may conclusively rely upon any such instructions and shall not be responsible for any loss resulting from investment of any money held hereunder in accordance with such instructions.

(iii) Except to the extent permitted by section 149(b) of the Code and Regulations and rulings thereunder, the Issuer shall not take or omit to take any action which would cause the Bonds to be federally guaranteed within the meaning of section 149(b) of the Code and the Regulations and rulings thereunder.

(iv) The Issuer shall timely file or cause to be timely filed the information required by section 149(e) of the Code with the Secretary of the Treasury on such form and in such place as such Secretary may prescribe.

(v) Except to the extent permitted by section 148 of the Code and the Regulations and rulings thereunder, the Issuer shall not, at any time prior to the earlier of the stated maturity or final payment of the Bonds enter into any transaction that reduces the amount required to be paid to the United States pursuant to Section 4.09 hereof because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm’s length and had the Yield of the Bonds not been relevant to either party.

(vi) The Issuer hereby directs the Borrower to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as it deems necessary or appropriate in connection with the Bonds.

(vii) The weighted average maturity of the Bonds does not exceed 120% of the reasonably expected economic life, within the meaning of section 147(b) of the Code, of the Project.

Section 9.02 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 Bond Resolution, the Issuer Documents 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:

(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 the Issuer Documents and to provide the security for payment of the Bond 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 the Issuer Documents have been taken duly and effectively.

(c) The Bonds will be valid and enforceable special obligations of the Issuer according to their terms.

Section 9.03 Enforcement of Issuer's Obligations.

Each obligation of the Issuer required to be undertaken pursuant to the Bond Resolution, the Issuer Documents and the Bonds is binding upon the Issuer in accordance with the terms thereof.

(End of Article IX)

ARTICLE X

AMENDMENTS TO FINANCING AGREEMENT, NOTE AND TAX REGULATORY AGREEMENT

Section 10.01 Amendments Not Requiring Consent of Holders.

Without the consent of or notice to the Holders, the Issuer, the Borrower, Investor Partner and the Trustee may consent to any amendment, change or modification of the Financing Agreement, the Note or the Tax Regulatory Agreement, as may be required (a) by the provisions of the Note, the Financing Agreement or the Tax Regulatory Agreement or this Indenture, (b) for the purpose of curing any ambiguity, inconsistency or formal defect or omission in the Financing Agreement, the Note or the Tax Regulatory Agreement, (c) in connection with an amendment or to effect any purpose for which there could be an amendment of this Indenture pursuant to Section 7.02 hereof, or (d) in connection with any other change therein which is not to the prejudice of the Trustee or the Holders of the Bonds, in the judgment of the Trustee.

Notice of any amendment, change or modification to be made under this Section 10.01 shall be given to the Rating Agency by delivery to the Notice Address for the Rating Agency.

Section 10.02 Amendments Requiring Consent of Holders.

Except for the amendments, changes or modifications contemplated in Section 10.01 hereof, neither the Issuer nor the Trustee shall consent to:

(a) any amendment, change or modification of the Financing Agreement or the Note which would change the amount or time as of which Loan Payments and Collateral 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 Financing Agreement, the Note or the Tax Regulatory Agreement 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 7.03 hereof with respect to Supplemental Indentures.

If the Issuer or the Borrower shall request at any time the consent of the Trustee to any proposed amendment, change or modification of the Financing Agreement, the Note or the Tax Regulatory Agreement 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 7.03 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 Office of the Trustee for inspection by all Holders.

Notice of any amendment, change or modification to be made under this Section 10.02 shall be given to the Rating Agency by delivery to the Notice Address for the Rating Agency.

Section 10.03 Opinion of Bond Counsel.

Before the Issuer and the Trustee shall consent to any amendment, change or modification of any of the documents described in Sections 10.01 and 10.02 there shall be delivered to the Trustee an Opinion of Bond Counsel to the effect that such amendment, change or modification (a) is permitted pursuant to the terms of this Indenture, and (b) will not adversely affect the Federal Tax Status of the Bonds.

(End of Article X)

ARTICLE XI

MEETINGS OF HOLDERS

Section 11.01 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 XI, to take any action (a) authorized to be taken by or on behalf of the Holders of any specified aggregate principal amount of the Bonds, (b) under any provision of this Indenture or (c) authorized or permitted by law.

Section 11.02 Call of Meetings.

The Trustee may (but shall not be obligated to) call at any time a meeting of Holders pursuant to Section 11.01 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 and Investor Partner 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 11.03 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 11.04 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 11.02, 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 and its counsel, any representatives of the Issuer and its counsel and any representatives of the Borrower and its counsel.

Section 11.05 Miscellaneous.

Nothing contained in this Article XI 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 XI)

ARTICLE XII

MISCELLANEOUS

Section 12.01 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 Borrower, the Investor Partner 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 Borrower, the Investor Partner and the Holders of the Bonds, as provided herein.

Section 12.02 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 12.03 Notices.

Except as provided in Section 6.02 hereof, it shall be sufficient service or giving of any notice, request, complaint, demand or other instrument or document, if it is duly mailed by first-class mail, postage pre-paid, or is forwarded by overnight courier service, delivery charges pre-paid. Notices to the Issuer, the Borrower, the Investor Partner, the Rating Agency and the Trustee shall be delivered to their respective Notice Address.

Duplicate copies of each notice, request, complaint, demand or other instrument or document given hereunder by the Issuer, the Trustee or the Borrower or the Investor Partner to one or both of the others also shall be given to the others.

The Issuer, the Trustee, the Borrower, the Investor Partner, the Mortgage Lender and the Rating Agency may, by notice given hereunder, designate any further or different addresses to which subsequent demands, notices, approvals, consents, requests, opinions or other communications shall be sent or Persons to whose attention the same shall be directed.

In connection with any notice mailed pursuant to the provisions of this Indenture, a certificate of the Trustee, the Issuer, the Borrower, the Investor Partner 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 12.04 Suspension of Mail and Courier Service.

If because of the suspension of delivery of first-class mail or of delivery by overnight courier services, or for any other reason, the Trustee shall be unable to mail by the required class of mail or forward by overnight courier service any notice required to be given by the provisions of this Indenture, the Trustee shall 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 requirement of this Section. Except as otherwise provided herein, the mailing of any notice shall be deemed complete 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 12.05 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 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 on that date, but that payment may be made on the next succeeding business day on which the Trustee 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.

Section 12.06 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 (a) the execution of any writing, including without limitation, any consent, request, direction, approval, objection or other instrument or document, (b) the execution of any writing appointing any agent or attorney, and (c) 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:

(i) 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

(ii) The fact of ownership of Bonds shall be proved by the Register maintained by the Trustee.

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 or the Trustee pursuant to that writing.

Section 12.07 Priority of this Indenture.

This Indenture shall be superior to any liens which may be placed upon the Revenues or any other funds or accounts created pursuant to this Indenture.

Section 12.08 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, the Governing Body in other than that person's official capacity. Neither the members of the Governing Body nor any official executing the Bonds, this Indenture, the Financing 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 12.09 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 12.10 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 12.11 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 12.12 HUD Loan Documents and Regulations Control.

(a) In the event of any conflict and to the extent that there is any inconsistency or ambiguity between the provisions of this Indenture, the Financing Agreement, the Tax Regulatory Agreement, and all other documents required by the Issuer or Trustee in connection with the Loan (the "Bond Documents") and the provisions of the Controlling HUD and GNMA Requirements or the Mortgage Loan Documents, the Controlling HUD and GNMA Requirements and Mortgage Loan Documents will be deemed to be controlling, and any such ambiguity or inconsistency will be resolved in favor of, and pursuant to the terms of the Controlling HUD and GNMA Requirements and Mortgage Loan Documents, as applicable.

(b) Notwithstanding anything contrary contained herein, enforcement of the covenants in this Indenture or any of the other Bond Documents will not result in, and neither the Issuer nor

the Trustee has or shall be entitled to assert, any claim against the Project, the Mortgage Loan proceeds (which do not include amounts on deposit in the Collateral Fund), any reserves or deposits required by HUD in connection with the Mortgage Loan transaction, or the rents or deposits or other income of the Project other than available Surplus Cash as defined in the HUD Regulatory Agreement.

(c) Failure of the Issuer or the Borrower to comply with any of the covenants set forth in this Indenture or any of the other Bond Documents will not serve as a basis for default on the Mortgage Loan, the underlying Mortgage, or any of the other Mortgage Loan Documents.

(End of Article XII)

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.

AUSTIN HOUSING FINANCE CORPORATION

By: _____
Manager

[Issuer Signature Page to Trust Indenture]

**WILMINGTON TRUST, NATIONAL
ASSOCIATION, as Trustee**

By: _____
Charles Hicks, Vice President

[Trustee Signature Page to Trust Indenture]

EXHIBIT A

[BOND FORM]

NOTICE: Unless this certificate is presented by an authorized representative of The Depository Trust Company to the Issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or 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.

REGISTERED
NO. [T-1][R-__]

REGISTERED
\$_____

UNITED STATES OF AMERICA
STATE OF TEXAS

AUSTIN HOUSING FINANCE CORPORATION
MULTIFAMILY HOUSING REVENUE BOND
(THE TIMBERS APARTMENTS PROJECT)
SERIES 2015

INTEREST RATE:	MATURITY DATE:	BOND DATE:	CUSIP
____%	October 1, 20__	October 1, 2015	_____

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: _____ (\$_____.00)

The Austin Housing Finance Corporation (the "Issuer"), a public nonprofit housing finance corporation of the State of Texas 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 specified above on the Maturity Date specified above (subject to the rights of redemption set forth herein), and to pay from those sources interest on the unpaid principal balance of said Principal Amount calculated at the aforesaid Interest Rate on (a) April 1 and October 1 of each year beginning April 1, 2016, (b) each Redemption Date, (c) the Maturity Date, and (d) the date of acceleration of the Bonds (the "**Interest Payment Dates**") 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 the Closing Date.

This Bond shall bear interest during each Interest Period at a rate per annum equal to the Interest Rate. Interest on the Bonds shall be calculated on the basis of a 360-day year consisting of twelve 30-day months, for the actual number of days elapsed.

For purposes of calculating such interest:

“Interest Period” means, initially, the period from the Closing Date to but not including April 1, 2015, and thereafter, the period commencing on each succeeding Interest Payment Date and ending on the last day of that month preceding the next Interest Payment Date.

“Interest Rate” means ____%.

The principal of this Bond is payable upon presentation and surrender hereof at the designated corporate trust office of the trustee, presently Wilmington Trust, National Association (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.

THIS BOND IS ISSUED UNDER CHAPTER 394, TEXAS LOCAL GOVERNMENT CODE, AS AMENDED. THIS BOND AND THE INTEREST HEREON ARE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE EXCLUSIVELY FROM THE TRUST ESTATE. THIS BOND IS NOT A DEBT OR OTHER OBLIGATION, EITHER GENERAL OR SPECIAL, OF THE ISSUER (EXCEPT TO THE EXTENT OF THE TRUST ESTATE), ANY OFFICER, DIRECTOR OR MEMBER OF THE ISSUER, AUSTIN, TEXAS OR THE STATE OF TEXAS, OR OF ANY POLITICAL SUBDIVISION THEREOF, WITHIN THE MEANING OF ANY STATE CONSTITUTIONAL PROVISION OR STATUTORY LIMITATION AND SHALL NEVER CONSTITUTE NOR GIVE RISE TO A PECUNIARY LIABILITY OF THE ISSUER, ANY OFFICER, DIRECTOR OR MEMBER OF THE ISSUER, AUSTIN, TEXAS OR THE STATE OF TEXAS. THIS BOND DOES NOT CONSTITUTE, WITHIN THE MEANING OF ANY STATUTORY OR CONSTITUTIONAL PROVISION, AN INDEBTEDNESS, AN OBLIGATION OR A LOAN OF CREDIT OF THE STATE, AUSTIN, TEXAS, OR ANY OTHER MUNICIPALITY, COUNTY OR OTHER MUNICIPAL OR POLITICAL CORPORATION OR SUBDIVISION OF THE STATE. THE ISSUER HAS NO TAXING POWER. THE STATE OF TEXAS IS NOT OBLIGATED TO PAY THE PRINCIPAL OF OR ANY PREMIUM OR INTEREST ON THIS BOND AND THE FULL FAITH AND CREDIT AND THE TAXING POWER OF THE STATE OF TEXAS ARE NOT PLEDGED, GIVEN, OR LOANED TO THE PAYMENT OF THIS BOND.

NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR PREMIUM OR INTEREST ON THIS BOND AGAINST ANY PAST, PRESENT OR FUTURE OFFICER, DIRECTOR, MEMBER, EMPLOYEE OR AGENT OF THE ISSUER, OR OF ANY SUCCESSOR TO THE ISSUER, AS SUCH, EITHER DIRECTLY OR THROUGH THE ISSUER OR ANY SUCCESSOR TO THE ISSUER, UNDER ANY RULE OF LAW OR EQUITY, STATUTE OR CONSTITUTION OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR

OTHERWISE, AND ALL SUCH LIABILITY OF ANY SUCH OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES OR AGENTS, AS SUCH, IS HEREBY EXPRESSLY WAIVED AND RELEASED AS A CONDITION OF, AND CONSIDERATION FOR, THE EXECUTION AND ISSUANCE OF THIS BOND.

This Bond is one of a duly authorized issue of the Issuer's Multifamily Housing Revenue Bonds (The Timbers Apartments Project) Series 2015 (the "**Bonds**"), issuable under the Trust Indenture dated as of October 1, 2015 (the "**Indenture**"), between the Issuer and the Trustee, aggregating in principal amount \$_____ and used for the purpose of financing a loan (the "**Loan**") to be made to Timbers Clayton 104 Apartments, L.P., a Texas limited partnership (the "**Borrower**"). The Loan will be used by the Borrower to pay a portion of the costs of acquiring, constructing, rehabilitating, equipping and improving the Project, as defined in the Indenture, as further provided in the Financing Agreement dated as of even date with the Indenture (the "**Financing Agreement**"), among 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 Texas, and particularly Texas Local Government Code, Chapter 394, as amended (the "**Act**"), and a resolution duly enacted by the Board of Directors (the "**Governing Body**") of the Issuer.

The Bonds are subject to redemption prior to their stated maturity on the dates, under the terms and conditions and at the redemption price set forth in the Indenture, all of the provisions of which are, by this reference, incorporated into this Bond. Notice of redemption shall be given in the manner set forth in the Indenture.

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.

The Borrower is required by the Financing Agreement to cause the Mortgage Lender to make on its behalf collateral payments to the Trustee in the amounts and at the times necessary to pay the principal of and interest (the "**Bond Service Charges**") on the Bonds. In the Indenture, the Issuer has assigned to the Trustee, to provide for the payment of the Bond Service Charges on the Bonds, the Issuer's right, title and interest in and to the Financing Agreement, except for Reserved Rights as defined in the Indenture. To secure its compliance with certain covenants in the Financing Agreement, the Borrower has executed and delivered the Tax Regulatory Agreement (the "**Tax Regulatory Agreement**") among itself, the Issuer and the Trustee, dated as of even date with the Indenture.

Copies of the Indenture, the Financing Agreement and the Tax Regulatory Agreement are on file in the designated corporate trust office of the Trustee.

The Bond Service Charges on the Bonds are payable solely from the Revenues, as defined and as provided in the Indenture (being, generally, the amounts payable under the Financing Agreement and any unexpended proceeds of the Bonds), and are an obligation of the Issuer only to the extent of the 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 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 of \$5,000 in excess 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 Financing Agreement, the Tax Regulatory Agreement and the 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 or of any other officer or official 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 unless either (1) the certificate of authentication hereon shall have been signed by a duly authorized officer of the Trustee or (2) the Comptroller's Registration Certificate hereon has been executed by an authorized representative of the Comptroller of Public Accounts of the State of Texas.

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 (a) precedent to and in the issuing of the Bonds in order to make them legal, valid and binding special obligations of the Issuer, and (b) precedent to and in the

execution and delivery of the Indenture and the Financing 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 the manual or facsimile signature of its President and attested by the manual or facsimile signature of its Secretary as of the day and year first written above.

AUSTIN HOUSING FINANCE CORPORATION

By: _____
President

ATTEST:

By: _____
Secretary

[SEAL]

[FORM OF COMPTROLLER'S REGISTRATION CERTIFICATE – Include only on Initial Bond]

COMPTROLLER'S REGISTRATION CERTIFICATE

Office of the Comptroller
of Public Accounts of
the State of Texas

§
§
§

Register No. _____

I hereby certify that this Bond has been examined, certified as to validity, and approved by the Attorney General of the State of Texas, and that this Bond has been registered by the Comptroller of Public Accounts of the State of Texas.

Witness my signature and seal this _____ .

Comptroller of Public Accounts of the State of Texas

(Comptroller's Seal)

[FORM OF CERTIFICATE OF AUTHENTICATION - Do not include on Initial Bond]

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds described in the within-mentioned Indenture.

Date of Registration and Authentication: _____.

WILMINGTON TRUST, NATIONAL
ASSOCIATION

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

DTC FAST RIDER

Each Bond shall remain in the Trustee's custody subject to the provisions of the FAST Balance Certificate Agreement currently in effect between the Trustee and DTC.

EXHIBIT B
CASH FLOW STATEMENT