

**27****AGENDA ITEM  
ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS***Deadline for Submission - Wednesday 9 a.m. – Thirteen Days Prior to BCC Meeting***12/5/2023****BCC MEETING DATE****TO: Joy Andrews, County Administrator****DATE: November 14, 2023****FROM: Joseph Cone, Assistant HHS Director****PHONE: 209-2898****SUBJECT OR TITLE: Approval of the issuance by the St. Johns County Housing Finance Authority of multifamily housing revenue debt obligation to finance the rehabilitation of The Oaks at St. John.****AGENDA TYPE: Bonds, Consent Agenda, Resolution****BACKGROUND INFORMATION:**

Dominium Development and Acquisitions, LLC submitted an application to the Housing Finance Authority of St. Johns County, Florida (The "Authority") on behalf of Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited partnership (the "Borrower") requesting that the Authority issue multifamily housing revenue debt obligations in an amount not to exceed \$21,500,000.00 (the "Bonds") in order to make a loan to the Borrower. The loan is to finance all or part of the acquisition and rehabilitation of an approximately 160-unit apartment community that is both rent and income-restricted at 30% and 60% of the County's area median income (AMI) to be known as The Oaks at St. John (the "Project"), located on an approximately 23.93-acre site located at 210 Nettles Lane, Ponte Vedra Beach, Florida in unincorporated St. Johns County. In order for the Bonds to qualify as tax exempt bonds for federal income tax purposes, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), requires that the BCC first approve the issuance of the Bonds to finance the Project. On October 26, 2023, the Authority conducted a public hearing concerning the issuance of the Bonds to finance the costs of the Project, as required under Section 147(f) of the Code, and, hearing no reason that the Bonds should not be issued, the Authority then passed a resolution recommending that the BCC approve the issuance of the Bonds to finance the Project. Additionally, the Authority is requesting the approval of the issuance of the Bonds by the BCC for purposes of the County HFA Ordinance and the County HFA Resolution. The BCC has previously approved the issuance of the Bonds solely for purposes of Section 147(f) of the Code; however, those approvals have expired or will expire prior to the issuance of the Bonds.

**1. IS FUNDING REQUIRED?**     No    **2. IF YES, INDICATE IF BUDGETED.**     No    **IF FUNDING IS REQUIRED, MANDATORY OMB REVIEW IS REQUIRED:****INDICATE FUNDING SOURCE:****SUGGESTED MOTION/RECOMMENDATION/ACTION:**

Motion to adopt Resolution 2023-\_\_\_\_\_, approving for purposes of the HFA Ordinance, the County HFA Resolution and Section 147(f) of the Internal Revenue Code of 1986, as amended, the issuance by the Housing Finance Authority of St. Johns County, Florida of multifamily housing revenue debt obligations, in one or more series, to finance or refinance all or a portion of the costs of the rehabilitation of a multifamily housing project to be known as The Oaks at St. John.

**For Administration Use Only:****Legal: Kealey West 11/20/2023****OMB: JDD 11/21/2023****Admin: Brad Bradley 11/22/2023**

**RESOLUTION NO. 2023-\_\_\_\_\_**

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA APPROVING THE ISSUANCE BY THE HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA, OF ITS MULTIFAMILY MORTGAGE REVENUE BONDS, SERIES 2023 (OAKS AT ST. JOHN), IN AN AGGREGATE PRINCIPAL AMOUNT NOT EXCEEDING \$21,500,000, THE PROCEEDS OF WHICH WILL BE LOANED TO PONTE VEDRA BEACH LEASED HOUSING ASSOCIATES I, LLLP, A MINNESOTA LIMITED LIABILITY LIMITED PARTNERSHIP (THE “BORROWER”), FOR THE PURPOSE OF FINANCING A PART OF THE COSTS OF THE ACQUISITION, REHABILITATION AND DEVELOPMENT OF A MULTIFAMILY RENTAL HOUSING DEVELOPMENT TO BE LOCATED IN ST. JOHNS COUNTY, FLORIDA, TO BE OWNED AND OPERATED BY THE BORROWER, AS DESCRIBED HEREIN; ALL PURSUANT TO CHAPTER 159, PART IV, FLORIDA STATUTES, AS AMENDED.

**BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA:**

**SECTION 1. FINDINGS.** It is hereby ascertained, determined and declared that:

A. The Housing Finance Authority of St. Johns County, Florida (the “Authority”) has been created to act as the sole housing finance authority for St. Johns County, Florida (the “County”) and is a public body corporate and politic, duly organized and existing under the provisions of Chapter 159, Part IV, Florida Statutes, as amended (the “Act”), Ordinance 80-7 enacted by the Board of County Commissioners of St. Johns County, Florida (the “Board”) on February 26, 1980, as amended (the “County HFA Ordinance”), and Resolution 80-25 adopted by the Board on March 11, 1980, as amended (the “County HFA Resolution”).

B. Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “Borrower”) has requested that the Authority issue its Multifamily Mortgage Revenue Bonds, Series 2023 (Oaks at St. John), in one or more tax exempt or taxable series, with an aggregate principal amount not to exceed \$21,500,000 (the “Bonds”), to finance or refinance (including through reimbursement) the acquisition, rehabilitation and development of an approximately 160-unit multifamily rental housing development, to be known as Oaks at St. John, to be constructed on an approximately 23.93-acre site located at 210 Nettles Lane, Ponte Vedra Beach, Florida 32081 in an unincorporated area of St. Johns County, Florida (collectively, the “Project”).

C. On December 9, 2021, following a public hearing held by the Authority concerning the Project, the Authority adopted a resolution (the “Original Preliminary Resolution”) confirming

its intention to approve at a later date the issuance of the Bonds in order to finance or refinance a part of the costs of the Project, subject to the satisfaction of certain conditions, and recommending that the Board preliminarily approve the issuance of the Bonds in order to finance or refinance a part of the costs of the Project.

D. Subsequently, on December 21, 2021, the Board approved the issuance of the Bonds solely for purposes of Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”) (the “Original Approval”).

E. Due to unforeseen delays with the Project and the issuance of the Bonds, with the impending expiration of the Original Approval, the Authority held another public hearing on November 17, 2022, and the Board approved the issuance of the Bonds solely for purposes of Section 147(f) of the Code on December 9, 2022.

F. The Borrower does not anticipate issuance of the Bonds on or before December 9, 2023, which is the last date on which the Bonds are authorized to be issued pursuant to the Code and the Original Preliminary Resolution and requested that the Authority extend the inducement period under the Original Preliminary Resolution and conduct a new public hearing.

G. A notice of public hearing, inviting written and oral comments and discussions concerning the issuance of the Bonds in an aggregate amount not to exceed \$21,500,000 to finance or refinance the acquisition, rehabilitation and equipping of the Project, was published in The St. Augustine Record, a newspaper of general circulation within the County at least seven (7) days in advance of such hearing.

H. Pursuant to such notice of public hearing, the Authority held a public hearing concerning the issuance of the Bonds in an aggregate amount not to exceed \$21,500,000 to finance or refinance the acquisition, rehabilitation and equipping of the Project at least seven (7) days after publishing the notice of public hearing pursuant to Section 147(f) of the Code.

I. On October 26, 2023, following a public hearing held by the Authority concerning the Project, the Authority adopted a resolution (the “Preliminary Resolution”) to extend the issuance of the Bonds set forth in the Original Preliminary Resolution and recommend that the Board re-approve the issuance of the Bonds in order to finance or refinance a part of the costs of the Project. A copy of the Preliminary Resolution is attached hereto as Exhibit A.

J. On November 16, 2023, the Authority adopted a resolution (the “Bond Resolution”) authorizing the issuance of the Bonds in order to finance or refinance a portion of the costs of the Project and the execution and delivery of various documents in connection therewith. A copy of the Bond Resolution is attached hereto as Exhibit B and incorporated herein by reference.

K. In the Bond Resolution, the Authority has recommended and requested that the Board approve the issuance of the Bonds, in order to satisfy the requirements of the County HFA Ordinance, the County HFA Resolutions, the Act and Section 147(f) of the Code.

L. The Preliminary Resolution and the Bond Resolution show that the Project will serve significant public purposes as provided in the Act.

M. The purposes of the Act will be effectively served, and it is necessary and desirable and in the best interest of the County that the issuance of the Bonds by the Authority be approved by the Board.

**SECTION 2. APPROVAL OF ISSUANCE OF BONDS.** For purposes of the County HFA Ordinance, the County HFA Resolutions, the Act, and Section 147(f) of the Code, the Board hereby approves the issuance of the Bonds by the Authority to finance or refinance a part of the costs of the Project. The Authority is hereby directed to ensure that prior to the issuance of the Bonds each of the following shall occur:

A. The Authority is assured that the project that is being financed with the Bond proceeds is a project that may be financed under the authority of Section 159.612, Florida Statutes, as amended; that the Bonds are issued in a manner authorized by Section 159.613 Florida Statutes, as amended; and that the interest rate borne by the Bonds complies with the maximum interest rate provisions of Section 215.84, Florida Statutes, as amended.

B. The Bonds contain on their face the statement required by Section 159.612(4), Florida Statutes, as amended, and includes a statement to the effect that neither the faith and credit nor the taxing power of the Authority or of the County, or the State of Florida, or any political subdivision thereof is pledged to the payment of the principal of, premium, if any, or interest on the Bonds.

C. The Authority receives an opinion from the attorney that represents the Authority as Authority's counsel for the issuance of the Bonds, dated its date of issuance, that has the effect of confirming the Authority has full power and authority to execute and deliver each of the documents that are signed by the Authority in connection with the issuance of the Bonds and that the Authority has full power and authority to perform the Authority's obligations under each such document; that the Authority has full power and authority to issue and deliver the Bonds; and that the Authority's execution and delivery of, and compliance with the terms and conditions of, the Bonds and the related documents will not violate or conflict with any provision of the Constitution of the State of Florida, any applicable Florida statute or this Resolution and will not conflict with or cause a breach of any contract, agreement, or other instrument to which the Authority is a party.

**SECTION 3. NO ENDORSEMENT BY COUNTY.** The approvals given herein shall not be construed as (A) an endorsement of the creditworthiness of the Borrower or the financial viability of the Project, (B) a recommendation to hold or purchase the Bonds, (C) an evaluation of the likelihood of the repayment of the debt service on the Bonds, or (D) approval of any necessary rezoning applications or approval or acquiescence to the alteration of existing zoning or land use nor approval for any other regulatory permits relating to the Project, and the Board shall not be construed by reason of its adoption of this Resolution to make any such endorsement, finding or

recommendation or to have waived any right of the Board or estopping the Board from asserting any rights or responsibilities it may have in such regard.

**SECTION 4. OTHER ACTION.** The officers of the County are hereby authorized and directed to execute and deliver, or approve the execution and delivery of, such other documents and to take or approve the taking of such other actions as may be advised by the County’s counsel or Butler Snow LLP, Bond Counsel, to be appropriate in connection with the issuance of the Bonds as contemplated by this Resolution.

**SECTION 5. REPEALING CLAUSE.** All resolutions or orders and parts thereof in conflict herewith, to the extent of such conflict, are hereby superseded and repealed.

**SECTION 6. EFFECT OF TYPOGRAPHICAL AND/OR ADMINISTRATIVE ERRORS.** To the extent that there are typographical and/or administrative errors and/or omissions that do not change the tone, tenor, or context of this Resolution, then this Resolution may be revised without subsequent approval of the Board.

**SECTION 7. EFFECTIVE DATE.** This Resolution shall take effect immediately.

**PASSED AND ADOPTED** this \_\_\_\_ day of December, 2023.

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Sarah Arnold, Chair of the Board of County  
Commissioners of St. Johns County,  
Florida

(OFFICIAL SEAL)

ATTEST:

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Brandon J. Patty, Clerk of the Circuit  
Court & Comptroller  
ex-officio Clerk of the Board of County  
Commissioners of St. Johns  
County, Florida

**EXHIBIT A**  
**PRELIMINARY RESOLUTION**

**RESOLUTION 2023-\_\_\_**

**A RESOLUTION OF THE HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA (“THE AUTHORITY”) AUTHORIZING THE EXTENSION OF THE INTENT PERIOD PERMITTED PURSUANT TO AND IN ACCORDANCE WITH RESOLUTION 2021-3 ADOPTED BY THE AUTHORITY WITH RESPECT TO THE ISSUANCE OF ITS NOT TO EXCEED \$21,500,000 MULTIFAMILY HOUSING REVENUE OBLIGATIONS, IN ONE OR MORE SERIES, THE PROCEEDS OF WHICH WILL BE LOANED TO PONTE VEDRA BEACH LEASED HOUSING ASSOCIATES I, LLLP, A MINNESOTA LIMITED PARTNERSHIP, TO FINANCE OR REFINANCE (INCLUDING THROUGH REIMBURSEMENT) ALL OR A PORTION OF THE COST OF THE ACQUISITION, REHABILITATION AND EQUIPPING OF A MULTIFAMILY HOUSING PROJECT TO BE KNOWN AS THE OAKS AT ST. JOHN; RECOMMENDING THAT THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA APPROVE, SOLELY FOR PURPOSES OF SECTION 147(F) OF INTERNAL REVENUE CODE OF 1986, AS AMENDED, THE ISSUANCE BY THE AUTHORITY OF THE MULTIFAMILY HOUSING REVENUE OBLIGATIONS TO FINANCE OR REFINANCE ALL OR A PORTION OF THE COSTS OF THE PROJECT; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the Housing Finance Authority of St. Johns County, Florida (the “Authority”) has determined that there exists a shortage of safe and sanitary housing for persons and families of low, moderate and middle income, within St. Johns County, Florida (the “County”); and

**WHEREAS**, safe and sanitary housing for persons and families of low, moderate and middle income within the County will be preserved by the acquisition, rehabilitation and equipping by a private owner of a multifamily rental housing development, to be occupied by persons or families of low, moderate or middle income, to consist of approximately 160 units, on an approximately 23.93-acre site located at 210 Nettles Lane, Ponte Vedra Beach, Florida 32081 in an unincorporated area of St. Johns County, Florida, to be known as The Oaks at St. John (the “Project”); and to be owned by Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited partnership (the “Borrower”); and

**WHEREAS**, in order to provide for a portion of the financing or refinancing (including through reimbursement) for the acquisition, rehabilitation and equipping of the Project, on December 9, 2021, the Authority approved a resolution (the “Inducement Resolution”) intending to issue its tax-exempt multifamily housing revenue obligations for the benefit of the Borrower, in one or more series or issues, at the same time or at different times in a total aggregate principal amount currently estimated not to exceed \$21,500,000 (herein the “Bonds”), and to enter into a borrower loan or financing agreement, a trust indenture or funding loan agreement, a tax regulatory agreement, land use restriction agreement and/or other necessary documents with respect to the Project; and

**WHEREAS**, the Authority subsequently held two public hearings, on December 9, 2021, and November 17, 2022, with respect to the previously the location and nature of the Project and proposed issuance of the Bonds by the Authority in accordance with the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (“TEFRA”) and Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”) and the Board of County Commissioners of St. Johns County, Florida, as the highest elected governmental body of the St. Johns County, approved the issuance of the Bonds solely for purposes of Section 147(f) of the Code on December 21, 2021, and December 9, 2022, respectively;

**WHEREAS**, the Authority does not anticipate issuance of the Bonds on or before December 9, 2023, which is the last date on which the Bonds can be issued under the Code and pursuant to Section 6 of the Original Intent Resolution;

**WHEREAS**, in accordance with Section 6 of the Original Intent Resolution, the Authority desires to extend the Intent Period until December 31, 2024;

**WHEREAS**, on October 19, 2023, the Authority published notice (the “TEFRA Notice”) in *The St. Augustine Record* (a copy of said notice is attached hereto as Exhibit A and incorporated herein) of its intent to conduct a public hearing (a “TEFRA Hearing”) at its October 26, 2023 meeting regarding the location and nature of the Project and proposed issuance of the Bonds by the Authority, in accordance with the requirements of TEFRA and Section 147(f) of the Code; and

**WHEREAS**, the TEFRA Hearing was held by the Authority, which hearing provided a reasonable opportunity for interested individuals to express their views, both orally and in writing, on the proposed issue of the Bonds and the location and nature of the Project, and was held in a location which, under the facts and circumstances, was convenient for residents of the County;

**WHEREAS**, the TEFRA Notice was reasonably designed to inform residents of the affected governmental units, including the County, of the proposed issue, stated that the Authority would be the issuer of the Bonds, and the time and place for the hearing and the other information required by the Code; and the 7-day period was adequate for notice to be brought to the attention of all interested persons and provided sufficient time for interested persons to prepare for and to express their views at such hearing as it equals or exceeds the normal periods for notices of public hearings conducted by the members of the Authority and various agencies of the State;

**NOW, THEREFORE, BE IT RESOLVED** by the members of the Housing Finance Authority of St. Johns County, Florida, a lawful quorum of which duly assembled, as follows:

**SECTION 1.** The recitals above are incorporated into the body of this Resolution.

**SECTION 2.** The Project will inure to the benefit of the citizens of St. Johns County, Florida.

**SECTION 3.** The publication of the TEFRA Notice in advance of the TEFRA Hearing is hereby ratified.



**SECTION 4.** Upon consideration of the Project information presented to the Authority at or prior to the adoption of this Resolution, including the information and views presented at the foresaid TEFRA Hearing:

(a) The Authority hereby expresses its intention to approve at a later date, by appropriate resolution, the financing of a loan to the Borrower in order to finance the development of the Project through the issuance of the Bonds and the execution of the necessary documents, including a trust indenture or funding loan agreement, borrower loan or financing agreement, tax regulatory agreement, land use restriction agreement and/or such other documents as the Authority deems necessary to effect the tax exempt issuance of the Bonds; provided that, the Borrower shall have delivered to the Authority evidence satisfactory to the Authority, in its sole discretion, that (i) the Borrower and the Project have complied with the applicable program policies and requirements of the Authority and (ii) the Project will meet the physical requirements for a “qualified residential rental project” under the Code and applicable state and local requirements; provided further, however, such Bonds shall not be issued unless the Bonds, if publicly offered, (A) are rated at least “BBB” or equivalent (without regard to gradations or modifiers) or better by any or all of the following rating agencies providing such rating: S&P Global Ratings, Moody’s Investors Service, Inc. or Fitch Ratings Inc., or if not so rated, (B) are sold by private placement to institutional investors. (i) confirms its intention to approve, by appropriate resolution at a later date, upon the satisfaction of certain conditions as set forth in this Intent Resolution, the issuance of the Bonds by the Authority in order to finance the Project, and

(b) The Authority hereby recommends that the Board of County Commissioners of St. Johns County, Florida (the “County Commission”) approve, solely for the purposes of Section 147(f) of the Code, the issuance of the Bonds in order to finance or refinance all or a part of the costs of the Project.

**SECTION 5.** This Resolution shall constitute a declaration of the official intent of the Authority, within the contemplation of Section 1.150-2 of the Income Tax Regulations promulgated by the Department of the Treasury, to permit the Borrower to use proceeds of the Bonds to reimburse itself for certain acquisition, rehabilitation, equipping, planning, design, legal or other costs and expenses originally paid by the Borrower in connection with the Project with funds other than proceeds of the Bonds prior to the issuance of the Bonds (the “Advanced Funds”).

The Borrower has represented to the Authority that all of the expenditures initially to be made with the Advanced Funds and then to be reimbursed by the Borrower from proceeds of the Bonds will be for costs of a type properly chargeable to the capital account of the Project under general income tax principles, non-recurring working capital expenditures (of a type not customarily payable from current revenues), or costs of issuing the Bonds. Other than any “preliminary expenditures” for architectural, engineering, surveying, soil testing, costs of issuing the Bonds or similar purposes that may have been paid more than sixty (60) days prior to the date of this Resolution, no expenditures to be reimbursed have been paid more than sixty (60) days earlier than the date of this Resolution.

**SECTION 6.** The intent period for the Project shall have a term which ends on December 31, 2024 (the "Intent Period"). The Intent Period is subject to extension by the Authority upon compliance by the Borrower of certain requirements established by the Authority, including the payment of an additional fee to the Authority and bond counsel prior to the extension of the Intent Period.

**SECTION 7.** The Bonds shall not be issued by the Authority unless the County Commission shall have approved the issuance of the Bonds by the Authority and the documentation therefor as required by Section 11 of Ordinance 80-7 enacted by the County Commission on February 26, 1980, as amended, and Section 7 of Resolution 80-25 adopted by the County Commission on March 11, 1980, as amended.

**SECTION 8.** It is expressly stated and agreed that the adoption of this Resolution is not a guaranty, express or implied, that the Authority shall approve the closing and issue its Bonds for the Project. The Borrower shall hold the Authority and its past, present and future members, officers, staff, attorneys, financial advisors, and employees harmless from any liability or claim based upon the failure of the Authority to close the transaction and issue the Bonds or any other cause of action arising from the adoption of this Resolution, the processing of the financing for the Project, the issuance of the Bonds except for the gross negligence and willful and wanton misconduct of the Authority.

**SECTION 9.** The Authority has no jurisdiction regarding zoning and land use matters and the adoption of the Resolution is not intended to express any position or opinion regarding such matters.

**SECTION 10.** All resolutions and orders or parts thereof, of the Authority, in conflict herewith are, to the extent of such conflict, hereby modified to the extent of such conflict, and this Resolution shall take effect from and after its passage, the public welfare requiring it.

**SECTION 11.** It is found and determined that all formal actions of this Authority concerning and relating to the adoption of this Resolution were taken in an open meeting of the members of this Authority and that all deliberations of the members of this Authority and of its committees, if any, which resulted in such formal action were taken in meetings open to the public, in full compliance with all legal requirements.

*[Remainder of page intentionally left blank]*

This Resolution shall become effective immediately upon its adoption. The presiding officer declared said Resolution adopted and approved in open meeting.

**PASSED AND ADOPTED** this 26<sup>th</sup> day of October, 2023.

**HOUSING FINANCE AUTHORITY OF  
ST. JOHNS COUNTY, FLORIDA**

(SEAL)

By:   
Michael O'Donnell, Chair

ATTEST:



~~Linda DeGrande, Secretary~~

Robert Marshall, Vice Chair

**EXHIBIT B**  
**BOND RESOLUTION**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA (THE “AUTHORITY”) PROVIDING FOR THE SALE, ISSUANCE AND DELIVERY BY THE AUTHORITY OF ITS MULTIFAMILY HOUSING REVENUE BONDS, SERIES 2023 (OAKS AT ST. JOHN), IN ONE OR MORE TAX EXEMPT OR TAXABLE SERIES OR SUBSERIES, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$21,500,000 (THE “BONDS”), FOR THE PURPOSE OF MAKING A LOAN OR LOANS TO PONTE VEDRA BEACH LEASED HOUSING ASSOCIATES I, LLLP TO FINANCE OR REFINANCE THE ACQUISITION, REHABILITATION, INSTALLATION AND EQUIPPING OF A MULTIFAMILY RENTAL HOUSING FACILITY FOR FAMILIES OF LOW, MODERATE AND MIDDLE INCOME RESIDENTS IN ST. JOHNS COUNTY, FLORIDA; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY THE TRUST INDENTURES, THE LOAN AGREEMENTS, THE LAND USE RESTRICTION AGREEMENT, THE BONDS AND OTHER DOCUMENTS IN CONNECTION WITH THE ISSUANCE AND DELIVERY OF THE BONDS; AUTHORIZING A NEGOTIATED SALE AND PRIVATE PLACEMENT OF THE BONDS, AS APPLICABLE; AND APPROVING THE CONDITIONS AND CRITERIA FOR SUCH SALE AND PLACEMENT; AUTHORIZING THE EXECUTION AND DELIVERY OF THE BOND PURCHASE AGREEMENTS WITH RESPECT TO CERTAIN SERIES OF BONDS; APPROVING THE FORM OF A PRELIMINARY OFFICIAL STATEMENT AND A PRELIMINARY LIMITED OFFERING MEMORANDUM WITH RESPECT TO CERTAIN SERIES OF BONDS AND AUTHORIZING DISTRIBUTION IN CONNECTION WITH THE SALE THEREOF; AUTHORIZING THE DISTRIBUTION OF A FINAL OFFICIAL STATEMENT AND FINAL LIMITED OFFERING MEMORANDUM WITH RESPECT TO CERTAIN SERIES OF BONDS; AUTHORIZING THE PRIVATE PLACEMENT OF A SERIES OF BONDS AND APPROVING THE CONDITIONS AND CRITERIA FOR SUCH PRIVATE PLACEMENT; DESIGNATING AMERINAT AS THE INITIAL ISSUER SERVICER AND COMPLIANCE AGENT; ACCEPTING THE DRAFT CREDIT UNDERWRITING REPORT; AUTHORIZING THE OFFICERS OF THE AUTHORITY TO TAKE ALL ACTIONS REQUIRED IN CONNECTION WITH ISSUANCE OF THE BONDS; PROVIDING CERTAIN OTHER DETAILS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA (THE “AUTHORITY”), THAT:**

**SECTION 1. AUTHORITY.** This Resolution is adopted pursuant to the Constitution of the State of Florida, the Housing Finance Authority Law, Part IV of Chapter 159, Florida Statutes, as amended, Ordinance 80-7 (the “County HFA Ordinance”) enacted by the Board of County Commissioners of St. Johns County, Florida (the “County Board”) on February 26, 1980, as amended, and Resolution 80-25 (the “County HFA Resolution”) adopted by the County Board on March 11, 1980, as amended (collectively, the “Act”).

**SECTION 2. FINDINGS.** The Authority has found and determined and does hereby declare that:

A. The Authority, at the request of Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “Borrower”), has determined to issue its Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023A (the “Series 2023A Bonds”), its Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023B (The “Series 2023B Bonds”) and its Multifamily Housing Revenue Bonds (Oaks at St. John), Subordinate Series 2023C (the “Series 2023C Bonds, and together with the Series 2023A Bonds and the Series 2023B Bonds, the “Bonds”) in an aggregate principal amount not to exceed \$21,500,000, pursuant to various loan documents, including without limitation, (i) a Trust Indenture relating to the Series 2023A Bonds, substantially in the form attached hereto as **Exhibit A** (the “Series 2023A Trust Indenture”), to be entered into between the Authority and U.S. Bank Trust Company, National Association (the “Series 2023A Trustee”), to make a loan of the proceeds of the Series 2023A Bonds to the Borrower (the “Series 2023A Loan”) pursuant to a Loan Agreement, substantially in the form attached hereto as **Exhibit B** (the “Series 2023A Loan Agreement”), to be entered into between the Authority and the Borrower, (ii) a Trust Indenture relating to the Series 2023B Bonds, substantially in the form attached hereto as **Exhibit C** (the “Series 2023B Trust Indenture”), to be entered into between the Authority and U.S. Bank Trust Company, National Association (the “Series 2023B Trustee”), to make a loan of the proceeds of the Series 2023B Bonds to the Borrower (the “Series 2023B Loan”) pursuant to a Loan Agreement, substantially in the form attached hereto as **Exhibit D** (the “Series 2023B Loan Agreement”), to be entered into among the Authority and the Borrower, and (iii) a Trust Indenture relating to the Series 2023C Bonds, substantially in the form attached hereto as **Exhibit E** (the “Series 2023C Trust Indenture”), to be entered into between the Authority and U.S. Bank Trust Company, National Association (the “Series 2023C Trustee”), to make a loan of the proceeds of the Series S2023C Bonds to the Borrower (the “Series 2023C Loan”) pursuant to a Financing Agreement, substantially in the form attached hereto as **Exhibit F** (the “Series 2023C Financing Agreement”), to be entered into among the Authority and the Borrower, each in order to finance or refinance, including through reimbursement, the acquisition, rehabilitation and equipping of a multifamily residential rental facility to be located in St. Johns County, Florida (the “Project”).

B. In order to ensure that the use and operation of the Project are in compliance with the Act, the Code and the Authority’s requirements and that the interest on the Bonds is excludable from gross income of the holders thereof for federal income tax purposes, the Authority, the Borrower and U.S. Bank Trust Company, National Association, in its capacity as Series 2023A Trustee, Series 2023B Trustee and Series 2023C Trustee, will enter into a Land Use Restriction Agreement, substantially in the form attached hereto as **Exhibit G** (the “Land Use Restriction Agreement”).

C. The Series 2023A Loan, the Series 2023B Loan and the Series 2023C Loan will be evidenced by a promissory note from the Borrower to the Series 2023A Trustee, the Series 2023B Trustee and the Series 2023C Trustee, respectively, on behalf of the Authority.

D. Colliers Securities LLC, a Delaware limited liability company (the “Underwriter”), has agreed to submit to the Authority and the Borrower an offer to purchase the Series 2023A Bonds in substantially the form of the Bond Purchase Agreement attached hereto as **Exhibit H** (the “Series 2023A Bond Purchase Agreement”), upon terms acceptable to the Authority and the Borrower as hereinafter authorized, and it is necessary and appropriate to authorize a negotiated sale of the Series 2023A Bonds to the Underwriter and to authorize the execution and delivery of the Series 2023A Bond Purchase Agreement upon the terms hereinafter provided.

E. In connection with the negotiated sale of the Series 2023A Bonds, the Authority desires to approve the use and distribution by the Underwriter of the Preliminary Official Statement substantially in the form attached hereto as **Exhibit I** (the “Preliminary Official Statement”), and desires to authorize the distribution of a final Official Statement substantially in the form of the Preliminary Official Statement prior to the issuance and delivery of the Series 2023A Bonds.

F. The Underwriter has agreed to submit to the Authority and the Borrower an offer to purchase the Series 2023B Bonds in substantially the form of the Bond Purchase Agreement attached hereto as **Exhibit J** (the “Series 2023B Bond Purchase Agreement”), upon terms acceptable to the Authority and the Borrower as hereinafter authorized, and it is necessary and appropriate to authorize a negotiated sale of the Series 2023B Bonds to the Underwriter and to authorize the execution and delivery of the Series 2023B Bond Purchase Agreement upon the terms hereinafter provided.

G. In connection with the negotiated sale of the Series 2023B Bonds, the Authority desires to approve the use and distribution by the Underwriter of the Preliminary Limited Offering Memorandum substantially in the form attached hereto as **Exhibit K** (the “Limited Offering Memorandum”), and desires to authorize the distribution of a final Official Statement substantially in the form of the Limited Offering Memorandum prior to the issuance and delivery of the Series 2023B Bonds.

H. Gainesville Leased Housing Associates (TIC-I) III, LLC, Gainesville Leased Housing Associates (TIC-II) III, LLC and Gainesville Leased Housing Associates (TIC-III) III, (the “Series 2023C Purchasers”) have expressed their intention to purchase the Series 2023C Bonds, in accordance with the terms acceptable to the Authority and the Borrower as hereafter authorized, and it is necessary and appropriate to authorize a private placement of the Series 2023C Bonds to the Series 2023C Purchasers and to authorize the execution and delivery of the Series 2023C Bonds upon the terms hereinafter provided.

I. To provide security for the payment of certain indemnification and recourse obligations related to the Project, the Borrower and certain affiliates (collectively, the “Guarantors”) will execute and deliver such guaranties as may be required in connection with the issuance of the Bonds (collectively, the “Guaranties”).

J. The Authority desires to engage AmeriNat®, a Minnesota limited liability company (“AmeriNat”), to service the Loan on behalf of the Authority pursuant to a Construction Loan and Mortgage Servicing Agreement (the “Servicing Agreement”), and to monitor compliance with the requirements of the Land Use Restriction Agreement and the Code pursuant to a Compliance Monitoring Agreement (the “Compliance Monitoring Agreement”).

K. AmeriNat (the “Servicer”) will deliver to the Authority a draft Credit Underwriting Report with respect to the Project (the “Credit Underwriting Report”) and the Authority has determined to accept the draft Credit Underwriting Report and delegate to the Chair or Vice Chair the authority to approve the final Credit Underwriting Report upon consultation with the Financial Advisor and Bond Counsel.

L. Within the County there is a shortage of housing available at prices or rentals which many persons and families can afford and a shortage of capital for investment in such housing. This shortage constitutes a threat to the health, safety, morals and welfare of the residents of the County, deprives the County of an adequate tax base, and causes the County to make excessive expenditures for crime prevention and control, public health, welfare and safety, fire and accident protection, and other public services and facilities.

M. The shortage of capital and housing cannot be relieved except through the encouragement of investment by private enterprise and the stimulation of construction and rehabilitation of housing through the use of public financing.

N. The Project and the financing of the acquisition, rehabilitation and equipping thereof will serve the purposes of the Act and the Project constitutes a “qualifying housing development” under the Act.

O. Adequate provision has been made or will be made in the documents attached hereto for the Loan by the Authority to the Borrower to finance the acquisition, rehabilitation and equipping of the Project, and for the operation, repair and maintenance of the Project at the expense of the Borrower and for the repayment by the Borrower of the Loan in installments sufficient to pay the principal of and the interest on the Bonds and all costs and expenses relating thereto.

P. The Authority is not obligated to pay the Bonds except from the payments received from the Borrower under the Loan Agreement. Neither the faith, revenues, credit nor taxing power of the State of Florida or any agency, subdivision or local government thereof, including the County, is pledged to the payment of the principal of, premium (if any), or interest on the Bonds. The Authority has no taxing power.

Q. The Borrower has represented to the Authority that the Underwriter has indicated its willingness to purchase the Bonds through a negotiated, limited offering pursuant to the Bond Purchase Agreement. A negotiated sale of the Bonds is necessary and in the best interests of the Authority for the following reasons: (1) the Bonds will be a special limited obligation of the Authority payable from amounts derived from the payments by the Borrower pursuant to the Trust Indenture, the Loan Agreement and certain other funds and collateral pledged therefor, as applicable; (2) the Borrower will be required to pay all costs of the Authority



in connection with the issuance of the Bonds and the administration of the Project and to operate and maintain the Project at the Borrower's own expense; (3) the costs of issuance of the Bonds, which must be borne directly or indirectly by the Borrower, would most likely be greater if the Bonds are sold at a public sale by competitive bids than if the Bonds are sold at a negotiated sale; (4) the necessity of complying with certain requirements of the Internal Revenue Code of 1986, as amended (the "Code"), it is essential that the Authority and the Borrower have maximum flexibility in structuring the Bonds, which flexibility would not be possible in competitive bidding; (5) there is no basis, considering prevailing market conditions, for any expectation that the terms and conditions of a sale of the Bonds at public sale by competitive bids would be any more favorable than at a negotiated sale; and (6) multifamily housing revenue bonds which have the characteristics of the Bonds are typically sold at negotiated sale under prevailing market conditions.

R. Because of the nature and character of the Bonds, the security pledged therefor, the size and complexity of the financing and for the reasons stated above, it is in the best interest of the Authority that the Bonds be sold pursuant to a negotiated, limited offering and not at public bid, in one or more tax exempt or taxable series, in the aggregate principal amount of not to exceed \$21,500,000, upon the conditions provided herein and the Bond Purchase Agreements, and upon delivery by the Underwriter and the Series 2023C Bond Purchasers of respective disclosure statements containing the information and truth-in-bonding statements required by Section 218.385, Florida Statutes.

S. On December 9, 2022, following a public hearing required pursuant to Section 147(f) of the Code, the County Board approved the issuance of the Bonds by the Authority in an aggregate amount not to exceed \$21,500,000 in order to finance or refinance the Project, for purposes of Section 147(f) of the Code (the "Original County Approval").

T. On January 3, 2023, the Authority received from the State of Florida Division of Bond Finance a 2023 private activity bond volume cap allocation in the amount of at least \$21,500,000 for the issuance of the Bonds to finance or refinance the acquisition, rehabilitation and equipping of the Project.

U. Due to unforeseen delays with the Project and the issuance of the Bonds and the impending expiration of the inducement resolution adopted by the Authority on December 9, 2021 (the "Original Preliminary Resolution") and the Original County Approval, Borrower requested that the Authority conduct a new public hearing and extend the last date on which the Bonds are authorized to be issued pursuant to the Original Preliminary Resolution.

V. A notice of public hearing, inviting written and oral comments and discussions concerning the issuance of the Bonds in an aggregate amount not to exceed \$21,500,000 to finance or refinance the acquisition, rehabilitation and equipping of the Project, was published in The St. Augustine Record, a newspaper of general circulation within the County at least seven (7) days in advance of such hearing.

W. Following such notice, on October 26, 2023, the Authority held the public hearing and extended the inducement period under the Original Preliminary Resolution.

X. Subject to the conditions set forth herein and the approval of the County Board for purposes of the County HFA Ordinance, the County HFA Resolution and all conditions precedent to the issuance of the Bonds have been satisfied or will be satisfied prior to or simultaneously with the delivery of the Bonds.

**SECTION 3. APPROVAL OF ISSUANCE OF BONDS.** For the purpose of making the Loan to the Borrower, subject to the satisfaction of the conditions herein and in the Credit Underwriting Report to the satisfaction of AmeriNat, the issuance of the Bonds in the aggregate principal amount of not to exceed \$21,500,000 is hereby authorized. Subject to the criteria set forth herein, the Bonds shall be issued upon the terms, including the dated date, interest rate, maturity and optional and mandatory redemption provisions therefor, as set forth in the Trust Indenture.

**SECTION 4. APPROVAL OF THE TRUST INDENTURES.**

(A) The form of the Series 2023A Trust Indenture attached hereto as **Exhibit A** is hereby approved, subject to such changes, insertions, and omissions and such filling of blanks therein as may be made in such form and approved by the officers of the Authority executing the same in a manner consistent with the provisions of this Resolution, the execution and delivery thereof to be conclusive evidence of such approval. The form of the Series 2023A Bonds attached to the Series 2023A Trust Indenture as “Exhibit A” thereto, is hereby approved, subject to such changes, modifications, insertions and omissions and filling of blanks therein as may be made in such form and approved by the Borrower and the officers of the Authority executing same, such execution to be conclusive evidence of such approval. The execution and delivery of the Series 2023A Trust Indenture and the Series 2023A Bonds are hereby authorized and approved.

(B) The form of the Series 2023B Trust Indenture attached hereto as **Exhibit C** is hereby approved, subject to such changes, insertions, and omissions and such filling of blanks therein as may be made in such form and approved by the officers of the Authority executing the same in a manner consistent with the provisions of this Resolution, the execution and delivery thereof to be conclusive evidence of such approval. The form of the Series 2023B Bonds attached to the Series 2023B Trust Indenture as “Exhibit A” thereto, is hereby approved, subject to such changes, modifications, insertions and omissions and filling of blanks therein as may be made in such form and approved by the Borrower and the officers of the Authority executing same, such execution to be conclusive evidence of such approval. The execution and delivery of the Series 2023B Trust Indenture and the Series 2023B Bonds are hereby authorized and approved.

(C) The form of the Series 2023C Trust Indenture attached hereto as **Exhibit E** is hereby approved, subject to such changes, insertions, and omissions and such filling of blanks therein as may be made in such form and approved by the officers of the Authority executing the same in a manner consistent with the provisions of this Resolution, the execution and delivery thereof to be conclusive evidence of such approval. The form of the Series 2023C Bonds attached to the Series 2023C Trust Indenture as “Exhibit A” thereto, is hereby approved, subject to such changes, modifications, insertions and omissions and filling of blanks therein as may be made in such form and approved by the Borrower and the officers of the Authority executing same, such execution to be conclusive evidence of such approval. The execution and delivery of the Series 2023C Trust Indenture and the Series 2023C Bonds are hereby authorized and approved.

**SECTION 5. APPOINTMENT OF TRUSTEE.** U.S. Bank Trust Company, National Association, is hereby designated as the initial Trustee under the Trust Indenture.

**SECTION 6. APPROVAL OF LOAN AGREEMENTS AND RELATED DOCUMENTS.**

(A) The form of the Series 2023A Loan Agreement attached hereto as **Exhibit B**, is hereby approved, subject to such changes, modifications, insertions and omissions and filling of blanks therein as may be made in such form and approved by the Borrower and the officers of the Authority executing the same, execution of the Series 2023A Loan Agreement to be conclusive evidence of such approval. The execution and delivery of the Series 2023A Loan Agreement and the documents contemplated thereby, including the assignment of security documents, are hereby authorized and approved.

(A) The form of the Series 2023B Loan Agreement attached hereto as **Exhibit D**, is hereby approved, subject to such changes, modifications, insertions and omissions and filling of blanks therein as may be made in such form and approved by the Borrower and the officers of the Authority executing the same, execution of the Series 2023B Loan Agreement to be conclusive evidence of such approval. The execution and delivery of the Series 2023B Loan Agreement and the documents contemplated thereby, including the assignment of security documents, are hereby authorized and approved.

(A) The form of the Series 2023C Financing Agreement attached hereto as **Exhibit F**, is hereby approved, subject to such changes, modifications, insertions and omissions and filling of blanks therein as may be made in such form and approved by the Borrower and the officers of the Authority executing the same, execution of the Series 2023C Financing Agreement to be conclusive evidence of such approval. The execution and delivery of Series 2023C Financing Agreement and the documents contemplated thereby, including the assignment of security documents, are hereby authorized and approved.

**SECTION 7. APPROVAL OF LAND USE RESTRICTION AGREEMENT.** In order to provide for the use and operation of the Project in compliance with the Act, the requirements of the Authority and the requirements of the Code and to preserve the exclusion from gross income for federal income tax purposes of interest on the Bonds, the execution and delivery of the Land Use Restriction Agreement is hereby authorized and approved. The form of the Land Use Restriction Agreement, attached hereto as **Exhibit G** is hereby approved, subject to such changes, modifications, insertions and deletions as may be made in such form of the Land Use Restriction Agreement and approved by the officers of the Authority executing the same, the execution and delivery thereof to be conclusive evidence of such approval.

**SECTION 8. APPOINTMENT OF UNDERWRITER.** Colliers Securities LLC is hereby designated as the Underwriter with respect to the Series 2023A Bonds and the Series 2023B Bonds.

**SECTION 9. APPROVAL OF BOND PURCHASE AGREEMENTS;  
NEGOTIATED SALE.**

(A) Following consultation with the Borrower and Underwriter, it being understood that virtually all transaction costs are being borne by the Borrower, it is hereby found and determined that due to the characteristics of the financing and the prevailing and anticipated market conditions, it is in the best interest of the Authority to negotiate the sale of the Series 2023A Bonds. The negotiated sale of the Series 2023A Bonds to the Underwriter, upon substantially the terms and conditions set forth in the Series 2023A Bond Purchase Agreement is hereby approved, and the Series 2023A Bond Purchase Agreement among the Authority, the Underwriter, and the Borrower, is hereby approved in substantially the form attached hereto as **Exhibit H**, subject to such changes, modifications, insertions and deletions as may be made in such form of the Series 2023A Bond Purchase Agreement and approved by the officers of the Authority executing the same, the execution and delivery thereof to be conclusive evidence of such approval. The Series 2023A Bonds are hereby sold to the Underwriter (subject to such terms and conditions) in the amount, at the price and upon the final terms set forth in the Series 2023A Bond Purchase Agreement as may be approved by said Chair or Vice Chair; provided, that (a) the arbitrage yield on the Series 2023A Bonds shall not exceed 6.50% per annum, (b) the fee to the Underwriter shall not exceed 1.5% of the original principal amount of the Bonds (inclusive of reimbursement of Underwriter's expenses, but excluding the fees and expenses of Underwriter's counsel); and (c) the parameters prescribed in Section 14 shall have been met.

(B) Following consultation with the Borrower and Underwriter, it being understood that virtually all transaction costs are being borne by the Borrower, it is hereby found and determined that due to the characteristics of the financing and the prevailing and anticipated market conditions, it is in the best interest of the Authority to negotiate the sale of the Series 2023B Bonds. The negotiated sale of the Series 2023B Bonds to the Underwriter, upon substantially the terms and conditions set forth in the Series 2023B Bond Purchase Agreement is hereby approved, and the Series 2023B Bond Purchase Agreement among the Authority, the Underwriter, and the Borrower, is hereby approved in substantially the form attached hereto as **Exhibit J**, subject to such changes, modifications, insertions and deletions as may be made in such form of the Series 2023B Bond Purchase Agreement and approved by the officers of the Authority executing the same, the execution and delivery thereof to be conclusive evidence of such approval. The Series 2023B Bonds are hereby sold to the Underwriter (subject to such terms and conditions) in the amount, at the price and upon the final terms set forth in the Series 2023B Bond Purchase Agreement as may be approved by said Chair or Vice Chair; provided, that (a) the arbitrage yield on the Series 2023B Bonds shall not exceed 9.5% per annum, (b) the fee to the Underwriter shall not exceed 1.5% of the original principal amount of the Bonds (inclusive of reimbursement of Underwriter's expenses, but excluding the fees and expenses of Underwriter's counsel); and (c) the parameters prescribed in Section 14 hereof shall have been met.

(C) Following consultation with the Borrower, it being understood that virtually all transaction costs are being borne by the Borrower, it is hereby found and determined that due to the characteristics of the financing and the prevailing and anticipated market conditions, it is in the best interest of the Authority to authorize the private placement of the Series 2023C Bonds to the Series 2023C Purchasers. The private placement of the Series 2023C Bonds to the Series

2023C Purchasers in the amount, at the price and upon the final terms set forth in the Series Indenture as may be approved by said Chair or Vice Chair is hereby approved; provided, that (a) the arbitrage yield on the Series 2023C Bonds shall not exceed 9.5% per annum; and (b) the parameters prescribed in Section 14 hereof shall have been met.

**SECTION 10. APPROVAL OF OFFICIAL STATEMENT.** The Authority hereby approves the Preliminary Official Statement relating to the Series 2023A Bonds in substantially the form attached hereto as **Exhibit I** and authorizes the use and distribution by the Underwriter of the Preliminary Official Statement in connection with the offering for sale of the Series 2023A Bonds. The Chair and the Vice Chair are each hereby authorized to make or approve insertions, modifications and changes in the Preliminary Official Statement. Each of such officers is further authorized to deem the Preliminary Official Statement “final” within the meaning of Rule 15c2-12 under the Securities Exchange Act of 1934, in the form as mailed, and in furtherance thereof to execute a certificate evidencing same. The Authority hereby approves and authorizes the preparation and distribution of a final Official Statement relating to the Series 2023A Bonds substantially in the form of the Preliminary Official Statement hereby approved, with such revisions as shall hereafter be approved by the Chair or Vice Chair, with such approval and authorization to be presumed by the execution of the Series 2023A Bonds.

**SECTION 11. APPROVAL OF LIMITED OFFERING MEMORANDUM.** The Authority hereby approves the Preliminary Limited Offering Memorandum relating to the Series 2023B Bonds in substantially the form attached hereto as **Exhibit K** and authorizes the use and distribution by the Underwriter of the Preliminary Limited Offering Memorandum in connection with the offering for sale of the Series 2023B Bonds. The Chair and the Vice Chair are each hereby authorized to make or approve insertions, modifications and changes in the Preliminary Limited Offering Memorandum. Each of such officers is further authorized to deem the Preliminary Limited Offering Memorandum “final” within the meaning of Rule 15c2-12 under the Securities Exchange Act of 1934, in the form as mailed, and in furtherance thereof to execute a certificate evidencing same. The Authority hereby approves and authorizes the preparation and distribution of a final Limited Offering Memorandum relating to the Series 2023B Bonds substantially in the form of the Preliminary Limited Offering Memorandum hereby approved, with such revisions as shall hereafter be approved by the Chair or Vice Chair, with such approval and authorization to be presumed by the execution of the Series 2023B Bonds.

**SECTION 12. DESIGNATION OF SERVICER.** AmeriNat is hereby designated as the Credit Underwriter and Servicer with respect to the Bonds.

**SECTION 13. APPROVAL BY COUNTY BOARD.** The Bonds shall not be issued unless the issuance of the Bonds by the Authority has been approved by the County Board for purposes of the County HFA Ordinance, the County HFA Resolution, and Section 147(f) of the Code, and the County Commission is hereby requesting to so approve the issuance of the Bonds by the Authority.

**SECTION 14. AUTHORIZATION TO SELL BONDS.** The Chair or Vice Chair is hereby authorized to award the sale of the Series 2023A Bonds and the Series 2023B Bonds to the Underwriter and to award the placement of the Series 2023C Bonds with the Series 2023C Purchasers; provided that (A) the Bonds shall be issued in the aggregate principal amount of not

to exceed \$21,500,000, (B) the Bonds shall bear interest initially at a rate or rates of not to exceed the rate computed by adding 300 basis points to the Bond Buyer “20 Bond Index” published immediately preceding the first day of the calendar month in which the Bonds are sold, calculated in accordance with Section 215.84(3), Florida Statutes, (C) the Bonds shall mature not later than 40 years from the date of issuance thereof and (D) any Bonds which are not rated “A” or higher by a nationally recognized rating agency, shall be sold and transferred only to “Qualified Institutional Buyers” within the meaning of Section 144 of the Securities Act of 1933, as amended, which have executed an investor letter substantially in the form attached to the applicable Indenture, in accordance with the requirements of the Authority’s guidelines.

**SECTION 15. ACCEPTANCE OF DRAFT CREDIT UNDERWRITING REPORT.**

The draft Credit Underwriting Report with respect to the acquisition, rehabilitation and development of the Project delivered to the Authority by AmeriNat, is hereby accepted. The Authority hereby delegates to the Chair or Vice Chair of the Authority the authorization to accept the final Credit Underwriting Report, after consultation with bond counsel, counsel to the Authority, and the Authority’s financial advisor, with such changes from the draft Credit Underwriting Report as shall be approved by such officers of the Authority, execution and delivery of the Bonds to be conclusive evidence of the acceptance of such final Credit Underwriting Report.

**SECTION 16. AUTHORIZATIONS.**

A. The Chair or the Vice Chair of the Authority and, to the extent provided therein, the Executive Director, the Secretary or any Assistant Secretary of the Authority are hereby authorized and empowered on behalf of the Authority to execute and deliver or approve the Bonds, the Trust Indentures, the Loan Agreements, the Land Use Restriction Agreement, the Bond Purchase Agreements, the Official Statement, the Limited Offering Memorandum and any guaranties provided by or on behalf of the Borrower, and the Compliance Monitoring Agreement and Servicing Agreement in each case which shall be deemed necessary and desirable in connection with the issuance of the Bonds, and to execute and deliver any other documents contemplated by the foregoing, in each case subject to such changes and modifications from the forms approved herein, as either of such officers may approve, such execution to be conclusive evidence of any such approval, and to affix thereto or impress thereon the seal of the Authority, if applicable.

B. The officers, employees and agents of the Authority are hereby authorized and directed to do all acts and things required by the provisions of this Resolution and the documents authorized herein, as may be necessary in connection with the issuance of the Bonds or as otherwise may be necessary or desirable to effectuate the purpose and intent of this Resolution. The Chair or Vice Chair and the Secretary or any Assistant Secretary of the Authority are each hereby designated as the primary officers of the Authority charged with the responsibility of issuing the Bonds.

**SECTION 17. NO PERSONAL LIABILITY.** No representation, statement, covenant, warranty, stipulation, obligation or agreement herein contained, or contained in the Bonds, the Trust Indenture, the Loan Agreement, the Bond Purchase Agreement or any certificate or other document or instrument to be executed on behalf of the Authority in connection with the issuance

of the Bonds, shall be deemed to be a representation, statement, covenant, warranty, stipulation, obligation or agreement of any member, officer, employee or agent of the Authority in his or her individual capacity, and none of the foregoing persons nor any officer of the Authority executing the Bonds, the Trust Indenture, the Loan Agreement, the Bond Purchase Agreement or any certificate or other document or instrument to be executed in connection with the issuance of the Bonds shall be liable personally thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

**SECTION 18. REPEALING CLAUSE.** All resolutions or parts thereof in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

**SECTION 19. EFFECT OF TYPOGRAPHICAL OR ADMINISTRATIVE ERRORS.** To the extent that there are typographical or administrative errors or omissions that do not change the tone, tenor, or context of this Resolution, then this Resolution may be revised without subsequent approval of the Board.

[Remainder of page intentionally left blank]

**SECTION 20. EFFECTIVE DATE.** This Resolution shall become effective immediately upon its adoption.

**APPROVED AND ADOPTED** this 16<sup>th</sup> day of November, 2023.

**HOUSING FINANCE AUTHORITY OF ST.  
JOHNS COUNTY, FLORIDA**

(OFFICIAL SEAL)

ATTEST:

Linda B. DeGandle  
Secretary

By: Robert Marshall  
Vice Chair



## **EXHIBIT LIST**

EXHIBIT A	---	Series 2023A Trust Indenture
EXHIBIT B	---	Series 2023B Trust Indenture
EXHIBIT C	---	Series 2023C Trust Indenture
EXHIBIT D	---	Series 2023A Loan Agreement
EXHIBIT E	---	Series 2023B Loan Agreement
EXHIBIT F	---	Series 2023C Financing Agreement
EXHIBIT G	---	Land Use Restriction Agreement
EXHIBIT H	---	Series 2023A Bond Purchase Agreement
EXHIBIT I	---	Series 2023A Preliminary Official Statement
EXHIBIT J	---	Series 2023B Bond Purchase Agreement
EXHIBIT K	---	Series 2023B Preliminary Limited Offering Memorandum
EXHIBIT L	---	TEFRA Notice

**EXHIBIT A**  
**SERIES 2023A TRUST INDENTURE**  
**(see attached)**

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**TRUST INDENTURE**

Dated as of December 1, 2023

between

HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA,  
as Issuer

and

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,  
as Trustee

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Relating to

[\$[2023A PAR]  
Housing Finance Authority of St. Johns County, Florida  
Multifamily Housing Revenue Bonds  
(Oaks at St. John), Series 2023A

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## TRUST INDENTURE

**THIS TRUST INDENTURE** dated as of December 1, 2023 (the “Indenture”), by and between the **HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA**, a public body corporate and politic duly organized and existing under the laws of the State of Florida (the “Issuer”), and **U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION**, a national banking association, authorized to exercise corporate trust powers in the State, as trustee (the “Trustee”). All capitalized terms used in this Indenture and not otherwise defined herein have the meanings ascribed to them in Section 1.01 of this Indenture.

### RECITALS:

**WHEREAS**, the Legislature of the State of Florida (the “State”) has enacted the Florida Housing Finance Authority Law, Sections 159.601 et seq., Florida Statutes, as amended (the “Act”), pursuant to which the State has empowered each county in the State to create by ordinance a separate public body corporate and politic, to be known as a housing finance authority of the county for which it was created, for the purpose of alleviating a shortage of housing and creating capital for investment in housing in the area of operation of such housing finance authority; and

**WHEREAS**, pursuant to the Act, the Board of County Commissioners of St. Johns County, Florida (the “County”), enacted Ordinance No. 80-7 on February 26, 1980, as amended, and Ordinance 80-25 on March 11, 1980, as amended, creating the Housing Finance Authority of St. Johns County, Florida to carry out and exercise all powers and public and governmental functions set forth in and contemplated by the Act; and

**WHEREAS**, the Act authorizes the Issuer: (a) to make loans to any person, or to purchase loans, including federally insured mortgage loans, in order to provide financing for residential rental developments located within the Issuer’s area of operation, which are to be occupied by persons of low, moderate or middle income; (b) to issue its revenue bonds pursuant to the Act, for the purpose of obtaining money to make or to purchase such loans and provide such financing, to establish necessary reserve funds and to pay administrative costs and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, and receipts to be received by the Issuer from or in connection with such loans, and to mortgage, pledge or grant security interests in such loans in order to secure the payment of the principal or redemption price of and interest on such bonds; and

**WHEREAS**, Ponte Vedra Beach Leased Housing Associates I, LLLP, a limited liability limited partnership duly organized and existing under the laws of the State of Minnesota (the “Borrower”), has applied to the Issuer for financial assistance for the purpose of providing all or part of the funds with which to pay the cost of the acquisition, rehabilitation and equipping of a multifamily rental housing development known as Oaks at St. John, consisting of approximately 160 units, on an approximately 23.93-acre site located at 210 Nettles Lane, Ponte Vedra Beach, Florida 32081 in an unincorporated area of St. Johns County, Florida (the “Project”) and to pay certain costs of issuance of the Bonds; and

**WHEREAS**, pursuant to and in accordance with the laws of the State of Florida, including without limitation, the Act, the Issuer has determined to issue its Multifamily Housing Revenue



Bonds (Oaks at St. John), Series 2023A, in the aggregate principal amount of \$[2023A PAR] (the “Bonds”) pursuant to this Indenture for the purpose of providing funding for the acquisition, rehabilitation and equipping of the Project; and

**WHEREAS**, the Issuer has determined that the purposes of the Act in providing for the acquisition, rehabilitation and equipping of the Project will be realized by the issuance of the Bonds, and the loan of such proceeds pursuant to a Loan Agreement dated as of even date herewith (the “Loan Agreement”) between the Issuer and the Borrower, and therefore the Issuer has agreed to issue the Bonds and lend the proceeds thereof to the Borrower (the “Loan”) and the Borrower has agreed to (i) apply the proceeds of the Loan to pay a portion of the costs of acquisition, rehabilitation and equipping of the Project, (ii) make payments sufficient to pay the principal of and interest on the Bonds when due (whether at maturity, by redemption, acceleration or otherwise), and (iii) observe the other covenants and agreements and make the other payments set forth therein; and

**WHEREAS**, all acts and proceedings required by law necessary to make the Bonds, when executed by the Issuer, authenticated and delivered by the Trustee and duly issued as provided in this Indenture, the valid, binding and legal limited obligations of the Issuer, and to constitute this Indenture a valid and binding agreement for the uses and purposes herein set forth, in accordance with its terms, have been done and taken; and the execution and delivery of this Indenture have been in all respects duly authorized; and

**WHEREAS**, the Trustee has accepted the trusts created by this Indenture, and in evidence thereof has joined in the execution hereof;

**NOW, THEREFORE, THIS INDENTURE WITNESSETH**, that to secure the payment of Bond 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 assigns, all right, title and interest of the Issuer in and to (i) the Revenues, including, without limitation, all Loan Payments, Eligible Funds and other amounts receivable by or on behalf of the Issuer under the Loan Agreement in respect of repayment of the Loan, (ii) the Special Funds, including all accounts in such Special Funds and all money deposited therein and the investment earnings on such money, (iii) all right, title and interest of the Issuer in the proceeds derived from the sale of the Bonds, and any securities in which money in the Special Funds are invested, and (except for money 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 on its behalf, or with its written consent, to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms of the Indenture,

(iv) the Note, except for the Reserved Rights and (v) the Loan 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 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, terminate 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:

## ARTICLE I DEFINITIONS

**Section 1.01 Definitions.** In addition to the words and terms defined elsewhere in this Indenture or by reference to the Loan Agreement, unless the context or use clearly indicates another meaning or intent:

“**Act**” has the meaning assigned in the Recitals hereto.

“**Act of Bankruptcy**” means written 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 a petition in bankruptcy, insolvency, reorganization or liquidation proceedings (or similar proceedings) have been instituted by or against the Borrower; provided that, if in the case of an involuntary proceeding, such proceeding is not dismissed within 90 days after commencement thereof.

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

“**Administrative Expenses**” means the Ordinary Trustee Fees and Expenses, the Dissemination Agent Fee, the Issuer Ordinary Fees and the Issuer Servicer’s Fees.

“**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 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 managing member of the Borrower, 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 \$250,000, or any integral multiple of \$1 in excess thereof.

“**Authorized Official**” means the Chairman or Vice Chairman of the Issuer 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.

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

“**Bond Counsel**” means Butler Snow LLP 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 holders thereof for federal income tax purposes.

“**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, Mandatory Tender or acceleration or otherwise.

“**Bond Purchase Agreement**” means the Bond Purchase Agreement dated December \_\_, 2023, 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 Issuer on November 16, 2023.

“**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, Mandatory Tender, acceleration or otherwise.

“**Bond Year**” means each annual period of twelve months ending on [\_\_\_\_]; provided; however, that the first annual period commences on the date of the original issuance and delivery of the Bonds and ends on [\_\_\_\_, 20\_] and the last of which ends on the maturity of the Bonds.

“**Bonds**” means the Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023A of the Issuer authorized in the Bond Resolution and Section 2.01 hereof in an amount not to exceed \$[2023A PAR].

“**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 Persons other than the Issuer or the Trustee. The records maintained by Persons other than the Issuer or the Trustee constitute the written record that identifies the owners, and records the transfer, of book-entry interests in those Bonds and Bond Service Charges thereon.

“**Borrower**” means Ponte Vedra Beach Leased Housing Associates I, LLLP, a limited liability limited partnership, duly organized and existing in the State of Minnesota, its successors and assigns.

“**Borrower Documents**” means the Financing Documents, the Equity Bridge Loan Documents, the Seller Loan Documents and the Mortgage Loan Documents to which the Borrower is a party.

“**Business Day**” means a day other than a Saturday or a Sunday, on which (a) banking institutions in the City of New York or in the city in which the principal office of the Trustee or Remarketing Agent is located are not authorized or obligated by law or executive order to be closed, or (b) The New York Stock Exchange is not closed, and on which the United States Government makes payments of principal and interest on its Treasury obligations.

“**Cash Flow Projection**” means a cash flow projection prepared by an independent firm of certified public accountants, a financial advisory firm, a law firm or other independent third party 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 Rating Agency, establishing, to the satisfaction of the Rating Agency, 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 and the Administrative Expenses, in each instance, when due and payable, including, but not limited to, any cash flow projection prepared in connection with (i) the initial issuance and delivery of the Bonds, (ii) a proposed remarketing of the Bonds, as provided in Section 3.07, (iii) the release of Eligible Funds from the Negative Arbitrage Account of the Bond Fund, as provided in Section 4.03, (iv) the purchase, sale or exchange of Eligible Investments as provided in Section 4.10 hereof and (v) the sale or other disposition by the Trustee of Eligible Investments prior to maturity at a price below par in connection with an optional redemption prior to the Initial Mandatory Tender Date.

“**Chairman**” means the person serving as Chairman of the Issuer.

“**Closing Date**” means December \_\_, 2023.

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

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

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

“**Completion Date**” means the date on which the Borrower certifies that the Project was substantially completed and available, and suitable for use as multifamily housing.

“**Compliance Monitoring Agreement**” means the Compliance Monitoring Agreement, dated as of December 1, 2023, among the Issuer, the Issuer Servicer, U.S. Bank Trust Company, National Association in its capacity as Trustee, as the trustee for the Series 2023B Bonds and the trustee for the Series 2023C Bonds, and the Borrower, as the same may hereafter be amended or supplemented;

**“Compliance Monitoring Fee”** means the fee payable by the Borrower to the Issuer Servicer pursuant to the Compliance Monitoring Agreement.

**“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.

**“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 or the Remarketing Agent means, respectively, the office of the Trustee or the Remarketing Agent at the respective Notice Address set forth in this Section 1.01 or at such other address as may be specified in writing by the Trustee or the Remarketing Agent, as applicable, as provided in Section 12.03.

**“Determination of Taxability”** means the receipt by the Trustee of (1) a copy of written notice from the Commissioner or any District Director of the Internal Revenue Service or a determination by any court of competent jurisdiction, or (2) an Opinion of Bond Counsel, in either case to the effect that interest on the Bonds is not excludable for regular federal income tax purpose under Section 103(a) of the Code from gross income of any Holders of the Bonds (other than a Holder who is a substantial user of the Project or a related person as defined in the Code).

**“Dissemination Agent”** means U.S. Bank Trust Company, National Association, or any successor, as Dissemination Agent under the Continuing Disclosure Agreement.

**“Dissemination Agent Fee”** means a portion of the Trustee’s Fee payable to U.S. Bank Trust Company, National Association, in its capacity as Dissemination Agent pursuant to 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 (including any additional amount paid by the Underwriter to the Trustee as the purchase price of the Bonds);
- (b) money received by the Trustee from the proceeds of the Mortgage Loan;
- (c) remarketing proceeds of the Bonds (including any additional amount paid by the Remarketing Agent to the Trustee as the remarketing price of the Bonds) received from the Remarketing Agent or any purchaser of Bonds (other than funds provided by the Borrower, the Issuer, or any Affiliate of either the Borrower or the Issuer);
- (d) any other amounts, including the proceeds of refunding bonds, for which 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 or 550 of the Bankruptcy Code should the Issuer or the Borrower become a debtor in proceedings commenced under the Bankruptcy Code;
- (e) the proceeds of draws by the Trustee on any letter of credit provided to the Trustee for the benefit of the Borrower;
- (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 money described in (a) through (f).

**“Eligible Investments”** means, subject to the provisions of Section 4.10 and to the extent permitted under the laws of the State of Florida, any of the following obligations which mature (or are redeemable at the option of the Trustee without penalty) at such time or times as to enable timely disbursements to be made from the fund in which such investment is held or allocated in accordance with the terms of this Indenture:

- (a) Government Obligations; and
- (b) Shares or units in any money market mutual fund rated, at the time of investment, “Aaa-mf” by Moody's (or the equivalent Highest Rating Category given by the Rating Agency for that general category of security) including mutual funds of the Trustee or its affiliates or for which the Trustee or an affiliate thereof serves as investment advisor or provides other services to such mutual fund and receives reasonable compensation therefor registered under the Investment Company Act of 1940, as amended, whose investment portfolio consist solely of direct obligations of the government of the United States of America.

**“Equity Bridge Lender”** means [the initial purchasers of the Series 2023B Bonds][or the underwriter of the Series 2023B Bonds, where context requires].

**“Equity Bridge Loan”** means the loan of proceeds of the Series 2023B Bonds from the Issuer to the Borrower.

**“Equity Bridge Loan Documents”** means all documents required by the Issuer and the Equity Bridge Lender in connection with the issuance of the Series 2023B Bonds and the Equity Bridge Loan.

**“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 Loan Agreement.

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

**“Extension Payment”** means the amount due, if any, in connection with the change or extension of the Mandatory Tender Date pursuant to Section 3.07, and which shall be determined by a Cash Flow Projection approved in writing by the Rating Agency.

**“Extraordinary Services”** and **“Extraordinary Expenses”** mean all services rendered and all reasonable expenses properly incurred by the Trustee or the Issuer under this Indenture or the other Financing Documents, 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.

**“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).

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

**“Fannie Mae Commitment”** means the Commitment issued by Mortgage Lender with respect to the Mortgage Loan, as the same may be amended.

**“Fee Guaranty & Environmental Indemnity”** means the Fee Guaranty and Environmental Indemnity Agreement (Series 2023A), dated as of December 1, 2023, by and among the Issuer, the Trustee and the Issuer Guarantors.

**“Financing Documents”** means this Indenture, the Bonds, the Loan Agreement, the Note, the Tax Agreement, the Bond Purchase Agreement, the Continuing Disclosure Agreement, the Regulatory Agreement, the Remarketing Agreement, the Guarantor Documents, the Construction Monitoring Agreement, the Issuer Servicer 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 Equity Bridge Loan Documents, the Seller Loan Documents and 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 Loan Agreement.

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

“**Guarantor**” and “**Guarantors**” means, individually and collectively, the General Partner, Dominion Holdings I, LLC and Dominion Holdings II, LLC, each a Minnesota limited liability company, together with their respective permitted successors and assigns.

“**Guarantor Documents**” means, collectively, the Fee Guaranty & Environmental Indemnity, the Guaranty of Completion, the Guaranty of Recourse Obligations, and the Operating Deficit Guaranty.

“**Guaranty of Completion**” means the Absolute and Unconditional Guaranty of Completion (Series 2023A), dated as of December 1, 2023, from the Issuer Guarantors, jointly and severally, in favor of the Issuer and the Trustee.

“**Guaranty of Recourse Obligations**” means the Absolute and Unconditional Guaranty of Recourse Obligations (Series 2023A), dated as of December 1, 2023, from the Issuer Guarantors, jointly and severally, in favor of the Issuer and the Trustee.

“**Highest Rating Category**” means, with respect to an Eligible Investment, that the Eligible Investment is rated by a Rating Agency in the highest rating given by that Rating Agency for that Rating Category, provided that such rating shall include but not be below “Aaa” or “Aaa/VMIG 1” if rated by Moody's or “A-1+” or “AA+” if rated by S&P.

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

“**Indenture**” means this Trust Indenture dated as of December 1, 2023, 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 the Borrower or any Affiliate of the Borrower and in the case of an individual is not a director, trustee, officer, member, partner or employee of the Borrower or any Affiliate of the Borrower and in the case of an entity, does not have a partner, director, trustee, officer, member or employee who is a director, trustee, officer or employee of any member of the Borrower or any Affiliate of the Borrower.

“**Initial Interest Rate**” means \_\_\_%.

“**Initial Mandatory Tender Date**” means January 1, 2027.

“**Initial Remarketing Date**” means the Initial Mandatory Tender Date, but only if the conditions for remarketing the Bonds on such date as provided in Section 3.07 hereof are satisfied.

“**Interest Payment Date**” means (a) January 1 and July 1 of each year beginning July 1, 2024, (b) each Redemption Date and (c) each Mandatory Tender Date. 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 and including [\_\_\_, 202\_], 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 the Initial Interest Rate to, but not including, the Initial Mandatory Tender Date, and thereafter the applicable Remarketing Rate.

“**Interest Rate for Advances**” means the rate per annum which is two percent plus that interest rate announced by U.S. Bancorp from time to time in its lending capacity as a bank as its “Prime Rate” or its “Base Rate”.

“**Investor Limited Partner**” means Alliant Credit Facility IV, LLC, a California limited liability company, and its permitted successors and assigns in their capacity as the Investor Limited Partner of the Borrower.

“**Issuer**” means the Housing Finance Authority of St. Johns County, Florida, a public body corporate and politic of the State, duly organized and existing under the laws of the State, and its successors and assigns.

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

“**Issuer Extraordinary Fees and Expenses**” means the expenses and disbursements payable to the Issuer under this Indenture or the other Financing Documents 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 Loan Agreement.

**“Issuer Fees and Expenses”** means, collectively, the Issuer Ordinary Fees and Expenses and the Issuer Extraordinary Fees and Expenses.

**“Issuer Guarantors”** means the Borrower, Ponte Vedra Beach Leased Housing Associates I, LLC, Ponte Vedra Beach Leased Housing Associates LP I, LLC, Ponte Vedra Beach Leased Housing Development I, LLC, Dominium Holdings I, LLC and Dominium Holdings II, LLC, each a Minnesota limited liability company, or any other person or entity which may hereafter become a guarantor of any of the Borrower’s obligations under the Issuer Documents.

**“Issuer Indemnified Party”** or **“Issuer Indemnified Parties”** means the Issuer, the past, present and future members of the Issuer, executives, employees and agents, individually and collectively.

**“Issuer Ordinary Fees and Expenses”** means collectively, the Issuer’s (i) one (1) time initial issuance fee payable to the Issuer on or before the Closing Date in the amount of [\$\_\_\_\_] attributable to the Bonds, (ii) the annual fee of the Issuer, payable by the Borrower in the amount of 25 basis points (0.25%) of the outstanding principal amount of the Bonds (calculated on the Business Day prior to any reduction on such payment date) payable in semiannual installments in arrears on each [\_\_\_\_] 1 and [\_\_\_\_] 1, commencing [\_\_\_\_] 1, 202[\_\_\_\_], (iii) the Compliance Monitoring Fee, and (iv) the Issuer Short-Term Prepayment Fee.

**“Issuer Servicer”** means AmeriNat®, a Minnesota limited liability company, or any other servicer appointed by the Issuer to service the Loan on behalf of Issuer and to monitor the Development.

**“Issuer Servicer Agreement”** means the Construction Loan Servicing Agreement, dated as of December 1, 2023, by and among the Issuer, U.S. Bank Trust Company, National Association, in its capacity as Trustee, trustee for the Series 2023B Bonds and trustee for the Series 2023C Bonds, the Borrower and the Issuer Servicer.

**“Issuer Servicer’s Fee”** means the following fees and expenses: { (a) payable directly by the Borrower to the Issuer Servicer: (i) during construction of the Project, an on-site inspection fee of [\$\_\_\_\_] per hour for services rendered, but not to exceed [\$\_\_\_\_] per disbursement, (ii) during construction of the Project, an in-house review fee of [\$\_\_\_\_] per hour for services rendered, (iii) a fee for extraordinary services rendered of [\$\_\_\_\_] per hour, and (iv) a fee for providing financial monitoring services in the amount of [\$\_\_\_\_] (subject to annual increases of 3%) payable in semiannual installments in advance on each [January] 1 and [July] 1.

**“Issuer Short-Term Prepayment Fee”** means the applicable fee in the following schedule determined based on the original principal amount of the Bonds and the length of time between the date of issuance of the Bonds and the prepayment, in full, or final maturity of all of the Bonds; provided, however, such fee shall not be less than \$20,000, which fee is payable on the prepayment date:

Prepayment Date		
18 months or less	24 months or less but longer than 18 months	36 months or less but longer than 24 months
0.31%	0.24%	0.18%

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

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

“**Loan Payments**” means the amounts required to be paid by the Borrower in repayment of the Loan pursuant to the provisions of the Note and Section 4.1 of the Loan Agreement.

“**Local Time**” means Eastern time (daylight or standard, as applicable) in Cape Charles, Virginia.

“**Mandatory Tender**” means a tender of Bonds required by Section 3.05.

“**Mandatory Tender Date**” means the latest of (a) the Initial Mandatory Tender Date and (b) if the Bonds Outstanding on such date or on any subsequent Mandatory Tender Date are remarketed pursuant to Section 3.07 for a Remarketing Period that does not extend to the final maturity of the Bonds, the day after the last day of the Remarketing Period.

“**Maturity Date**” means July 1, 2028.

“**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.

“**Moody's**” means Moody's Investors Service, a Delaware corporation, 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 Remarketing Agent.

“**Mortgage Lender**” means Colliers Mortgage LLC, a [Delaware] limited liability company, its successors and assigns.

“**Mortgage Loan**” means the mortgage loan to be made from the Mortgage Lender to the Borrower in the principal amount of \$[\_\_\_\_\_] with respect to the Project, as described and provided for in the Fannie Mae Commitment.

“**Mortgage Loan Documents**” means the mortgage, the mortgage note, and all other documents required by the Mortgage Lender and/or Fannie Mae in connection with the Mortgage Loan.

“**National Housing Act**” means the National Housing Act of 1937, as amended, and the applicable regulations thereunder.

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



c/o Dominion Development & Acquisition, LLC  
2905 Northwest Boulevard, Suite 150  
Plymouth, MN 55441  
Attention: Terry Sween  
Telephone: (404) 806-5851  
Email: tsween@dominiuminc.com

**“Operating Deficit Guaranty”** means the Absolute and Unconditional Guaranty of Operating Deficits (2023A), dated as of December 1, 2023, from the Issuer Guarantors, jointly and severally, to the Issuer and the Trustee.

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

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

**“Optional Redemption Date”** means January 1, 2027.

**“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 this Indenture, consisting of (i) a set-up and acceptance fee payable at closing and (ii) an annual fee payable each year beginning on \_\_\_\_\_ 1, 2024 provided, however, the amount of Ordinary Trustee Fees and Expenses payable from funds held under this Indenture is limited to money withdrawn from the Expense Fund and the Borrower will be responsible for paying the remaining amount of the Ordinary Trustee Fees and Expenses pursuant to Section 4.4 of the Loan Agreement. In addition, all amounts due to the Trustee for Extraordinary Services and all Extraordinary Expenses of the Trustee will be paid as provided in Section 6.06 of this Indenture or directly by the Borrower pursuant to Section 4.4 of the Loan Agreement.

**“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.

**“Partnership Agreement”** means the Amended and Restated Agreement of Limited Liability Limited Partnership of the Borrower dated December \_\_, 2023, as the same may be amended.

**“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 Loan Agreement.

**“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 hereof, be deemed to evidence the same debt as the lost, stolen or destroyed Bond.

**“Project”** means the acquisition, rehabilitation, renovation and equipping of multifamily residential rental housing development known as Oaks at St. John, consisting of approximately 160 units at 210 Nettles Lane, Ponte Vedra Beach, Florida 32081.

**“Project Costs”** means the costs of the Project specified in Section 3.6 of the Loan 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.

**“Rating Agency”** means Moody's, S&P or any other nationally recognized securities rating agency rating the Bonds, or such rating agency's successors or assigns, and initially means Moody's so long as Moody's is rating the Bonds.

**“Rating Category”** means one of the rating categories of the Rating Agency for the specific type and duration of the applicable Eligible Investment.

**“Rebate Amount”** means the amount required to be rebated to the United States pursuant to Section 148 of the Code.

**“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 to make the computations and give the directions required pursuant to the Tax Agreement. Initially, the Rebate Analyst will be Tiber Hudson LLC.

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

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

**“Redemption Date”** means any date hereunder on which Bonds are to be redeemed, including (a) the Maturity Date, (b) the date of acceleration of the Bonds and (c) pursuant to Sections 3.01 and 3.05 hereof.

**“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 fifth Business Day preceding each Interest Payment Date.

**“Regulatory Agreement”** means Land Use Restriction Agreement, dated as of December 1, 2023 by and among the Issuer, U.S. Bank Trust Company, National Association, in its capacity as Trustee, as trustee for the Series 2023B Bonds and the trustee for the Series 2023C Bonds, and the Borrower, as the same may be amended from time to time

**“Remarketing Agent”** means Colliers Securities LLC or any successor as Remarketing Agent designated in accordance with Section 5.17.

**“Remarketing Agent's Fee”** means the fee of the Remarketing Agent for its remarketing services.

**“Remarketing Agreement”** means the Remarketing Agreement dated as of December 1, 2023, by and between the Borrower and the Remarketing Agent, as amended, supplemented or restated from time to time, or any agreement entered into in substitution therefor.

**“Remarketing Date”** means the Initial Remarketing Date and, if the Bonds Outstanding on such date or on any subsequent Remarketing Date are remarketed pursuant to Section 3.07 hereof for a Remarketing Period that does not extend to the final maturity of the Bonds, the day after the last day of the Remarketing Period.

**“Remarketing Expenses”** means the costs and expenses incurred by the Trustee and its counsel, the Remarketing Agent and its counsel, the Issuer and its counsel, and Bond Counsel in connection with the remarketing of the Bonds, including bond printing and registration costs, costs of funds advanced by the Remarketing Agent, registration and filing fees, rating agency fees and other costs and expenses incurred in connection with or properly attributable to the remarketing of Bonds as certified to the Trustee by the Remarketing Agent in writing.

**“Remarketing Notice Parties”** means the Borrower, the Issuer, the Trustee, and the Remarketing Agent.

**“Remarketing Period”** means the period beginning on a Remarketing Date and ending on the last day of the term for which Bonds are remarketed pursuant to Section 3.07 hereof or the final Maturity Date of the Bonds, as applicable.

**“Remarketing Proceeds Account”** means the Remarketing Proceeds Account of the Bond Fund created in Section 4.01 hereof.

**“Remarketing Rate”** means the interest rate or rates established pursuant to Section 2.02(c) hereof and borne by the Bonds then Outstanding from and including each Remarketing Date to, but not



including, the next succeeding Remarketing Date or the final Maturity Date of the Bonds, as applicable.

“**Reserved Rights**” of the Issuer means (a) the right of the Issuer to amounts payable to it pursuant to Section 4.4 of the Loan Agreement, (b) all rights which the Issuer or its members, directors, 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 members, directors, 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.

“**Responsible Officer**” means when used with respect to the Trustee, any officer within the Corporate Trust Administration of the Trustee (or any successor group of the Trustee) or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers who shall have direct responsibility for the administration of this Indenture at the corporate trust office of the Trustee as specified in Section 1.05 hereof, and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

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

“**S&P**” means S&P Global Ratings, 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 Remarketing Agent.

“**Secretary**” means the person serving as the Secretary of the Issuer, or in his or her absence, the acting or assistant secretary of the Issuer.

“**Seller**” means, collectively, Gainesville Leased Housing Associates (TIC-I) III, LLC, Gainesville Leased Housing Associates (TIC-II) III, LLC and Gainesville Leased Housing Associates (TIC-III) III, LLC, each a Minnesota limited liability company, in their capacity as the makers of the Seller Loan.

“**Seller Loan**” means the loan from the Seller to the Borrower in the principal amount of \$[2023C PAR].

“**Seller Loan Documents**” means all documents required by the Issuer and the Seller Lender in connection with the Seller Loan.

“**Series 2023B Bonds**” means the Housing Finance Authority of St. Johns County, Florida Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023B.

“**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 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 Florida.

“**Subordinate Lender**” means [\_\_\_\_\_].

“**Subordinate Loan**” means the loan from the Subordinate Lender to the Borrower in the principal amount of \$[2023C PAR].

“**Subordinate Loan Documents**” means all documents required by the Issuer and the Subordinate Lender in connection with the Subordinate Loan.

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

“**Tax Agreement**” means the Tax Certificate and Agreement, dated the Closing Date, executed and delivered by the Issuer and the Borrower.

“**Tendered Bond**” means any Bond which has been tendered for purchase pursuant to a Mandatory Tender.

“**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 U.S. Bank Trust Company, 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.

“**Undelivered Bond**” means any Bond that is required under this Indenture to be delivered to the Remarketing Agent or the Trustee for purchase on a Mandatory Tender Date but that has not been received on the date such Bond is required to be so delivered.

“**Underwriter**” means Colliers Securities LLC.

**Section 1.02 Interpretation.** Any reference herein to the Issuer or to any member or officer of either includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions. Any reference to a section or provision of the Constitution of the State or the Act, or to a section,

provision or chapter of the Code of Virginia, 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.

## 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 \$[2023A PAR] 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 \$[2023A PAR].

(b) General Terms. The Bonds shall be designated “**Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023A;**” shall be in substantially the form as set forth in Exhibit A to this Indenture; shall be numbered R-1 and upward in order to distinguish each Bond from any other Bond; shall be in Authorized Denominations; and shall be dated the Closing Date.

(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 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 is directed by the Issuer to authenticate and deliver 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 their date of initial delivery, payable on each Interest Payment Date. The Bonds shall bear interest for each Interest Period at the Interest Rate all as more specifically set forth hereinafter. 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 and subject to Mandatory Tender for purchase as set forth in Section 3.05 hereof.

(b) Initial Interest Rate. From the date of their initial delivery to, but not including, the Initial Mandatory Tender Date, the interest rate on the Bonds shall be [\_\_\_%.] On the Initial Mandatory Tender Date, the Bonds shall be subject to Mandatory Tender pursuant to Section 3.05 hereof. If insufficient funds are available to pay the purchase price on the Bonds following such Mandatory Tender on the Initial Mandatory Tender Date, the Bonds shall accrue interest at the Maximum Interest Rate until funds are available for payment of the purchase price, with interest being paid monthly on the first Business Day of each month.

(c) Establishment of Remarketing Rate. The Remarketing Agent shall establish the interest rate on the Bonds Outstanding for each Remarketing Period at the Remarketing Rate in accordance with this Section 2.02. Not less than ten (10) Business Days preceding each Remarketing Date, the Remarketing Agent, taking into consideration prevailing market conditions, shall, using its best professional judgment, determine the minimum rate(s) of interest which, if borne by the Bonds then Outstanding for the Remarketing Period specified by the Remarketing Agent at the direction of the Borrower as provided in Section 3.07 hereof. The rate of interest determined in accordance with the previous sentence shall be the Remarketing Rate for the specified Remarketing Period; provided that if the rate of interest so determined for such period would exceed the maximum interest rate per annum permitted by applicable State law, the Bonds Outstanding shall be remarketed for the longest Remarketing Period for which the minimum rate of interest that would

enable such Bonds to be remarketed at a price equal to 100% of the principal amount of such Bonds that would not exceed the maximum interest rate permitted by applicable State law. Notwithstanding the foregoing, if the rate of interest so determined for any Remarketing Period would exceed the maximum interest rate permitted by applicable State law, the Bonds Outstanding shall not be remarketed.

(d) Notice of Remarketing Rate. The Remarketing Agent shall, upon determination of the Remarketing Rate and Remarketing Period, immediately (and in no event later than the Business Day following the day on which the Remarketing Agent makes its determination of the Remarketing Rate and the Remarketing Period) give notice of its determination by telephone or telecopy, promptly confirmed in writing, to the Trustee, the Issuer, and the Borrower. The Remarketing Rate and the Remarketing Period shall be conclusive and binding upon the Trustee, the Issuer, the Borrower and the Holders for the purposes of this Indenture.

**Section 2.03 Execution and Authentication of Bonds.** Unless otherwise provided in the applicable Bond Resolution or Supplemental Indenture, each Bond shall be signed by the Chairman or Vice Chairman 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.

**Section 2.04 Source of Payment of Bonds.** The Bonds are not and never shall become general obligations of the Issuer, but to the extent provided in and except as otherwise permitted by this Indenture, the Bonds shall be special limited obligations of the Issuer and the Bond Service Charges thereon shall be payable equally and ratably solely from and secured solely by the Trust Estate.

**THE ISSUER SHALL NOT IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS, OR FOR THE PERFORMANCE OF ANY PLEDGE, MORTGAGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WHICH MAY BE UNDERTAKEN BY THE ISSUER EXCEPT FROM THE SOURCES SPECIFICALLY PLEDGED THERETO PURSUANT TO THIS INDENTURE, AND NEITHER THE BONDS NOR ANY OF THE AGREEMENTS OR OBLIGATIONS OF THE ISSUER SHALL BE CONSTRUED TO**

CONSTITUTE AN INDEBTEDNESS OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE BONDS AND THE INTEREST THEREON SHALL NOT BE DEEMED TO CONSTITUTE OR TO CREATE IN ANY MANNER A DEBT, LIABILITY OR OBLIGATION OF THE STATE, ST. JOHNS COUNTY, FLORIDA (THE "COUNTY") NOR ANY OTHER POLITICAL SUBDIVISION THEREOF OR A PLEDGE OR A GRANT OF THE FAITH AND CREDIT OF THE STATE, THE COUNTY OR ANY SUCH POLITICAL SUBDIVISION, BUT SHALL BE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE SECURITY AND OTHER FUNDS PLEDGED THEREFOR AND SHALL NOT BE PAYABLE FROM ANY OTHER ASSETS OR FUNDS OF THE ISSUER, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE, THE COUNTY OR ANY POLITICAL SUBDIVISION IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS. THE ISSUER HAS NO TAXING POWER.

NEITHER THE MEMBERS OR OFFICIALS OF THE ISSUER NOR ANY PERSON EXECUTING THE BONDS SHALL BE LIABLE PERSONALLY ON THE BONDS BY REASON OF THE ISSUANCE THEREOF. THE BONDS AND OTHER OBLIGATIONS OF THE ISSUER SHALL NOT BE A DEBT OF THE STATE, THE COUNTY OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) AND NEITHER THE STATE NOR THE COUNTY OR ANY OTHER POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) SHALL BE LIABLE THEREON, NOR IN ANY EVENT SHALL SUCH BONDS OR OBLIGATIONS BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN THOSE OF THE ISSUER.

No recourse under or upon any obligation, covenant, acceptance or agreement contained in this Indenture, or in any of the Bonds, or under any judgment obtained against the Issuer or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, shall be had against any member or officer, as such, past, present, or future, of the Issuer, whether directly or through the Issuer, or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to any Holder of any Bond, or otherwise of any sum that may be due and unpaid by the Issuer upon any of the Bonds. All such liability of the Issuer, its members, officers, attorneys, accountants, financial advisors, agents and staff is hereby, and by the acceptance of the Bonds, expressly waived and released as a condition of, and in consideration for, the execution of this Indenture and the issuance of any of the Bonds.

**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 Office of the Trustee or at the office designated by 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 money becomes available for payment of the interest, (a) the Trustee shall, pursuant to Section 6.06(d) hereof, 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.

**Section 2.06 Registration and Transfer of Bonds.** 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 Office of the Trustee. Transfers are subject to the requirements of the Depository as long as the Bonds are held in Book-Entry Form. Neither the Trustee nor any agent shall have any responsibility or liability for any actions taken or not taken by the Depository.

Subject to the provisions set forth above and in Section 2.09 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, 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 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. All Bonds which have been redeemed or surrendered shall be canceled or otherwise destroyed by the Trustee in accordance with the customary practices of the Trustee and applicable record retention requirements. Those cancelled Bonds shall be destroyed by the Trustee by shredding or incineration at that time or at any earlier time directed by the Issuer. The Trustee shall provide certificates describing the destruction of cancelled Bonds to the Issuer upon the request of the Issuer.

**Section 2.09 Special Agreement with Holders.** Notwithstanding any provision of this Indenture or of any Bond to the contrary, with the approval of the Borrower, the Trustee may enter into an agreement with any Holder providing for making all payments to that Holder of principal of and interest on that Bond or any part thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner other than as provided in this Indenture and in the Bond, without presentation or surrender of the Bond, upon any conditions which shall be satisfactory to the Trustee and the Borrower; provided, that payment in any event shall be made to the Person in whose name a Bond shall be registered on the Register, with respect to payment of principal, on the date such principal is due, and, with respect to the payment of interest, as of the applicable Regular Record Date or Special Record Date, as the case may be.

The Trustee will furnish a copy of each of those agreements, certified to be correct by an officer of the Trustee, to the Issuer and the Borrower. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Indenture.

**Section 2.10 Book-Entry Only System.** Notwithstanding any provision of this Indenture to the contrary, the Issuer has directed 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, none of the Issuer, the Borrower or 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 Register, 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, the Issuer, 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 Issuer shall enter into any letter of representation with a Depository to implement the Book Entry System of Bond registration described above.

Neither the Trustee nor any of its agents shall have any responsibility or liability for any actions taken or not taken by DTC.

**Section 2.11 Delivery of the Bonds.** Upon the execution and delivery of this Indenture, and satisfaction of the conditions established by the Issuer in the Bond Resolution and in the Bond Purchase Agreement for delivery of the Bonds, the Issuer shall execute the Bonds and deliver them

to the Trustee. Thereupon, the Trustee shall authenticate the Bonds and deliver them to the Depository, as further directed by the Underwriter in writing.

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

- (a) a certified copy of the Bond Resolution;
- (b) executed counterparts of this Indenture and the other Financing Documents executed and delivered on the Closing Date specifically set forth in the definition of Financing Documents, which requirement shall be deemed to be satisfied upon the delivery of the Opinion of Bond Counsel;
- (c) A request and authorization to the Trustee on behalf of the Issuer and signed by an Authorized Official to authenticate and deliver the Bonds as set forth therein;
- (d) 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;
- (e) an Opinion of Counsel for the Borrower to the effect that the Borrower Documents have been duly authorized, executed and delivered by the Borrower and are legal, valid and binding agreements of the Borrower in accordance with their respective terms subject to customary qualifications and exceptions;
- (f) funds the Trustee is required to receive for deposit pursuant to Section 4.02 hereof; and
- (g) any other documents or opinions which 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.

### **ARTICLE III**

#### **REDEMPTION, MANDATORY TENDER AND REMARKETING OF BONDS**

##### **Section 3.01 Redemption of Bonds.**

- (a) **Optional Redemption of Bonds.** The Bonds are subject to optional redemption prior to their maturity, at the written direction of the Authorized Borrower Representative, either in whole or in part on any Business Day on or after the later to occur of (a) the date that the Project is placed in service, as certified in writing by the Borrower to the Trustee, and (b) the Optional Redemption Date, at a redemption price equal to the principal amount of the Bonds to be redeemed, plus accrued interest, but without premium, to the date fixed for redemption.
- (b) **Mandatory Redemption of Bonds.** The Bonds shall be redeemed in whole at a redemption price of 100% of the principal amount of such Bonds, plus accrued interest to the

Redemption Date, if any, on any Mandatory Tender Date upon the occurrence of any of the following events: (i) the Borrower has not elected to request the remarketing of the Bonds, (ii) the conditions to remarketing set forth in Section 3.07(b) or Section 3.07(d) have not been met by the dates and times set forth therein, or (iii) the proceeds of a remarketing on deposit in the Bond Fund at 11:00 a.m. Eastern time on the Mandatory Tender Date are insufficient to pay the purchase price of the Outstanding Bonds on such Mandatory Tender Date. Bonds subject to redemption in accordance with this paragraph shall be redeemed from (i) amounts on deposit in the Collateral Fund, (ii) amounts on deposit in the Negative Arbitrage Account of the Bond Fund, (iii) amounts on deposit in the Project Fund, and (iv) any other Eligible Funds available or made available for such purpose at the direction of the Borrower.

(c) **Purchase in Lieu of Redemption.** At the election of the Borrower upon a redemption in whole of the Bonds, by written notice to the Trustee and the Remarketing Agent given not less than five (5) Business Days in advance of such redemption date, the Bonds will be deemed tendered for purchase in lieu of the redemption on such date and the call for redemption shall be cancelled. The purchase price of Bonds so purchased in lieu of redemption shall be the principal amount thereof together with all accrued and unpaid interest to the date of redemption and any prepayment fee, if due, and shall be payable on the date of redemption thereof. Bonds so purchased in lieu of redemption shall remain outstanding and shall be registered to or upon the direction of the Borrower.

**Section 3.02 Partial Redemption.** In the case of a partial redemption of Bonds when Bonds of denominations greater than \$5,000 are then Outstanding, each \$5,000 unit of face value of principal thereof shall be treated as though it were a separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all of the \$5,000 units of face value represented by a Bond are to be called for redemption, then upon notice of redemption of a \$5,000 unit or units, the Holder of that Bond shall surrender the Bond to the Trustee (a) for payment of the redemption price of the \$5,000 unit or units of face value called for redemption (including without limitation, the interest accrued to the date fixed for redemption and any premium), and (b) for issuance, without charge to the Holder thereof, of a new Bond or Bonds of the same series, of any Authorized Denomination or Denominations in an aggregate principal amount equal to the unmatured and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

If less than all of an Outstanding Bond of one maturity in a Book Entry System is to be called for redemption, the Trustee shall give notice to the Depository or the nominee of the Depository that is the Holder of such Bond, and the selection of the Beneficial Ownership Interests in that Bond to be redeemed shall be at the sole discretion of the Depository and its participants.

**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 registered or certified mail, postage prepaid, return receipt requested 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 30 days nor more than 60 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 (in whole or in part) 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) if less than all Outstanding Bonds are to be redeemed, the identification by designation, letters, numbers or other distinguishing marks (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed,
- (d) that on the redemption date the redemption price will become due and payable upon each such Bond or portion thereof 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 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 money sufficient to pay the redemption price of the Bonds to be redeemed and, in the case of any redemption premium on Bonds, that there be on deposit Eligible Funds sufficient to pay such redemption premium.

Notices of redemption shall be revocable in the event that there is not on deposit with the Trustee prior to the date of redemption money sufficient to pay the redemption price of the Bonds to be redeemed or, in the case of any redemption premium on Bonds, there is not on deposit Eligible Funds sufficient to pay such redemption premium.

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.

- (a) 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.
- (b) 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 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.

(c) 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 only to the Depository, or its nominee, as the Holder of such 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 such Bonds.

**Section 3.04 Payment of Redeemed Bonds.** Notice having been mailed in the manner provided in Section 3.03 hereof, the Bonds and portions thereof called for redemption 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 being redeemed or prepaid, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed or prepaid with the proceeds of such check or other transfer.

If money for the redemption of all of the Bonds and portions thereof to be redeemed, 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 those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be Outstanding hereunder. If such money shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those Bonds and portions thereof 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 money deposited in the Bond Fund and held by the Trustee for the redemption, purchase or prepayment of particular 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.

**Section 3.05 Mandatory Tender.**

(a) Mandatory Tender for Purchase. All Outstanding Bonds shall be subject to mandatory tender by the Holders for purchase in whole and not in part on each Mandatory Tender Date. The purchase price for each such Bond shall be payable in lawful money of the United States of America by check or draft, shall equal 100% of the principal amount to be purchased and accrued interest, if any, to the Mandatory Tender Date, and shall be paid in full on the applicable Mandatory Tender Date.

(b) Mandatory Tender Dates. The Mandatory Tender Dates shall consist of (i) the Initial Mandatory Tender Date and (ii) any subsequent dates for mandatory tender of the Bonds established by the Borrower with the consent of the Remarketing Agent in connection with a remarketing of the Bonds pursuant to Section 3.07 hereof.

(c) Holding of Tendered Bonds. While tendered Bonds are in the custody of the Trustee pending purchase pursuant hereto, the tendering Holders thereof shall be deemed the owners thereof for all purposes, and interest accruing on tendered Bonds through the day preceding the applicable Mandatory Tender Date is to be paid as if such Bonds had not been tendered for purchase.

(d) Effect of Prior Redemption. Notwithstanding anything herein to the contrary, any Bond tendered under this Section 3.05 will not be purchased if such Bond matures or is redeemed on or prior to the applicable Mandatory Tender Date.

(e) Purchase of Tendered Bonds. The Trustee shall utilize the following sources of payments to pay the tender price of the Bonds not later than 2:30 p.m. Local Time on the Mandatory Tender Date in the following priority; (i) amounts representing proceeds of remarketed Bonds deposited in the Remarketing Proceeds Account, to pay the principal amount, plus accrued interest, of Bonds tendered for purchase, (ii) amounts on deposit in the Collateral Fund, to pay the principal amount of Bonds tendered for purchase, (iii) amounts on deposit in the Negative Arbitrage Account of the Bond Fund to pay the accrued interest; if any, on Bonds tendered for purchase, (iv) amounts on deposit in the Project Fund to pay the accrued interest, if any, on the Bonds tendered for purchase and (v) any other Eligible Funds available or made available for such purpose at the direction of the Borrower.

(f) Undelivered Bonds. Bonds shall be deemed to have been tendered for purposes of this Section 3.05 whether or not the Holders shall have delivered such Undelivered Bonds to the Trustee, and subject to the right of the Holders of such Undelivered Bonds to receive the purchase price of such Bonds and interest accrued thereon to the Mandatory Tender Date, such Undelivered Bonds shall be null and void. If such Undelivered Bonds are to be remarketed, the Trustee shall authenticate and deliver new Bonds in replacement thereof pursuant to the remarketing of such Undelivered Bonds.

### **Section 3.06 Mandatory Tender Notice.**

(a) Notice to Holders. Not less than 30 days preceding a Mandatory Tender Date, the Trustee shall give written notice of mandatory tender to the Holders of the Bonds then Outstanding (with a copy to the Borrower, the Investor Limited Partner, and the Remarketing Agent) by first class mail, postage prepaid, at their respective addresses appearing on the Register stating:

(i) the Mandatory Tender Date and that (a) all Outstanding Bonds are subject to mandatory tender for purchase on the Mandatory Tender Date, (b) all Outstanding Bonds must be tendered for purchase no later than 12:00 Noon Local Time on the Mandatory Tender Date and (c) Holders will not have the right to elect to retain their Bonds;

(ii) the address of the Designated Office of the Trustee at which Holders should deliver their Bonds for purchase and the date of the required delivery;

(iii) that all Outstanding Bonds will be purchased on the Mandatory Tender Date at a price equal to the principal amount of the Outstanding Bonds plus interest accrued to the Mandatory Tender Date; and

(iv) any Bonds not tendered will nevertheless be deemed to have been tendered and will cease to bear interest from and after the Mandatory Tender Date.

(b) Second Notice. In the event that any Bond required to be delivered to the Trustee for payment of the purchase price of such Bond shall not have been delivered to the Trustee on or before the 30<sup>th</sup> day following a Mandatory Tender Date, the Trustee shall mail a second notice to the Holder of the Bond at its address as shown on the Register setting forth the requirements set forth in this Indenture for delivery of the Bond to the Trustee and stating that delivery of the Bond to the Trustee (or compliance with the provisions of this Indenture concerning payment of lost, stolen or destroyed Bonds) must be accomplished as a condition to payment of the purchase price or redemption price applicable to the Bond.

(c) Failure to Give Notice. Neither failure to give or receive any notice described in this Section 3.06, nor the lack of timeliness of such notice or any defect in any notice (or in its content) shall affect the validity or sufficiency of any action required or provided for in this Section 3.06.

### **Section 3.07 Remarketing of Bonds.**

(a) Notice of Mandatory Tender. No later than 11:00 a.m. Local Time on the 35<sup>th</sup> day prior to each Mandatory Tender Date, the Trustee shall give notice to the Borrower, the Investor Limited Partner and the Remarketing Agent by telephone or telecopy, confirmed on the same day in writing, which states the aggregate principal amount of Bonds Outstanding, all of which are to be tendered or deemed to be tendered pursuant to Section 3.05 hereof.

(b) Preliminary Conditions to Remarketing. No later than 11:00 a.m. Local Time on the 15<sup>th</sup> day prior to the Mandatory Tender Date then in effect, the Borrower may give notice to the Remarketing Notice Parties by telephone or telecopy, confirmed on the same day in writing, that it elects to cause the Bonds to be remarketed. A remarketing of the Bonds shall be permitted only if the following conditions are satisfied no later than the time the foregoing election notice is given:

(i) Notice by the Borrower to the Remarketing Agent of the Remarketing Period pursuant to Section 3.10 of the Loan Agreement;

(ii) Delivery to the Trustee, the Rating Agency and the Remarketing Agent of a preliminary Cash Flow Projection with respect to the proposed Remarketing Period; and

(iii) The Borrower shall have notified the Trustee in writing that it has approved as to form and substance any disclosure document or offering materials which, in the Opinion of Counsel to the Remarketing Agent, is necessary to be used in connection with the remarketing of the Outstanding Bonds.

(c) Remarketing. Not less than ten (10) days before each Remarketing Date, the Remarketing Agent shall offer for sale and use its best efforts to sell the Bonds Outstanding on the Remarketing Date at a price equal to 100% of the principal amount of such Bonds plus, if such Remarketing



Date is a date other than an Interest Payment Date, accrued interest on such Bonds from the preceding Interest Payment Date to which interest has been paid. Not less than four (4) Business Days before each Remarketing Date, the Remarketing Agent shall give notice, by telephone or telecopy, promptly confirmed in writing, to the Remarketing Notice Parties specifying the principal amount of Bonds, if any, it has remarketed (including Bonds to be purchased by the Remarketing Agent on the Remarketing Date for its own account), the Remarketing Rate(s) and the Remarketing Period applicable to the Bonds.

The Remarketing Agent shall have the right to remarket any Bond tendered pursuant to Section 3.05 hereof; provided, however, that no such Bond shall be remarketed at a price less than 100% of the principal amount thereof plus accrued interest (if any) without the prior written consent of the Borrower; and provided, further, that the purchase price of any Bond paid to the tendering Holder allocable to such discount shall be paid with Eligible Funds made available by the Borrower therefor and on deposit with the Trustee prior to the remarketing of such Bonds. The Remarketing Agent shall have the right to purchase any Bond tendered or deemed tendered pursuant to Section 3.05 hereof at 100% of the principal amount thereof, and to thereafter sell such Bond. Any such purchase shall constitute a remarketing hereunder.

The Remarketing Agent shall not remarket any Bond to the Issuer, the Borrower, any guarantor of the Bonds or any person which is an “insider” of the Issuer, Borrower, or any such guarantor within the meaning of the Bankruptcy Code.

(d) Final Conditions to Remarketing.

(i) If, not less than four (4) Business Days preceding the Remarketing Date:

(1) the Remarketing Agent shall have notified the Trustee in writing of the remarketing of the Outstanding Bonds and that the proceeds from the remarketing (including proceeds of remarketing of Outstanding Bonds to be purchased by the Remarketing Agent on the Remarketing Date for its own account) or other funds equal to the amount needed to purchase the remarketed Bonds on the Remarketing Date are expected to be available to the Trustee on the Remarketing Date for deposit into the Remarketing Proceeds Account; and

(2) the Trustee shall have received written notice from the Remarketing Agent that the Remarketing Agent has received a confirmation of the rating from the Rating Agency; and

(ii) If, not less than two (2) Business Days preceding the Remarketing Date:

(1) there shall be on deposit with the Trustee, from Eligible Funds provided by the Borrower an amount sufficient to pay the Extension Payment set forth in the Cash Flow Projection for deposit (A) to the Negative Arbitrage Account of the Bond Fund with respect to the payment of Bond Service Charges during the new Remarketing Period and (B) to the Expense Fund with respect to the payment of Administrative Expenses during the new Remarketing Period; and

(2) there shall either (A) be on deposit with the Trustee, from Eligible Funds provided by the Borrower an amount sufficient to pay the estimated Remarketing Expenses as certified in writing to the Trustee by the Borrower for deposit in the Expense Fund, or (B) the Remarketing Agent shall have certified in writing to the Trustee that provision for the payment of the estimated Remarketing Expenses shall have been made to the satisfaction of the Remarketing Agent;

then the Trustee shall promptly give notice, by telephone or telecopy, which notice shall be promptly confirmed in writing, to the Remarketing Agent and the Borrower that (a) all conditions precedent to the remarketing of the Outstanding Bonds have been satisfied and (b) the sale and settlement of the Outstanding Bonds is expected to occur on the Remarketing Date. Following the Trustee's notice, the Outstanding Bonds shall be sold to the purchasers identified by the Remarketing Agent for delivery and settlement on the Remarketing Date, and the Trustee shall apply the funds in the Remarketing Proceeds Account of the Bond Fund on the Remarketing Date to payment of the purchase price of the Outstanding Bonds.

(e) Failure to Satisfy Final Conditions. If, not less than two (2) or four (4) Business Days, as applicable, preceding a Remarketing Date, any condition set forth in paragraph (d) of this Section 3.07 has not been satisfied, then, unless the Outstanding Bonds are otherwise purchased on the Remarketing Date the Remarketing Agent shall not sell any of the Outstanding Bonds on the Remarketing Date.

(f) Remarketing Proceeds. No later than 11:00 a.m. Local Time on each Remarketing Date, the Remarketing Agent shall pay to the Trustee, in immediately available funds, the proceeds theretofore received by the Remarketing Agent from the remarketing of Bonds tendered for purchase on such Remarketing Date; provided, that the Remarketing Agent may use its best efforts to cause the purchasers of the remarketed Bonds to pay the purchase price plus accrued interest (if any) to the Trustee in immediately available funds. The proceeds from the remarketing of the Bonds shall be segregated from any funds of the Borrower and the Issuer and shall in no case be considered to be or be assets of the Borrower or the Issuer. Funds representing remarketing proceeds received by the Remarketing Agent after 11:00 a.m. Local Time on each Remarketing Date shall be paid to the Trustee as soon as practicable upon such receipt.

(g) Delivery of Purchased Bonds. On or before the Business Day next preceding each Remarketing Date, the Remarketing Agent shall notify the Trustee in writing of (i) the principal amount of Bonds to be sold by the Remarketing Agent pursuant to this Section 3.07 hereof and the purchase price, and, unless the Bonds are then in the Book Entry System, the names, addresses and social security numbers or other tax identification numbers of the proposed purchasers thereof and (ii) the principal amount of Bonds tendered for purchase on such Remarketing Date which will not be sold by the Remarketing Agent pursuant to Section 3.07 hereof. Such telephonic advice shall be confirmed by written notice delivered or electronically communicated at the same time as the telephonic advice.

Bonds purchased by the Trustee on a Mandatory Tender Date that have been remarketed shall be delivered to the purchasers thereof as directed by the Remarketing Agent. Bonds delivered as provided in this Section shall be registered in the manner directed by the recipient thereof.

**Section 3.08 Cancellation of Bonds.** The Trustee shall immediately cancel Bonds if the tender price of the Bonds is paid from amounts other than proceeds derived from the remarketing of the Bonds.

#### **ARTICLE IV REVENUES AND FUNDS**

**Section 4.01 Creation of Funds.** There are hereby established with the Trustee the following funds and accounts to be held in trust and maintained by the Trustee under this Indenture:

- (a) the Bond Fund, and therein the Negative Arbitrage Account and the Remarketing Proceeds Account (but only at such times as money is to be deposited or held in such Accounts 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 accurate 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 and transfer any excess moneys on deposit therein in accordance with the provisions of this Indenture.

The Trustee shall, at the written direction of an Authorized Borrower Representative, 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 entire proceeds of the Bonds in the amount of \$[2023A PAR + Issue Premium] (representing the par amount of the Bonds (\$[2023A PAR]), plus original issue premium (\$ \_\_\_\_\_)) shall be delivered to the Trustee and allocated and deposited to the Project Fund.

(b) Allocation of Eligible Funds. On the Closing Date, the Trustee shall deposit Eligible Funds in the amount of \$0 to the Negative Arbitrage Account of the Bond Fund.

**Section 4.03 Bond Fund.** On the Closing Date, there shall be deposited in the Negative Arbitrage Account of the Bond Fund the amount set forth in Section 4.02(b) hereof. Any Extension Payment received by the Trustee in connection with an extension of the Mandatory Tender Date pursuant to Section 3.07 hereof shall also be deposited in the Negative Arbitrage Account.

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 Loan Agreement shall be paid on or before each Interest 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 such Bond Payment Date.

The Bond Fund (and accounts therein for which provision is made in this Indenture) and the money 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 money on deposit in the Bond Fund (other than the Negative Arbitrage Account therein), (b) next from money on deposit in the Negative Arbitrage Account of the Bond Fund, (c) next from money on deposit in the Collateral Fund and transferred as necessary to the Bond Fund and (d) thereafter, from money on deposit in the Project Fund and transferred as necessary to the Bond Fund.

Upon receipt by the Trustee of a Cash Flow Projection, the Trustee is hereby authorized to release from the Negative Arbitrage Account the amount set forth in the Cash Flow Projection to or at the written direction of the Borrower.

**Section 4.04 Project Fund.** Upon the deposit of Eligible Funds in the Collateral Fund as provided in Section 4.06 hereof, the Trustee shall disburse a corresponding amount of Bond proceeds on deposit in the Project Fund to the Borrower to pay Project Costs in accordance with Section 3.6 of the Loan Agreement. The Trustee shall disburse funds from the Project Fund in accordance with Section 3.6 of the Loan Agreement no later than one (1) Business Day after it receives the Eligible Funds, but only if (i) the Trustee receives the fully-signed and completed disbursement request, or with respect to the initial disbursement from the Project Fund on the Closing Date, the fully-signed and completed closing memorandum and settlement statement, by at least 2:00 PM Local Time on the Business Day immediately prior to the Business Day on which the Trustee receives the Eligible Funds and (ii) the Trustee receives the Eligible Funds with respect to such disbursement request prior to 10:30 AM Local Time on such Business Day. If the Trustee receives Eligible Funds after 10:30 AM Local Time, the disbursement shall be made on the next succeeding Business Day. Notwithstanding any provisions to the contrary, upon satisfaction of the conditions set forth in Section 3.6 of the Loan Agreement, the Trustee shall be unconditionally and irrevocably obligated to disburse funds from the Project Fund to or at the written direction of the Mortgage Lender. The Trustee shall not disburse money from the Project Fund unless and until Eligible Funds in an amount equal to or greater than the requested disbursement amount have been

deposited in the Collateral Fund. In accordance with Section 3.6 of the Loan Agreement, and prior to making any disbursement, the Trustee shall determine that the aggregate account balance in (a) the Collateral Fund and (b) the Project Fund (less the amount to be disbursed in accordance with the Disbursement Request) is at least equal to the then-Outstanding principal amount of the Bonds; provided, however, to the extent money on deposit in the Project Fund is invested in Eligible Investments, the Trustee is hereby authorized to make the following allocations and exchanges, which allocations and exchanges shall occur prior to the disbursement of amounts on deposit in the Project Fund to pay Project Costs: (i) allocate all or a portion of the Eligible Investments in the Project Fund, in the amount specified in the request for disbursement, to the Collateral Fund and (ii) transfer a like amount of Eligible Funds on deposit in the Collateral Fund to the Project Fund, in exchange for an allocation of a like amount of Eligible Investments held therein. Upon receipt of Eligible Funds, if the Trustee is not prepared to immediately make the foregoing disbursement from the Project Fund to the Borrower, the Trustee shall return such Eligible Funds to the provider of such Eligible Funds, as applicable.

Money in the Project Fund shall be disbursed in accordance with the provisions of Section 3.6 of the Loan Agreement and this Section 4.04. To the extent money is not otherwise available to the Trustee, including money on deposit in the Bond Fund and the Collateral Fund, the Trustee shall transfer from the Project Fund to the Bond Fund sufficient money to make the necessary interest and principal payments, if any, on each Interest Payment Date without further written direction.

On any Redemption Date, the Trustee will transfer from the Project Fund into the Bond Fund an amount necessary to pay Bond Service Charges on the Bonds.

Upon the occurrence and continuance of an Event of Default hereunder as a result of which the principal amount of the Bonds has been declared to be due and immediately payable pursuant to Section 6.03 hereof, any money remaining in the Project Fund shall be promptly transferred by the Trustee to the Bond Fund.

For purposes of complying with the requirements of this Section, the Trustee may conclusively rely on the Disbursement Request (in the form attached to Loan Agreement) executed by the Borrower and shall be protected in acting or refraining from acting upon the Disbursement Request, which may be submitted by email (pdf). All payments made from the Project Fund shall be presumed by the Trustee to be made for the purposes certified in said written requests, and the Trustee shall not be required to see to the application of any payments made from the Project Fund or to inquire into the purposes for which withdrawals are being made from the Project Fund. The Trustee shall not be bound to make an investigation into the facts or matters stated in any form of Disbursement Request. The Trustee shall not be responsible for determining whether the funds on hand in the Project Fund are sufficient to complete the Project. The Trustee shall not be responsible to collect lien waivers. The Trustee shall have no responsibility whatsoever to disburse or transfer funds absent written instructions from the Borrower. The Trustee shall not be liable or accountable for the use or application by the Borrower or 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 his Section.

**Section 4.05 Costs of Issuance Fund.** Amounts on deposit in the Cost of Issuance Fund, if any, shall be used by the Trustee to pay costs of issuance as directed by the Borrower and approved by the Investor Limited 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.**

(a) The Trustee shall deposit in the Collateral Fund all Eligible Funds received pursuant to Section 4.2 of the Loan Agreement and any other Eligible Funds received by the Trustee for deposit into the Collateral Fund. Section 4.2 of the Loan Agreement requires the Borrower to cause the Mortgage Lender, as applicable, to deposit Eligible Funds with 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 pay Project Costs.

(b) Each deposit into the Collateral Fund shall constitute an irrevocable deposit solely for the benefit of the Holders, except as otherwise provided herein after payment in full of the Bonds.

(c) The Trustee shall transfer money in the Collateral Fund as follows: (i) on the Mandatory Tender Date, to the Bond Fund, the amount necessary to pay the purchase price of the Bonds, to the extent amounts on deposit in the Remarketing Proceeds Account and the Negative Arbitrage Account of the Bond Fund are insufficient therefor; and (ii) on any Redemption Date or the Maturity Date of the Bonds, to the Bond Fund the amount, together with amounts on deposit in the Bond Fund, necessary to pay the principal and interest due on the Bonds on such date.

(d) On any Redemption Date, the Trustee will transfer funds held in the Collateral Fund into the Bond Fund to pay Bond Service Charges on the Bonds.

(e) Amounts on deposit in the Collateral Fund in excess of the amount required to pay Bond Service Charges after payment in full of the Bonds may be transferred to the Project Fund and used to pay Project Costs as provided in Section 3.6 of the Loan Agreement.

(f) 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, the principal component of the redemption price of any of the Bonds or the principal component of the tender 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 Loan Agreement and attached thereto as Exhibit C, upon which the Trustee may conclusively rely. 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 Loan Agreement.

**Section 4.08 Expense Fund.** The Trustee shall deposit to the Expense Fund any funds received from the Borrower for deposit into the Expense Fund to pay the amounts required by this Section 4.08. The Trustee shall apply money on deposit in the Expense Fund solely for the following purposes, upon receipt of written instructions from the Borrower, in the following order of priority:

- (a) to transfer money to the Rebate Fund to the extent necessary to pay the Rebate Amount (if any) pursuant to Section 4.09 hereof;
- (b) to pay the Ordinary Trustee Fees and Expenses when due;
- (c) to pay the Dissemination Agent Fee when due;
- (d) to pay the Issuer Servicer Fee when due;
- (e) to pay the Issuer Ordinary Fees when due;
- (f) to pay the Issuer Fees and Expenses not previously paid;
- (g) to pay the Remarketing Expenses when due; and
- (h) to pay any Rebate Analyst Fee when due.

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

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

**Section 4.09 Rebate Fund.** Any provision hereof to the contrary notwithstanding, amounts credited to the Rebate Fund shall be free and clear of any lien hereunder.

Without limiting the generality of the foregoing, the Trustee shall furnish to the Borrower and Investor Limited Partner all information reasonably requested by the Borrower or the Investor Limited Partner with respect to the Bonds and investments of the Funds and accounts maintained by the Trustee hereunder. The Trustee shall make deposits to and disbursements from the Rebate Fund (including rebate payments to the United States required to be made by the Tax Agreement), as well as investments of the amounts therein, in accordance with the written directions received from the Borrower pursuant to the Tax Agreement.

**Section 4.10 Investment of Special Funds and Rebate Fund.** Except as otherwise set forth in this Section, moneys in the Special Funds and the Rebate Fund shall be invested and reinvested by the Trustee in Eligible Investments at the written direction of the Authorized Borrower Representative. At no time shall the Authorized Borrower Representative direct that any funds constituting gross proceeds of the Bonds be used in any manner as would constitute failure of compliance with Section 148 of the Code. Investments of moneys in the Bond Fund shall mature or be redeemable at the times and in the amounts necessary to provide moneys to pay Bond Service

Charges on the Bonds. Each investment of moneys in a Project Fund shall mature or be redeemable without penalty at such time as may be necessary to make payments from the Project Fund, including on each Interest Payment Date. Any of those investments may be purchased from or sold to the Trustee, the Registrar, an authenticating agent or a paying agent, or any bank, trust company or savings and loan association affiliated with any of the foregoing. The Trustee shall sell or redeem investments credited to the Special Funds to produce sufficient moneys applicable hereunder to and at the times required for the purposes of paying Bond Service Charges when due as aforesaid, and shall do so without necessity for any order on behalf of the Issuer and without restriction by reason of any order. An investment made from moneys credited to the Special Funds shall constitute part of that respective Fund. All investment earnings from amounts on deposit in the Project Fund shall be credited to the Negative Arbitrage Account of the Bond Fund. All investment earnings from amounts on deposit in the Collateral Fund shall be credited to the Negative Arbitrage Account of the Bond Fund. All gains resulting from the sale of, or income from, any investment made from moneys credited to the Special Funds shall be credited to and become part of the Fund from which the investment was made. Notwithstanding the foregoing, any moneys held under this Indenture without the written direction of the Authorized Borrower Representative shall be invested in Eligible Investments. If the Trustee is required to sell or otherwise dispose of any Eligible Investments prior to maturity at a price below par in connection with an optional redemption prior to the Initial Mandatory Tender Date, the Borrower shall, at the Borrower's expense, deliver to the Trustee (i) a Cash Flow Projection and (ii) Eligible Funds in the amount set forth in such Cash Flow Projection, if any. Following the Closing Date, at the direction of the Borrower, the Trustee is permitted to purchase, sell or exchange Eligible Investments with a Cash Flow Projection. Notwithstanding anything herein to the contrary, (i) earnings received by the Trustee with respect to Eligible Investments purchased for the purpose of paying Bond Service Charges shall be held uninvested and (ii) Bond proceeds and the deposit of Eligible Funds to the Negative Arbitrage Account pursuant to Section 4.02(b) hereof shall be held uninvested until the Trustee has purchased, sold or exchanged Eligible Investments.

Investment of funds pursuant to this section shall be limited as to amount and yield of investment in such manner that no part of the outstanding bonds shall be deemed "arbitrage bonds" under the Internal Revenue Code and regulations thereunder; provided that the Trustee has no duty to monitor the yield on any directed investment or any obligation to limit the yield on any investment the Issuer directs the Trustee to make. The Trustee shall have no liability whatsoever for any loss, fee, tax or other charge incurred in connection with any investment, reinvestment, sale or liquidation of an investment hereunder. The Trustee shall be entitled to rely on any written direction of the Borrower as to the suitability and legality of the directed investments. The Trustee shall have no responsibility whatsoever to determine whether any investments made pursuant to this agreement are or continue to be Eligible Investments. Any deposit or investment directed by the Borrower shall constitute a certification by the Borrower to the Trustee that the assets so deposited or to be purchased pursuant to such directions are Eligible Investments. In no event shall the Trustee be deemed an investment manager or adviser in respect of any selection of investments hereunder.

The Issuer and the Borrower acknowledge that regulations of the Comptroller of the Currency grant the Borrower the right to receive brokerage confirmations of the security transactions as they occur. The Borrower has specifically waived such notification to the extent



permitted by law and will receive periodic cash transaction statements from the Trustee that will detail all investment transactions.

**Section 4.11 Money to be Held in Trust.** Except where money has been deposited with or paid to the Trustee pursuant to an instrument restricting their application to particular Bonds, all money 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 money held by the Trustee pursuant to Section 4.09 hereof, all money described in the preceding sentence held by the Trustee shall be subject to the lien of the Indenture hereof while so held.

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

The Trustee shall cause to be kept and maintained accurate records pertaining to the Special Funds and all deposits and disbursements therefrom. The Trustee shall satisfy this obligation by providing monthly statements for all periods in which there are funds in the Special Funds to the Borrower and the Investor Limited Partner.

**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 (i) in the case of Government Obligations held in the Special Funds, at the maturity or redemption value (as applicable) as of the maturity or next redemption date and (ii) in the case of all other Eligible Investments, 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. The Borrower acknowledges that values shall be determined in accordance with the price provided by pricing services and sources relied upon by the Trustee and the Trustee does not have any duty to independently value any asset or an obligation other than the price provided by pricing services and sources relied upon by the Trustee.

**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 money 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 such money, 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 such money 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 such money 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 four years after the due date thereof, shall, subject to any applicable escheat laws, be paid to the Borrower 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 such money.

**Section 4.14 Repayment to the Borrower from the Bond Fund.** On any Mandatory Tender Date, any amounts remaining in Bond Fund in excess of the amount necessary to cover any negative arbitrage (assuming 0.00% interest earnings on all deposits) shall, upon written instruction to the Trustee from the Borrower, be paid to or at the direction of the Borrower. Except as provided in Section 4.09 and Section 4.13 hereof, any amounts remaining in the funds and accounts created pursuant to Section 4.01 hereof (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 Trustee and of all other amounts required to be paid under this Indenture, the Loan Agreement, the Tax Agreement, the Regulatory Agreement and the Note, shall be paid to the Borrower to the extent that those amounts are in excess of those necessary to effect the payment and discharge of the Outstanding Bonds.

**ARTICLE V  
THE TRUSTEE  
AND REMARKETING AGENT**

**Section 5.01 Trustee's Acceptance and Responsibilities.** The Trustee accepts the trusts imposed upon it by this Indenture, and agrees to observe and perform those trusts, but only upon and subject to the terms and conditions set forth in this Article, to all of which the parties hereto and the Holders agree.

(a) Prior to the occurrence of a default or an Event of Default (as defined in Section 6.01 hereof) of which a Responsible Officer of the Trustee has been notified in writing, as provided in paragraph (f) of Section 5.02 hereof, or of which by that paragraph the Trustee is deemed to have actual notice, and after the cure or waiver of all defaults or Events of Default which may have occurred,

(i) the Trustee undertakes to perform only those duties and obligations which are set forth specifically in this Indenture, and no duties or obligations shall be implied to the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may rely conclusively, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture.

(b) In case a default or an Event of Default has occurred and is continuing hereunder (of which the Trustee has been notified, or is deemed to have notice), the Trustee shall exercise those rights and powers vested in it by this Indenture and shall use the same degree of care and skill in their

exercise, as a prudent person would exercise or use under the circumstances in the conduct of their own affairs.

(c) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

(i) this Subsection shall not be construed to affect the limitation of the Trustee's duties and obligations provided in subparagraph (a)(i) of this Section or the Trustee's right to rely on the truth of statements and the correctness of opinions as provided in subparagraph (a)(ii) of this Section;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by any one of its officers, unless it shall be established that the Trustee was grossly negligent in ascertaining the pertinent facts;

(iii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a majority in principal amount of the Bonds then Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture; and

(iv) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(d) Whether or not therein expressly so provided, every provision of this Indenture or any other Financing Documents relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Article V.

**Section 5.02 Certain Rights and Obligations of the Trustee.** Except as otherwise provided in Section 5.01 hereof:

(a) The Trustee (i) may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees (but shall be answerable therefor only in accordance with the standard specified above), (ii) shall be entitled to the advice of counsel concerning all matters of trusts hereof and duties hereunder, and (iii) may pay reasonable compensation in all cases to all of those attorneys, agents, receivers and employees reasonably employed by it in connection with the trusts hereof. The Trustee may act upon the opinion or advice of any attorney (who may be the attorney or attorneys for the Issuer or the Borrower) approved by the Trustee in the exercise of reasonable care. The Trustee shall not be responsible for any loss, fee, tax or damage resulting from any action taken or omitted to be taken in good faith in reliance upon that opinion or advice.

(b) Except for its certificate of authentication on the Bonds, the Trustee shall not be responsible for:

- (i) any recital in this Indenture, in the Bonds, or in any other Financing Documents,
- (ii) the validity, priority, recording, rerecording, filing or re filing of this Indenture, any Supplemental Indenture, the Regulatory Agreement, or any of the other Financing Documents,
- (iii) any instrument or document of further assurance or collateral assignment,
- (iv) the filing of any financing statements, amendments thereto or continuation statements,
- (v) insurance of the Project or collection of insurance moneys,
- (vi) the validity of the execution by the Issuer of this Indenture, any Supplemental Indenture or instruments or documents of further assurance,
- (vii) the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby,
- (viii) the value of or title to the Project, or
- (ix) the maintenance of the security hereof.

The Trustee shall not be bound to ascertain or inquire as to the observance or performance of any covenants, agreements or obligations on the part of the Issuer or the Borrower under the Loan Agreement; but the Trustee may require of the Issuer or the Borrower full information and advice as to the observance or performance of those covenants, agreements and obligations. Except as otherwise provided in Section 6.04 hereof, the Trustee shall have no obligation to observe or perform any of the duties of the Issuer under the Loan Agreement.

(c) The Trustee shall not be accountable for the application by the Borrower or any other Person of the proceeds of any Bonds authenticated or delivered hereunder.

(d) The Trustee shall be protected, in the absence of bad faith on its part, in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document reasonably believed by it to be genuine and correct and to have been signed or sent by the proper Person or Persons. Any action taken by the Trustee pursuant to this Indenture upon the request, authority or consent of any Person who is the Holder of any Bonds at the time of making the request or giving the authority or consent, shall be conclusive and binding upon all future Holders of the same Bond and of Bonds issued in exchange therefor or in place thereof.

(e) As to the existence or nonexistence of any fact for which the Issuer or the Borrower may be responsible or as to the sufficiency or validity of any instrument, document, report, paper or proceeding, the Trustee, in the absence of bad faith on its part, shall be entitled to conclusively rely upon a certificate signed on behalf of the Issuer or Borrower, as appropriate, by an authorized officer or representative thereof as sufficient evidence of the facts recited therein. Prior to the occurrence of a default or Event of Default hereunder of which the Trustee has been notified in writing, as provided in paragraph (f) of this Section, or of which by that paragraph the Trustee is

deemed to have actual notice, the Trustee may accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient; provided, that the Trustee in its discretion may require and obtain any further evidence which it deems to be necessary or advisable; and, provided further, that the Trustee shall not be bound to secure any further evidence. The Trustee may accept a certificate of the officer, or an assistant thereto, having charge of the appropriate records, to the effect that legislation has been enacted by the Issuer in the form recited in that certificate, as conclusive evidence that the legislation has been duly enacted and is in full force and effect.

(f) The Trustee shall not be required to take notice, and shall not be deemed to have notice, of any default or Event of Default hereunder, except Events of Default described in paragraphs (a) or (b) of Section 6.01 hereof, unless a Responsible Officer of the Trustee shall be notified specifically of the default or Event of Default in a written instrument or document delivered to it by the Issuer or by the Holders of at least 10% of the aggregate principal amount of Bonds then Outstanding. In the absence of delivery of a notice satisfying those requirements, the Trustee may assume conclusively that there is no default or Event of Default, except as noted above.

(g) At any reasonable time, the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives (i) may inspect and copy fully all books, papers and records of the Issuer pertaining to the Project and the Bonds, and (ii) may make any memoranda from and in regard thereto as the Trustee may desire.

(h) The Trustee shall not be required to give any bond or surety with respect to the execution of these trusts and powers or otherwise in respect of the premises.

(i) Notwithstanding anything contained elsewhere in this Indenture, the Trustee may demand any showings, certificates, reports, opinions, appraisals and other information, and any corporate action and evidence thereof, in addition to that required by the terms hereof, as a condition to the authentication of any Bonds or the taking of any action whatsoever within the purview of this Indenture, if the Trustee deems it to be desirable for the purpose of establishing the right of the Issuer to the authentication of any Bonds or the right of any Person to the taking of any other action by the Trustee; provided, that the Trustee shall not be required to make that demand.

(j) Before taking action hereunder pursuant to Section 5.04 or Article VI hereof (with the exception of any action required to be taken under Section 6.02 hereof or the acceleration of the Bonds under Section 6.03 hereof), the Trustee may require that a satisfactory indemnity bond be furnished to it for the reimbursement of all expenses which it may incur and to protect it against all liability by reason of any action so taken, except liability which is adjudicated to have resulted from its negligence or willful misconduct. The Trustee may take action without that indemnity, and in that case, the Borrower shall reimburse the Trustee for all of the Trustee's expenses pursuant to Section 5.03 hereof, provided that the Trustee has acted in good faith and with the care that an ordinarily prudent person in a like position would have acted.

(k) Unless otherwise provided herein, all moneys received by the Trustee under this Indenture shall be held in trust for the purposes for which those moneys were received, until those moneys are used, applied or invested as provided herein; provided, that those moneys need not be segregated from other moneys, except to the extent required by this Indenture or by law. The

Trustee shall not have any liability for interest on any moneys received hereunder, except to the extent expressly provided herein.

(l) Any legislation by the Issuer, and any opinions, certificates and other instruments and documents for which provision is made in this Indenture, may be accepted by the Trustee, in the absence of bad faith on its part, as conclusive evidence of the facts and conclusions stated therein and shall be full warrant, protection and authority to the Trustee for its actions taken hereunder.

(m) The Trustee shall be entitled to file proofs of claim in bankruptcy. Trustee fees and expenses are intended to constitute administrative expenses in bankruptcy.

(n) The Trustee agrees to accept and act upon written instructions or directions pursuant to this Indenture and the other Financing Documents sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that the Issuer, the Borrower and such other Person providing notice to the Trustee shall provide to the Trustee an incumbency certificate listing such designated persons, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the Issuer, the Borrower or such other Person providing notice to the Trustee 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 Trustee has offered the Issuer and the Borrower commercially reasonable security procedures with respect to such instructions and the Issuer and the Borrower have chosen not to avail itself of such procedures. Each of the Issuer, the Borrower and such other Person providing notice to the Trustee 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.

(o) The permissive right of the Trustee to do things enumerated in this Indenture and the other Financing Documents shall not be construed as a duty and the Trustee shall not be answerable for other than its negligence or willful default. 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, and shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds. The Trustee shall have no duty to review or analyze any financial statements or other financial information delivered to the Trustee under this Indenture and the other Financing Documents and shall hold such financial statements and other financial information solely as a repository for the benefit of the Holder; 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. The Trustee shall not be responsible or liable for the environmental condition or any contamination of any property which secures the Bonds or for any diminution in value of any such property as a result of any contamination of the property by any hazardous substance, hazardous material, pollutant or contaminant. The Trustee shall not be liable for any claims by or on behalf of the Holders or any other person or entity arising from contamination of the property by any hazardous substance, hazardous material, pollutant or contaminant, and shall have no duty or obligation to

assess the environmental condition of any such property or with respect to compliance of any such property under state or federal laws pertaining to the transport, storage, treatment or disposal of, hazardous substances, hazardous materials, pollutants, or contaminants or regulations, permits or licenses issued under such laws. The Trustee in performing its duties and exercising its rights under any of the other Financing Documents shall be entitled to all rights, protections and limitations of liability set forth in this Indenture, and the provisions of this Indenture relating to the rights, protections and limitations of liability of the Trustee shall be deemed to be set forth and included in the Financing Documents, mutatis mutandis, as if references to “hereof”, “herein”, “this Indenture” and the like set forth in this Indenture referred to the applicable Financing Document.

(p) In no event shall the Trustee be liable for incidental, indirect, special, consequential or punitive damages or penalties (including, but not limited to lost profits), even if the Trustee has been advised of the likelihood of such damages or penalty and regardless of the form of action.

(q) In executing any amendment or supplemental indenture, the Trustee shall receive and will be fully protected in conclusively relying upon an officers’ certificate and an opinion of counsel stating that the execution of such amendment or supplemental indenture is authorized and permitted by this Indenture and is the legal, valid and binding obligation of the Issuer enforceable against in accordance with its terms. The Trustee may, but shall not be obligated to, enter into any such supplemental indenture which affects the Trustee’s own rights, duties or immunities under this indenture or otherwise.

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

**Section 5.03 Fees, Charges and Expenses of Trustee.** The Trustee shall be entitled to payment or reimbursement by the Borrower, as provided herein and in the Loan Agreement, for customary fees for Ordinary Services rendered hereunder and for all advances, counsel fees and other Ordinary Expenses reasonably and necessarily paid or incurred by it in connection with the provision of Ordinary Services. For purposes hereof, fees for Ordinary Services provided for by its standard fee schedule shall be considered customary. In the event that it should become necessary for the Trustee to perform Extraordinary Services, it shall be entitled to customary extra compensation therefor and to reimbursement for reasonable and necessary Extraordinary Expenses incurred in connection therewith. Unless and until such time as the Trustee resigns or is replaced, and a successor Trustee is appointed pursuant to Section 5.09 hereunder, the Trustee shall continue to perform its duties hereunder notwithstanding the Borrower's failure to timely pay such fees.

Without creating a default or an Event of Default hereunder, however, the Borrower may contest in good faith the necessity for any Extraordinary Service and Extraordinary Expense and the amount of any fee, charge or expense.

The Trustee shall be entitled to compensation or reimbursement for Extraordinary Services or Extraordinary Expenses except for those occasioned by its neglect or willful misconduct. The customary fees for its Ordinary Services and charges of the foregoing shall be entitled to payment and reimbursement only from (i) the Additional Payments made by the Borrower pursuant to the Loan Agreement, or (ii) from moneys available therefor in the Expense Fund or Section 6.06 hereof. Any amounts payable to the Trustee pursuant to this Section 5.03 shall be payable upon demand and shall bear interest from the date of demand therefor at the Interest Rate for Advances.

The provisions of this Section 5.03 shall survive the resignation or removal of the Trustee.

**Section 5.04 Intervention by Trustee.** The Trustee may intervene on behalf of the Holders, and shall intervene if requested to do so in writing by the Holders of at least 50% of the aggregate principal amount of Bonds then Outstanding, in any judicial proceeding to which the Issuer or the Borrower is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of Holders of the Bonds. The rights and obligations of the Trustee under this Section are subject to the approval of that intervention by a court of competent jurisdiction. The Trustee may require that a satisfactory indemnity bond be provided to it in accordance with Sections 5.01 and 5.02 hereof before it takes action hereunder.

**Section 5.05 Successor Trustee.** Anything herein to the contrary notwithstanding,

(a) any corporation or association (i) into which the Trustee may be converted or merged, (ii) with which the Trustee or any successor to it may be consolidated, or (iii) to which it may sell or transfer its corporate trust assets and corporate trust business as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, merger, consolidation, sale or transfer, ipso facto, shall be and become successor Trustee hereunder and shall be vested with all of the title to the whole property or Trust Estate hereunder; and

(b) that corporation or association shall be vested further, as was its predecessor, with each and every trust, property, remedy, power, right, duty, obligation, discretion, privilege, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by, vested in or conveyed to the Trustee, without the execution or filing of any instrument or document or any further act on the part of any of the parties hereto.

Any successor Trustee, however, (i) shall be a trust company or a bank having the powers of a trust company, (ii) shall be in good standing within the State, (iii) shall be duly authorized to exercise trust powers within the State, and (iv) shall have a reported capital, surplus and retained earnings of not less than \$100,000,000.

**Section 5.06 Appointment of Co-Trustee.** It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including without limitation, the laws of the State) denying or restricting the right of banks or trust companies to transact business as trustees in that jurisdiction. It is recognized that, (a) if there is litigation under this Indenture or other instruments or documents relating to the Bonds and the Project, and in particular, in case of the enforcement



hereof or thereof upon a default or an Event of Default, or (b) if the Trustee should deem that, by reason of any present or future law of any jurisdiction, it may not (i) exercise any of the powers, rights or remedies granted herein to the Trustee, (ii) hold title to the properties, in trust, as granted herein, or (iii) take any action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an individual or additional institution as a co-Trustee. The following provisions of this Section are adapted to these ends.

In the event that the Trustee appoints an individual or additional institution as a co-Trustee, each and every trust, property, remedy, power, right, duty, obligation, discretion, privilege, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by, vested in or conveyed to the Trustee shall be exercisable by, vest in and be conveyed to that co-Trustee, but only to the extent necessary for it to be so vested and conveyed and to enable that co-Trustee to exercise it. Every covenant, agreement and obligation necessary to the exercise thereof by that co-Trustee shall run to and be enforceable by it.

Should any instrument or document in writing from the Issuer reasonably be required by the co-Trustee so appointed by the Trustee for vesting and conveying more fully and certainly in and to that co-Trustee those trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens, that instrument or document shall be executed, acknowledged and delivered, but not prepared, by the Issuer. In case any co-Trustee or a successor to it shall die, become incapable of acting, resign or be removed, all of the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens of the co-Trustee shall be exercised by, vest in and be conveyed to the Trustee, to the extent permitted by law, until the appointment of a successor to the co-Trustee.

**Section 5.07 Resignation by the Trustee.** The Trustee may resign at any time from the trusts created hereby by giving thirty (30) days' written notice of the resignation to the Issuer, the Borrower and the Remarketing Agent, and by mailing written notice of the resignation to the Holders as their names and addresses appear on the Register at the close of business fifteen days prior to the mailing. The resignation shall take effect upon the appointment of a successor Trustee as provided for in Section 5.09 of this Indenture or an order of a court of competent jurisdiction allowing the Trustee to resign.

**Section 5.08 Removal of the Trustee.** The Trustee may be removed at any time upon thirty (30) days' notice by an instrument or document or concurrent instruments or documents in writing delivered to the Trustee, with copies thereof mailed to the Remarketing Agent, and signed by either (a) the Borrower, with the written consent of the Issuer, or (b) on behalf of the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding.

The Trustee also may be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provision of this Indenture with respect to the duties and obligations of the Trustee by any court of competent jurisdiction upon the application of the Issuer or the Holders of not less than 50% in aggregate principal amount of the Bonds then Outstanding under this Indenture.

The removal of the Trustee under this Section 5.08 shall take effect upon the appointment of a successor Trustee as provided for in Section 5.09 of this Indenture.

**Section 5.09 Appointment of Successor Trustee.** If (a) the Trustee shall resign, shall be removed, shall be dissolved, or shall become otherwise incapable of acting hereunder, (b) the Trustee shall be taken under the control of any public officer or officers, or (c) a receiver shall be appointed for the Trustee by a court, then a successor Trustee shall be appointed by the Issuer, with the written consent of the Borrower; provided, that if a successor Trustee is not so appointed within ten days after (i) a notice of resignation or an instrument or document of removal is received by the Issuer, as provided in Sections 5.07 and 5.08 hereof, respectively, or (ii) the Trustee is dissolved, taken under control, becomes otherwise incapable of acting or a receiver is appointed, in each case, as provided above, then, so long as the Issuer shall not have appointed a successor Trustee, the Holders of a majority in aggregate principal amount of Bonds then Outstanding may designate a successor Trustee by an instrument or document or concurrent instruments or documents in writing signed by or on behalf of those Holders. If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section within 60 days after the occurrence of the event described in clause (i) or (ii) above, the Holder of any Bond Outstanding hereunder or any retiring Trustee may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

Every successor Trustee appointed pursuant to this Section (a) shall be a trust company or a bank having the powers of a trust company (b) shall be in good standing within the State, (c) shall be duly authorized to exercise trust powers within the State, (d) shall have a reported capital, surplus and retained earnings of not less than \$100,000,000, and (e) shall be willing to accept the trusteeship under the terms and conditions of this Indenture.

Every successor Trustee appointed hereunder shall execute and acknowledge, and shall deliver to its predecessor, the Issuer and the Borrower an instrument or document in writing accepting the appointment. Thereupon, without any further act, the successor shall become vested with all of the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens of its predecessor. Upon the written request of its successor, the Issuer or the Borrower, and payment of all fees and expenses owed to it, the predecessor Trustee (a) shall execute and deliver an instrument or document transferring to its successor all of the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens of the predecessor Trustee hereunder, and (b) shall take any other action necessary to duly assign, transfer and deliver to its successor all property (including without limitation, all securities and moneys) held by it as Trustee. Should any instrument or document in writing from the Issuer be requested by any successor Trustee for vesting and conveying more fully and certainly in and to that successor the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens vested or conveyed or intended to be vested or conveyed hereby in or to the predecessor Trustee, the Issuer shall execute, acknowledge and deliver that instrument or document.

In the event of a change in the Trustee, the predecessor Trustee shall cease to be custodian of any moneys which it may hold pursuant to this Indenture and shall cease to be registrar, authenticating agent and paying agent for any of the Bonds, to the extent it served in any of those capacities.

**Section 5.10 Adoption of Authentication.** In case any of the Bonds shall have been authenticated, but shall not have been delivered, any successor Trustee may adopt the certificate of authentication of any predecessor Trustee and may deliver those Bonds so authenticated as provided herein. In case any Bonds shall not have been authenticated, any successor Trustee may authenticate those Bonds either in the name of any predecessor or in its own name. In all cases, the certificate of authentication shall have the same force and effect as provided in the Bonds or in this Indenture with respect to the certificate of authentication of the predecessor Trustee.

**Section 5.11 Dealing in Bonds.** The Trustee, its Affiliates, and any directors, officers, employees or agents thereof, in good faith, may become the owners of Bonds secured hereby with the same rights which it or they would have hereunder if the Trustee did not serve in that capacity.

**Section 5.12 Representations, Agreements and Covenants of Trustee.** The Trustee hereby represents that it is a national banking association, duly organized and validly existing under the laws of the United States of America, in good standing and duly authorized to exercise corporate trust powers in the State, and that it has an unimpaired reported capital, surplus and retained earnings of not less than \$100,000,000. The Trustee covenants that it will take such action, if any, as is necessary to remain in good standing and duly authorized to exercise corporate trust powers in the State, and that it will maintain an unimpaired reported capital, surplus and retained earnings of not less than \$100,000,000. The Trustee accepts and agrees to observe and perform the duties and obligations of the Trustee to which reference is made in any other instrument or document providing security for any of the Bonds expressly subject to this Indenture, including this Article V.

**Section 5.13 Right of Trustee to Pay Taxes and Other Charges.** In the event the Borrower fails to pay the taxes and charges outlined in this Section 4.13, the Trustee is hereby authorized (but not obligated) to advance funds (a) to pay taxes, assessments and other governmental charges with respect to the Project, (b) for the discharge of mechanics' and other liens relating to the Project, (c) to obtain and maintain insurance for the Project and pay premiums therefor, and (d) generally, to make payments and incur expenses in the event that the Borrower fails to do so as required by the Loan Agreement. The Trustee may make those advances, but without prejudice to any rights of the Trustee or the Holders against the Borrower for failure of the Borrower to do so.

Any amount so paid at any time, with interest thereon at the Interest Rate for Advances from the date of payment, (a) shall be an additional obligation secured by this Indenture, (b) shall be given a preference in payment over any Bond Service Charges, and (c) shall be paid out of the Revenues, if not caused otherwise to be paid. The Trustee shall make the advance, if it shall have been requested to do so by the Holders of at least 50% of the aggregate principal amount of Bonds then Outstanding and shall have been provided with adequate funds for the purpose of making the advance.

**Section 5.14 Interpleader.** In the event of a dispute between any of the parties hereto with respect to the disposition of any funds held by the Trustee hereunder, or the Trustee receives conflicting demands made upon the Trustee with respect to the Trustee's duties hereunder or any other document related to the Bonds, the Trustee shall be entitled to file a suit in interpleader in a court of competent jurisdiction seeking to require the parties to interplead and litigate in such court their several claims and rights among themselves. Upon the filing of such a suit and the deposit of the applicable funds to such court, the Trustee will ipso facto be fully released and discharged from all obligations to further perform any and all duties imposed hereunder or any other document related to the Bonds regarding such matter and/or such funds that are the subject of such interpleader suit. In the event that the Trustee remains as Trustee under this Indenture and receives a court order, directive or other request regarding the interpleader suit, the Trustee shall be entitled to rely upon such instruction without incurring any obligation or liability and the parties hereto release, hold harmless and indemnify the Trustee for any obligation or liability for so relying on such court instruction.

**Section 5.15 Survival of Certain Provisions.** The provisions of Sections 5.01 through 5.14 of this Indenture shall survive the release, discharge and satisfaction of this Indenture.

**Section 5.16 Concerning the Remarketing Agent.** The Remarketing Agent identified in Section 1.01 hereof shall serve as the Remarketing Agent for the Bonds. The Remarketing Agent shall designate to the Trustee its Designated Office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer, the Borrower and the Trustee. In addition, the Remarketing Agent will agree particularly to:

- (a) keep such records relating to its computations of interest rates for the Bonds as shall be consistent with prudent industry practice and to make such records available for inspection by the Issuer, the Trustee and the Borrower at all reasonable times; and
- (b) perform all of its functions and duties under this Indenture.

The Remarketing Agent shall be entitled to advice of legal counsel on any matter relating to the Remarketing Agent's obligations hereunder and shall be entitled to act upon the opinion of such counsel in the exercise of reasonable care in fulfilling such obligations.

The Remarketing Agent shall be entitled to appoint additional co-Remarketing Agents to assist in the performance of the Remarketing Agent's obligations under this Indenture, and any such appointment shall be effective without any action by the Issuer or the Borrower being necessary; provided that any such co-Remarketing Agent, shall have a capitalization of at least \$5,000,000, or shall have a line of credit with a commercial bank in the amount of at least \$5,000,000, shall be in conformity with all standards and requirements of the Municipal Securities Rulemaking Board and the Securities and Exchange Commission, and shall be authorized by law to perform all the duties imposed upon it by this Indenture. The Remarketing Agent shall take responsibility for any co-Remarketing Agent it appoints. In the event any Remarketing Agent is removed pursuant to Section 5.17, any Co-Remarketing Agent appointed by such Remarketing Agent shall be deemed to be removed as well.

**Section 5.17 Qualification of Remarketing Agent.** The Remarketing Agent shall be a commercial bank, national banking association, trust company, or a member in good standing of the Financial Industry Regulatory Authority having a capitalization of at least \$5,000,000, or shall have a line of credit with a commercial bank in the amount of at least \$5,000,000, and shall be authorized by law to perform all the duties imposed upon it by this Indenture. Subject to the terms of the Remarketing Agreement, the Remarketing Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 30 days' written notice of such resignation to the Issuer, the Borrower, the Investor Limited Partner and the Trustee. The Remarketing Agent may be removed, with prior notice to the Issuer, at any time by the Borrower, with at least 30 days' notice of such removal to the Remarketing Agent.

Upon any resignation or removal of the Remarketing Agent, the departing Remarketing Agent shall pay over, assign and deliver any money and Bonds held by it in such capacity to its successor.

The Trustee, within 30 days of the resignation or removal of the Remarketing Agent or the appointment of a successor Remarketing Agent, shall give notice thereof by registered or certified mail to the Rating Agency (if the Bonds are then rated) and to the Holders of the Bonds.

**Section 5.18 Additional Duties.** Notwithstanding any provisions hereof to the contrary, the Trustee shall have the following additional duties:

(a) The Trustee shall provide the Rating Agency such information within its possession as the Rating Agency shall reasonably require from time to time in order to maintain the rating on the Bonds;

(b) Subject to Section 5.02(j) hereof, the Trustee shall continue to perform its function hereunder without regard to the insufficiency of payment of its fees, provided that nothing herein shall negate the Trustee's right to compensation and indemnification hereunder and as provided in the Loan Agreement; and

(c) The Trustee shall provide to the Underwriter upon its request a list of the names and addresses of the registered Holders of all Bonds then outstanding at the sole cost and expense of the Underwriter or, if the Bonds are held in Book Entry Form, the special position report (or similar list of Beneficial Owners) from the Depository.

**Section 5.19 Notices to Rating Agency and Remarketing Notice Parties.** The Trustee shall notify the Rating Agency and the Remarketing Notice Parties of (a) the occurrence of an Event of Default of which the Trustee has actual notice, (b) the occurrence of any monetary or other material default under the Loan of which the Trustee has actual notice, (c) any change in the identity of the Trustee, (d) any amendments, modifications, supplements or changes to this Indenture, the Loan Agreement, the Note or the Bonds, including any extension of principal or modification of interest or redemption premium due on any of the Bonds, in each case only in the event the Trustee has actual notice, (e) any change or proposed change in the structure or identity of the Borrower of which the Trustee has actual knowledge, (f) any change or notification of proposed change of the Mandatory Tender Date or Remarketing Date, (g) any partial prepayment of the Loan or the giving of notice of the call for redemption of any Bonds, (h) any change in the investment of funds subject

to the lien of this Indenture other than Eligible Investments, (i) any defeasance or acceleration of the Bonds hereunder, (j) any change in the Remarketing Agent or Mortgage Lender of which its Trustee has actual knowledge or (k) any sale of Eligible Investments below par, as shown in a Cash Flow Projection delivered to the Rating Agency prior to the sale date.

The Trustee shall not, however, be subject to any liability to any Holder or any party to the transaction by reason of its failure to mail any such notice, and any such failure shall not affect the validity of actions which are the subject of such notice.

## **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, the Borrower, and the Investor Limited Partner specifying the failure and requiring that it be remedied, which notice shall be given by the Trustee at the written request of the Holders of not less than 50% 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 Loan Agreement.

The term “default” or “failure” as used in this Article means (i) a default or failure by the Issuer in the observance or performance of any of the covenants, agreements or obligations on its part to be observed or performed contained in this Indenture or in the Bonds, or (ii) a default or failure by the Borrower under the Loan Agreement, exclusive of any period of grace or notice required to constitute a default or failure an Event of Default, as provided above or in the Loan Agreement.

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

**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, the Investor Limited Partner and the Remarketing Agent, within five days after a Responsible Officer of the Trustee has received actual 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 Trustee in good faith determines 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 shall declare, by a notice in writing delivered to the Borrower and the Investor Limited Partner, 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 and, upon the written consent of Holders of Bonds representing a majority of aggregate principal amount of Bonds then Outstanding, shall declare by a notice in writing delivered to the Borrower and the Investor Limited Partner, 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. <sup>1</sup>

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.

**Section 6.04 Other Remedies; Rights of Holders.**

(a) 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,

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<sup>1</sup> Colliers Team: The Borrower team has requested language allowing for defeasance/purchase in lieu of acceleration at the election of the Borrower. Please coordinate and advise.

the Loan Agreement, the Regulatory Agreement or the Note or any other instrument providing security, directly or indirectly, for the Bonds.

(b) If, upon the occurrence and continuance of an Event of Default, the Trustee is requested so to do in writing by the Holders of at least 50% in aggregate principal amount of Bonds Outstanding, the Trustee (subject to the provisions of Sections 5.01 and 5.02 and particularly subparagraph 5.01(c)(iv) and Subsection 5.02(j) of those Sections), shall exercise any rights and powers conferred by this Section and by Section 6.03 hereof.

(c) 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. Subject to the provisions of Section 6.04(a) hereof, 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.

(d) 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.

(e) 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.

(f) As the assignee of all right, title and interest of the Issuer in and to the Loan Agreement (except for the Reserved Rights), the Trustee is empowered to enforce each remedy, right and power granted to the Issuer under the Loan Agreement. In exercising any remedy, right or power thereunder or hereunder, the Trustee shall take 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, subject to the provisions of Section 6.04(a) 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 indemnified as provided in Sections 5.01 and 5.02, 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 Money.** After payment of any costs, expenses, liabilities and advances paid, incurred or made by the Trustee in the collection of money and to all Ordinary Trustee Fees and Expenses and fees of the Trustee for Extraordinary Services and Extraordinary Expenses (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 money 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 such money 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 such money 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 money shall be deposited in the Bond Fund and shall be applied in accordance with the provisions of Article II.

(d) Whenever money is to be applied pursuant to the provisions of this Section, such money shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of money available for application and the likelihood of additional money becoming available for application in the future. Whenever the Trustee shall direct the application of such money, 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 money is available therefor. The Trustee shall give notice of the deposit with it of any money 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 a Responsible Officer of the Trustee has been notified in writing, 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 50% in aggregate principal amount of Bonds then Outstanding shall have made written request to the Trustee and shall have afforded the Trustee reasonable opportunity to proceed to exercise the remedies, rights and powers granted herein or to institute the suit, action or proceeding in its own name, and shall have offered indemnity to the Trustee as provided in Sections 5.01 and 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 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) at least a majority in aggregate principal amount of all Bonds then Outstanding in respect of which an Event of Default in the payment of Bond Service Charges exists, or
- (b) at least 50% in aggregate principal amount of all Bonds then Outstanding, in the case of any other Event of Default.

There shall not be so waived, however, any Event of Default described in paragraph (a) or (b) of Section 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.

**Section 6.11 Notice of Defaults; Opportunity to Cure.** Anything herein to the contrary notwithstanding, no default under Section 6.01(c) or (d) hereof shall constitute an Event of Default until actual notice of such default by certified mail shall be given by the Trustee or by the owners of not less than a majority of the Bonds then Outstanding to the Issuer and the Borrower and the Investor Limited Partner, and the Issuer, the Investor Limited Partner and the Borrower (or the Mortgage Lender on behalf of the Borrower) shall have had sixty (60) days after receipt of such notice to correct such default or cause such default to be corrected and shall not have corrected such default or caused such default to be corrected within the applicable period; provided, however, if such default be such that it cannot be corrected within the applicable period, it shall not constitute an Event of Default hereunder if the Issuer, the Investor Limited Partner or the Borrower (or the Mortgage Lender on behalf of the Borrower) has commenced and is diligently pursuing appropriate action to cure such default, and there will be no material adverse effect on the rights of the Trustee or the owners of the Bonds under this Indenture or the Financing Documents as a result of such extension.

The Investor Limited Partner shall be entitled to cure any Event of Default hereunder within the time frame provided to the Borrower hereunder. The Issuer and the Trustee agree that cure of any default or Event of Default made or tendered by the Investor Limited Partner 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.

**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 Bond Counsel, 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 Loan 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 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 is not materially adverse to the Trustee or the Holders. However, the Trustee shall not be responsible for determining if an amendment has an adverse effect on Holders.

The provisions of Subsections 7.02(h) and (j) 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 Designated 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.** 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 the Investor Limited 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 the Investor Limited Partner, as provided in Section 12.03 hereof, (a) at least 30 days (unless waived by the Borrower and the Investor Limited 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 the Investor Limited 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.

**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, the Remarketing Agent 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.** Before the Trustee shall enter into any Supplemental Indenture, there shall have been delivered to the Trustee an Opinion of Counsel to the effect 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, upon which the Trustee may conclusively rely.

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

**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 the Investor Limited Partner and (d) if such modification or alteration contains provisions adverse to the Trustee, the Trustee.

## **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 Loan Agreement, the Regulatory Agreement and the Note, then this Indenture shall cease, determine and become null and void (except for those provisions surviving by reason of Section 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,

(b) the Trustee shall release and satisfy the Note and deliver such release and satisfaction to the Borrower; and

(c) the Trustee shall assign and deliver to the Borrower any property subject at the time to the lien of this Indenture which then may be in its 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 money, or

(b) the Trustee shall have received (i) in trust for and irrevocably committed thereto, noncallable Government Obligations; (ii) certification by an Independent public accounting firm of national reputation to the effect that the Government Obligations have such maturities or redemption dates and interest payment dates, and bear such interest, as will be sufficient together with any money 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; and (iii) an Opinion of Bond Counsel to the effect that the conditions of this Section 8.02 have been satisfied.

Any money held by the Trustee in accordance with the provisions of this Section may be invested by the Trustee only in noncallable Government Obligations 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 money will be required for the purposes described above. To the extent that any income or interest earned by, or increment to, the investments held under this Section is determined from time to time by the Trustee to be in excess of the amount required to be held by the Trustee for the purposes of this Section, that income, interest or increment shall be transferred at the time of that determination in the manner provided in Section 4.14 hereof for transfers of amounts remaining in 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. 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 money in trust, and repayments to the Borrower from the Bond Fund, the rebate of money 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.

## 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; provided that the principal, premium, if any, and interest on the Bonds are payable by the Issuer solely from the Trust Estate, and nothing in the Bonds or this Indenture shall be considered as assigning or pledging any other funds or assets of the Issuer other than the Trust Estate.

(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 50% or more in principal amount of the Bonds then Outstanding, or a designated representative thereof.

(f) Rights and Enforcement of the Loan 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 Loan Agreement, regardless of whether the Issuer is in default in the pursuit or enforcement of those rights, covenants, agreements or obligations. The Issuer, however, will do all things and take all actions on its part necessary to comply with covenants, agreements, obligations, duties and responsibilities on its part to be observed or performed under the Loan Agreement, and will take all actions within its authority to keep the Loan Agreement in effect in accordance with the terms thereof.

(g) Issuer Not to Adversely Affect Federal Tax Status of Bonds. The Issuer covenants that it (i) will take, or require to be taken, all actions that may be reasonably required of the Issuer to maintain the Federal Tax Status of the Bonds, and (ii) will not take or authorize to be taken any actions that would adversely affect the Federal Tax Status of the Bonds under the provisions of the Code.

**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 of its proceedings 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. THE BONDS AND THE INTEREST THEREON ARE LIMITED OBLIGATIONS OF THE ISSUER, PAYABLE SOLELY FROM THE TRUST ESTATE PLEDGED THEREFOR UNDER THE INDENTURE. NONE OF THE STATE, NOR THE COUNTY, NOR ANY OTHER POLITICAL SUBDIVISION OR BODY CORPORATE AND POLITIC, OF THE STATE OR THE ISSUER (EXCEPT TO THE LIMITED EXTENT PROVIDED HEREIN) SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER OF THE ISSUER, AND NEITHER THIS BOND NOR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF THE STATE, THE COUNTY OR ANY OTHER POLITICAL SUBDIVISION OR BODY CORPORATE AND POLITIC OF THE STATE OR THE ISSUER (EXCEPT TO THE LIMITED EXTENT PROVIDED HEREIN), WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. PRINCIPAL OF AND PREMIUM (IF ANY) AND INTEREST ON THE BONDS ARE PAYABLE SOLELY FROM THE REVENUES PLEDGED PURSUANT TO THIS INDENTURE.

## ARTICLE X AMENDMENTS TO LOAN AGREEMENT, NOTE, AND REGULATORY AGREEMENT

**Section 10.01 Amendments Not Requiring Consent of Holders.** The Issuer, the Borrower, the Investor Limited Partner and the Trustee may, without the consent of or notice to the Holders, consent to any amendment, change or modification of the Loan Agreement, the Note, or the Regulatory Agreement, as may be required (a) by the provisions of the Note, the Loan Agreement, or the Regulatory Agreement, (b) for the purpose of curing any ambiguity, inconsistency or formal defect or omission in the Loan Agreement, the Note, or the 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.

**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 Loan Agreement or the Note which would change the amount or time as of which Loan Payments and Eligible Funds are required to be paid,

without the giving of notice as provided in this Section of the proposed amendment, change or modification and receipt of the written consent thereto of the Holders of all of the then Outstanding Bonds affected by such amendment, change or modification, or

(b) any other amendment, change or modification of the Loan Agreement, the Note or the 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 Loan Agreement, the Note, or the 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.

**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 and the Issuer an Opinion of Bond Counsel to the effect that such amendment, change or modification will not adversely affect the Federal Tax Status of the Bonds.

**Section 10.04 Responsibilities of the Trustee.** Notwithstanding anything else contained herein, the Trustee shall not be required to enter into any amendment, change, or modification of any of the documents described in Section 10.01 and 10.02 which affects the Trustee's own rights, duties or immunities under this Indenture or any other Financing Document.

**Section 10.05 Opinion of Counsel.** Before 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 Counsel that (a) any proposed amendment, change, or modification of any of the documents described in Sections 10.01 and 10.02 complies with the provisions of this Indenture, and (b) it is proper for the Trustee to join in the execution of that amendment, change, or modification under the provisions of this Article. The Trustee may conclusively rely upon such Opinion of Counsel.

## **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 50% 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 the Investor Limited 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.

## **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 Remarketing Agent, the Borrower, the Investor Limited 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 Remarketing Agent, the Borrower, the Investor Limited 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 Limited Partner, the Trustee and the Remarketing Agent 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 Limited Partner to one or both of the others also shall be given to the others.

The Issuer, the Trustee, the Borrower, the Investor Limited Partner, the Mortgage Lender, the Remarketing Agent, the Rating Agency and the Remarketing Agent 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 Limited 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 and laws 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 in other than that person's official capacity. Neither the members of the Issuer nor any official executing the Bonds, this Indenture, the Loan Agreement or any amendment or supplement hereto or thereto shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance or execution hereof or thereof.

**Section 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 Identifying Information of the Trustee.** To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a trust, or other legal entity, the Trustee will require documentation to verify its formation and existence as a legal entity. The Trustee may also seek financial statements, licenses, identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation.

[Signature Page Follows]

**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.

(SEAL)

**HOUSING FINANCE AUTHORITY OF ST.  
JOHNS COUNTY, FLORIDA**

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

ATTEST:

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

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

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

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. R-1

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

HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA

MULTIFAMILY HOUSING REVENUE BOND  
(OAKS AT ST. JOHN), SERIES 2023A

<u>INITIAL INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>DATED</u>	<u>CUSIP</u>
	July 1, 2028	December __, 2023	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: \_\_\_\_\_ AND 00/100 DOLLARS (\$[\_\_\_\_\_])

INITIAL MANDATORY TENDER DATE: January 1, 2027

The Housing Finance Authority of St. Johns County, Florida (the “Issuer”), public body corporate and politic duly organized and existing under the laws of the State of Florida, 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 and tender 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) January 1 and July 1 of each year beginning July 1, 2024, (b) each Redemption Date, and (c) each Mandatory Tender Date (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 its date.

From the Dated Date set forth above to, but not including, the Initial Mandatory Tender Date set forth above, this Bond shall bear interest at the Initial Interest Rate. Thereafter, this Bond shall bear interest at the Remarketing Rate (as defined in the Indenture). 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.

The principal of this Bond is payable upon presentation and surrender hereof at the designated corporate trust office of the trustee, presently U.S. Bank Trust Company, 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 fifth Business Day preceding that Interest Payment Date (the “**Regular Record Date**”) on the registration books for this issue maintained by the Trustee, as registrar, at the address appearing therein. Any interest which is not timely paid or duly provided for shall cease to be payable to the Holder hereof (or of one or more predecessor bonds) as of the Regular Record Date, and shall be payable to the Holder hereof (or of one or more predecessor bonds) at the close of business on a Special Record Date to be fixed by the Trustee for the payment of that overdue interest. Notice of the Special Record Date shall be mailed to Holders not less than ten days prior thereto. The principal of and interest on this Bond are payable in lawful money of the United States of America, without deduction for the services of the paying agent. While the Bonds are held in a book-entry system and in certain other circumstances, all as provided in the Indenture, principal of and interest on this Bond is required to be paid by wire transfer or other arrangement, other than any payment of the entire unpaid principal amount hereof.

THE BONDS AND THE INTEREST THEREON ARE LIMITED OBLIGATIONS OF THE ISSUER, PAYABLE SOLELY FROM THE TRUST ESTATE PLEDGED THEREFOR UNDER THE INDENTURE. NONE OF THE STATE, ST. JOHNS COUNTY (THE “**COUNTY**”), NOR ANY OTHER POLITICAL SUBDIVISION OR BODY CORPORATE AND POLITIC, OR AGENCY, OF THE STATE, THE COUNTY OR THE ISSUER (EXCEPT TO THE LIMITED EXTENT PROVIDED HEREIN) SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER OF THE ISSUER, AND NEITHER THIS BOND NOR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF THE STATE, THE COUNTY, OR ANY OTHER POLITICAL SUBDIVISION OR BODY CORPORATE AND POLITIC OF THE STATE, THE COUNTY OR THE ISSUER (EXCEPT TO THE LIMITED EXTENT PROVIDED HEREIN), WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER.

NO COMMISSIONER, MEMBER, DIRECTOR, OFFICER, AGENT, EMPLOYEE OR ATTORNEY OF THE ISSUER, INCLUDING ANY PERSON EXECUTING THE INDENTURE OR THE BONDS, SHALL BE LIABLE PERSONALLY ON THE BONDS OR FOR ANY REASON RELATING TO THE ISSUANCE OF THE BONDS. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THE BONDS, OR FOR ANY CLAIM BASED ON THE BONDS, OR OTHERWISE IN RESPECT OF THE BONDS, OR BASED ON OR IN RESPECT OF THE INDENTURE OR ANY SUPPLEMENTAL INDENTURE, AGAINST ANY COMMISSIONER, MEMBER, DIRECTOR, OFFICER, EMPLOYEE OR AGENT, AS SUCH, OF THE ISSUER OR ANY SUCCESSOR, WHETHER BY VIRTUE OF ANY CONSTITUTION, STATUTE OR RULE OF LAW, OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, ALL SUCH LIABILITY BEING, BY THE ACCEPTANCE OF THIS BOND AND AS PART OF THE CONSIDERATION FOR THE ISSUE OF THE BONDS, EXPRESSLY WAIVED AND RELEASED.

NEITHER THE MEMBERS OF THE ISSUER NOR ANY PERSON EXECUTING THE BONDS SHALL BE LIABLE PERSONALLY ON THE BONDS BY REASON OF THE ISSUANCE THEREOF. THE BONDS AND OTHER OBLIGATIONS OF THE ISSUER SHALL NOT BE A DEBT OF THE STATE, THE COUNTY OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) AND NEITHER THE COUNTY, NOR THE STATE OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) SHALL BE LIABLE THEREON, NOR IN ANY EVENT SHALL SUCH BONDS OR OBLIGATIONS BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN THOSE OF THE ISSUER. THE BONDS SHALL NOT CONSTITUTE AN INDEBTEDNESS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION.

This Bond is one of a duly authorized issue of Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023A (the “**Bonds**”), issuable under the Trust Indenture dated as of December 1, 2023 (the “**Indenture**”), between the Issuer and the Trustee, aggregating in principal amount \$[2023A PAR] and used for the purpose of financing a loan (the “**Loan**”) to be made to Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “**Borrower**”). The Loan will be used by the Borrower to pay a portion of the costs of acquiring, rehabilitating, equipping and improving the Project, as defined in the Indenture, as further provided in the Loan Agreement dated as of even date with the Indenture (the “**Loan Agreement**”), between the Issuer and the Borrower. The Bonds are special obligations of the Issuer, issued or to be issued under and are to be secured and entitled equally and ratably to the protection given by the Indenture. The Bonds are issued pursuant to, under authority of and in compliance with the laws of the State of Florida, and particularly the Florida Housing Finance Authority Law, Sections 159.601 et seq., Florida Statutes, as now in effect and as from time to time hereafter amended or supplemented (the “**Act**”), and a resolution duly enacted by the Issuer.

The Bonds are subject to redemption and tender prior to their stated maturity as follows:

(a) Optional Redemption. The Bonds are subject to optional redemption prior to their maturity, at direction of the Authorized Borrower Representative, either in whole or in part on any Business Day on or after the later to occur of (a) the date that the Project is placed in service, as certified in writing by the Borrower to the Trustee, and (b) the Optional Redemption Date (as defined in the Indenture) at a redemption price equal to the principal amount of the Bonds to be redeemed, plus accrued interest, but without premium, to the date fixed for redemption.

(b) Mandatory Redemption. The Bonds shall be redeemed in whole at a redemption price of 100% of the principal amount of such Bonds, plus accrued interest to the Redemption Date, on any Mandatory Tender Date upon the occurrence of any of the following events: (i) the Borrower has previously elected not to cause the remarketing of the Bonds, (ii) the conditions to remarketing set forth in the Indenture have not been met by the dates and times set forth therein, or (iii) the proceeds of a remarketing on deposit in the Remarketing Proceeds Account at 11:00 a.m. Local Time on the Mandatory Tender Date are insufficient to pay the purchase price of the Outstanding Bonds on such Mandatory Tender Date. Bonds subject to redemption in accordance with this paragraph shall be redeemed from (i) amounts on deposit in the Collateral Fund, (ii) amounts on deposit in the Negative Arbitrage Account of the Bond Fund, (iii) amounts on deposit

in the Project Fund, and (iv) any other Eligible Funds available or made available for such purpose at the direction of the Borrower.

(c) Mandatory Tender. The Bonds are subject to mandatory tender in whole on each Mandatory Tender Date. Holders will not have the right to elect to retain their Bonds. Upon presentation and surrender of the Bonds by the Holder on the date fixed for tender, the Holder shall be paid the principal amount of the Bonds to be tendered, plus accrued interest on such Bonds to the tender date.

Reference is made to the Indenture for a more complete description of the Project, the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the Issuer, the Trustee and the Holders of the Bonds, and the terms and conditions upon which the Bonds are issued and secured. Each Holder assents, by its acceptance hereof, to all of the provisions of the Indenture.

The Borrower is required by the Loan Agreement to cause the Mortgage Lender (as defined in the Indenture), the Equity Bridge Lender (as defined in the Indenture) and the Seller Lender (as defined in the Indenture) to deposit on its behalf Eligible Funds with 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 Loan Agreement, except for Reserved Rights as defined in the Indenture. To secure its compliance with certain covenants in the Loan Agreement, the Borrower has executed and delivered the Land Use Restriction Agreement dated December \_\_, 2023 (the “**Regulatory Agreement**”) between itself, the Trustee and the Issuer, dated as of even date with the Indenture.

Copies of the Indenture, the Loan Agreement and the 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 Loan 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 money 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 \$1,000 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 Loan Agreement, the 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 any director 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 until the certificate of authentication hereon shall have been signed.

It is certified and recited that there have been performed and have happened in regular and due form, as required by law, all acts and conditions necessary to be done or performed by the Issuer or to have happened (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 Loan Agreement; that payment in full for the Bonds has been received; and that the Bonds do not exceed or violate any constitutional or statutory limitation.

This Bond shall not be entitled to any security or benefit under the Indenture or be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed.



IN WITNESS WHEREOF, the Issuer has caused this Bond to be to be executed and delivered by the manual or facsimile signature of its Chair and attested by the manual or facsimile signature of its Secretary as of the day and year first written above.

[SEAL]

**HOUSING FINANCE AUTHORITY OF ST.  
JOHNS COUNTY, FLORIDA**

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

ATTEST:

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

**CERTIFICATE OF AUTHENTICATION**

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

Date of Registration and Authentication: December \_\_, 2023.

**U.S. BANK TRUST COMPANY, NATIONAL  
ASSOCIATION**

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

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**  
**SERIES 2023A LOAN AGREEMENT**  
**(see attached)**

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**LOAN AGREEMENT**

Dated as of December 1, 2023

between

HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA

and

PONTE VEDRA BEACH LEASED HOUSING ASSOCIATES I, LLLP

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[\$2023A PAR]

Housing Finance Authority of St. Johns County, Florida  
Multifamily Housing Revenue Bonds  
(Oaks at St. John), Series 2023A

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## LOAN AGREEMENT

**THIS LOAN AGREEMENT** made and entered into as of December 1, 2023, between the **HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA**, a public body corporate and politic duly organized and existing under the laws of the State of Florida (together with its successors, the “**Issuer**”), and **PONTE VEDRA BEACH LEASED HOUSING ASSOCIATES I, LLLP**, a Minnesota limited liability limited partnership (the “**Borrower**”), under the following circumstances summarized in the following recitals (the capitalized terms not defined in the recitals being used therein as defined in Article I hereof):

A. The Legislature of the State of Florida (the “State”) has enacted the Florida Housing Finance Authority Law, Sections 159.601 et seq., Florida Statutes, as amended (the “Act”), pursuant to which the State has empowered each county in the State to create by ordinance a separate public body corporate and politic, to be known as a housing finance authority of the county for which it was created, for the purpose of alleviating a shortage of housing and creating capital for investment in housing in the area of operation of such housing finance authority;

B. Pursuant to the Act, the Board of County Commissioners of St. Johns County, Florida (the “County”), enacted Ordinance No. 80-7 on February 26, 1980, as amended, and Ordinance 80-25 on March 11, 1980, as amended, creating the Housing Finance Authority of St. Johns County, Florida to carry out and exercise all powers and public and governmental functions set forth in and contemplated by the Act;

C. The Act authorizes the Issuer: (a) to make loans to any person, or to purchase loans, including federally insured mortgage loans, in order to provide financing for residential rental developments located within the Issuer’s area of operation, which are to be occupied by persons of low, moderate or middle income; (b) to issue its revenue bonds pursuant to the Act, for the purpose of obtaining money to make or to purchase such loans and provide such financing, to establish necessary reserve funds and to pay administrative costs and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, and receipts to be received by the Issuer from or in connection with such loans, and to mortgage, pledge or grant security interests in such loans in order to secure the payment of the principal or redemption price of and interest on such bonds;

D. Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership duly organized and existing under the laws of the State of Minnesota (the “Borrower”), has applied to the Issuer for financial assistance for the purpose of providing all or part of the funds with which to pay the cost of the acquisition, rehabilitation and equipping of a multifamily rental housing development known as Oaks at St. John, consisting of approximately 160 units, on an approximately 23.93-acre site located at 210 Nettles Lane, Ponte Vedra Beach, Florida 32081 in an unincorporated area of St. Johns County, Florida (the “Project”) and to pay certain costs of issuance of the Bonds;

E. Pursuant to and in accordance with the laws of the State of Florida, including without limitation, the Act, the Issuer has determined to issue its Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023A, in the aggregate principal amount of \$[2023A PAR] (the



“Bonds”) pursuant to this Indenture for the purpose of providing funding for the acquisition, rehabilitation and equipping of the Project;

F. The Issuer has determined that the purposes of the Act in providing for the acquisition, rehabilitation and equipping of the Project will be realized by the issuance of the Bonds, and the loan of such proceeds pursuant to a Loan Agreement dated as of even date herewith (the “Loan Agreement”) between the Issuer and the Borrower, and therefore the Issuer has agreed to issue the Bonds and lend the proceeds thereof to the Borrower (the “Loan”) and the Borrower has agreed to (i) apply the proceeds of the Loan to pay a portion of the costs of acquisition, rehabilitation and equipping of the Project, (ii) make payments sufficient to pay the principal of and interest on the Bonds when due (whether at maturity, by redemption, acceleration or otherwise), and (iii) observe the other covenants and agreements and make the other payments set forth therein; and

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

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

## **ARTICLE I DEFINITIONS**

**Section 1.1. Use of Defined Terms.** In addition to the words and terms defined elsewhere in this Agreement, the words and terms in this Agreement shall have the meanings set forth in the Trust Indenture (the “Indenture”), dated as of the date of this Agreement between the Issuer and the Trustee.

**Section 1.2. Interpretation.** Any reference herein to the Issuer or to any member, director 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 Florida Statutes or to any statute of the United States of America, includes that section, provision or chapter as amended, modified, revised, supplemented or superseded from time to time; provided, that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this provision, if it constitutes in any way an impairment of the rights or obligations of the Issuer, the Holders, the Trustee or the Borrower under this Agreement.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms “hereof,” “hereby,” “herein,” “hereto,” “hereunder” and similar terms refer to this Agreement; and the term “hereafter” means after, and the term

“heretofore” means before, the date of delivery of the Bonds. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

**Section 1.3. Captions and Headings.** The captions and headings in this Agreement are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Articles, Sections, subsections, paragraphs, subparagraphs or clauses hereof.

## **ARTICLE II REPRESENTATIONS**

**Section 2.1. Representations of the Issuer.** The Issuer represents and covenants that:

(a) The Issuer is a political subdivision duly organized, validly existing and in good standing under the Act and the laws of the State.

(b) The Issuer has the power and lawful authority to execute and deliver the Financing Documents to which it is a party which will be executed and delivered on the Closing Date (the “Issuer Documents”), to issue the Bonds and receive the proceeds of the Bonds, to apply the proceeds of the Bonds to make the Loan, to assign the revenues derived and to be derived by the Issuer from the Loan to the Trustee and to perform and observe the provisions of the Issuer Documents and the Bonds on its part to be performed and observed.

(c) The Issuer has duly authorized the execution and delivery of each of the Issuer Documents, the issuance sale and delivery of the Bonds and the performance of the obligations of the Issuer thereunder.

(d) The Issuer Documents and the Bonds have been duly executed and delivered by the Issuer and constitute the legal, valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws relating to or affecting generally the enforcement of creditors' rights, and except to the extent that availability of the remedy of specific performance or injunctive relief is subject to the discretion of the court before which any proceeding therefor may be brought.

(e) None of the Issuer nor any director, member, commissioner, officer or employee of the Issuer has any interest, financial, employment or other, in the Borrower, the Project or the transactions contemplated hereby.

(f) There is no action, suit, proceeding, inquiry or investigation pending or, to the knowledge of the Issuer, threatened against the Issuer by or before any court, governmental agency or public board or body, which (i) affects or questions the existence or the territorial jurisdiction of the Issuer or the title to office of any member of the Issuer; (ii) affects or seeks to prohibit, restrain or enjoin the execution and delivery of any of the Issuer Documents, or the issuance, execution or delivery of the Bonds; (iii) affects or questions the validity or enforceability of any of the Issuer Documents or the Bonds; (iv) questions the exclusion from gross income for federal income taxation of interest on the Bonds; or (v) questions the power or authority of the Issuer to perform its obligations under any of the Issuer Documents or the Bonds or to carry out the transactions contemplated by any of the Issuer Documents or the Bonds.

(g) The Issuer makes no representation or warranty, express or implied, that the proceeds of the Bonds will be sufficient to finance the acquisition, rehabilitation, renovation and equipping of the Project or that the Project will be adequate or sufficient for the Borrower's intended purposes.

(h) The Issuer has found and determined that the issuance of the Bonds under the Indenture and the acquisition, rehabilitation, renovation and equipping of the Project by the Borrower will further the purposes of the Act.

(i) The Issuer has not pledged and covenants that it will not pledge the amounts derived from this Loan Agreement other than to secure the Bonds (except for Reserved Rights, which the Issuer retains).

(j) The Issuer, or bond counsel at the direction of the Issuer, will duly file Internal Revenue Form 8038 which shall contain the information required to be filed pursuant to Section 149 of the Code.

**Section 2.2. Representations and Covenants of the Borrower.** The Borrower represents and covenants that:

(a) It is a limited liability limited partnership duly formed under the laws of the State of Minnesota, is in full force and effect under the laws of the State, is in good standing and duly qualified to transact business in the State, is not in violation of any provision of any applicable Organizational Documents, and is authorized to own and operate the Project in the State.

(b) It has full power and authority to execute, deliver and perform the Borrower Documents and to enter into and carry out the transactions contemplated by those documents. The execution, delivery and performance of the Borrower Documents do not, and will not, violate any provision of law applicable to the Borrower and do not, and will not, conflict with or result in a default under any agreement or instrument to which the Borrower is a party or by which it is bound. The Borrower Documents have, by proper action, been duly authorized, executed and delivered by the Borrower and all steps necessary have been taken to constitute the Borrower Documents valid and binding obligations of the Borrower, enforceable in accordance with their terms except as may be limited by laws relating to bankruptcy, insolvency, reorganization or moratorium or other similar laws affecting creditors' rights.

(c) The managing member of the Borrower is Ponte Vedra Leased Housing Associates I, LLC, a Minnesota limited liability company (the "Managing Member"). The non-managing member of the Borrower is Alliant Credit Facility IV, LLC, a California limited liability company, and its successors and assigns (the "Investor Limited Partner"). The Borrower does not currently operate or conduct any business except as related to the financing, ownership, operation and rehabilitation of the Project. The Borrower has no material assets or property other than its anticipated interest in the Project.

(d) The Managing Member (1) is a limited liability company, duly organized under the laws of the State of Minnesota and duly qualified to transact business in the State, and (2) has the requisite legal authority to become and to act as a Managing Member of the Borrower.

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

(f) It will use and operate the Project in a manner consistent with the Act and in accordance with the Regulatory Agreement for as long as required by the Act and the Code and knows of no reason why the Project will not be so operated. If, in the future, there is a cessation of that operation, it will use its best efforts to resume that operation or accomplish an alternate use by the Borrower or others approved by the Issuer which will be consistent with the Act, the Code and the Regulatory Agreement. A form of the Regulatory Agreement is attached hereto as Schedule I and will be executed, delivered and recorded against the Project upon the acquisition thereof and the closing of the Mortgage Loan.

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

(h) The Project will be located entirely within the jurisdiction of the Issuer.

(i) The Borrower has obtained or will obtain all consents, approvals, permits, authorizations and orders of any governmental or regulatory agency that are required to be obtained by the Borrower as a condition precedent to the issuance of the Bonds, the execution and delivery of the Borrower Documents or the performance by the Borrower of its obligations thereunder, or that were or are required for the acquisition, rehabilitation, renovation and/or operation of the Project.

(j) No litigation at law or in equity or proceeding before any governmental agency involving the Borrower is pending or, to the best of its knowledge, threatened in which any liability of the Borrower is not adequately covered by insurance or in which any judgment or order would have a material adverse effect upon the business or assets of the Borrower or that would affect its existence or authority to do business, the acquisition, rehabilitation, renovation, equipping or operation of the Project, the validity of any Borrower Documents or the performance of its obligations thereunder.

(k) The Borrower is not in default in the payment of the principal of or interest on any of its indebtedness for borrowed money and is not in material default under any instrument under and subject to which any indebtedness has been incurred, and no event has occurred and is continuing that, under the provisions of any such agreement, with the lapse of time or the giving of notice, or both, would constitute an event of default by the Borrower thereunder.

(l) The Borrower is not in default under or in violation of, and the execution, delivery and compliance by the Borrower with the terms and conditions of the Borrower Documents do not and will not conflict with or constitute or result in a default by the Borrower in any material respect under or violate, (i) the Borrower's organizational documents, (ii) any agreement or other

instrument to which the Borrower is a party or by which it or its assets are bound, or (iii) to the best of its knowledge, any constitutional or statutory provision or order, rule, regulation, decree or ordinance of any court, government or governmental authority having jurisdiction over the Borrower or its property, and no event has occurred and is continuing which, with the lapse of time or the giving of notice, or both, would constitute or result in such a default or violation.

(m) The Borrower has received and reviewed a copy of the Indenture and approves the terms and conditions thereof and agrees to the terms thereof.

(n) The Borrower has filed or caused to be filed all federal, state and local tax returns that are required to be filed or has obtained appropriate extensions therefor, and has paid or caused to be paid all taxes as shown on said returns or on any assessment received by it, to the extent that such taxes have become due.

(o) Neither the Borrower nor any related Person thereto shall acquire any Bonds in any amount.

(p) Upon the closing of the Mortgage Loan, the Borrower will have fee simple title in the real property and will have absolute ownership of the personal property comprising the Project, and there will be no liens or encumbrances against such property other than the liens contemplated by the Mortgage Loan Documents, the [Equity Bridge Loan Documents}, the Subordinate Loan Documents and the Seller Loan Documents.

(q) The Borrower acknowledges, represents and warrants that it understands the nature and structure of the transactions relating to the financing of the Project; that it is familiar with the provisions of all of the documents and instruments relating to such financing to which it or the Issuer is a party or of which it is a beneficiary; that it understands the risks inherent in such transactions, including, without limitation, the risk of loss of the Project; and that it has not relied on the Issuer or its counsel for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by this Agreement and the Indenture or otherwise relied on the Issuer or its counsel in any manner.

(r) The Project will be, upon the closing of the Mortgage Loan, in compliance with all requirements of the Regulatory Agreement currently applicable, including all applicable requirements of the Act and Code. The Borrower intends to cause the residential units in the Project to be rented or available for rental on a basis which satisfies the requirements of the Regulatory Agreement, including all applicable requirements of the Act and the Code. All leases with tenants of the Project will comply with all applicable laws and the Regulatory Agreement. The Project will meet the requirements of this Agreement, the Regulatory Agreement, the Act and the Code with respect to multifamily rental housing upon completion.

(s) The proceeds of the Bonds shall be used or deemed used exclusively to pay costs that (i) are (A) capital expenditures (as defined in Section 1.150-1(b) of the Code's regulations) and (B) not made for the acquisition of existing property, to the extent prohibited in Section 147(d) of the Code, and (ii) are made exclusively with respect to a "qualified residential rental project" within the meaning of Section 142(d) of the Code and that for the greatest number of buildings the proceeds of the Bonds shall be deemed allocated on a pro rata basis to each building in the Project

and the land on which it is located so that each building and the land on which it is located will have been financed fifty percent (50%) or more by the proceeds of the Bonds for the purpose of complying with Section 42(h)(4)(B) of the Code; provided, however, the foregoing representation, covenant and warranty is made for the benefit of the Borrower and its members and neither the Trustee nor the Issuer shall have any obligation to enforce this covenant nor shall they incur any liability to any person, including without limitation, the Borrower, the members of the Borrower, any other affiliate of the Borrower or the holders of the Bonds for any failure to meet the intent expressed in the foregoing representation, covenant and warranty; and provided further, failure to comply with this representation, covenant and warranty shall not constitute a default or event of default under this Agreement or the Indenture.

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

### **ARTICLE III PLAN OF FINANCING**

**Section 3.1. Issuance of Bonds; Application of Proceeds.** To provide funds to finance the Loan for purposes of assisting the Borrower in paying Project Costs, the Issuer shall simultaneously with the execution and delivery hereof proceed with the issuance and delivery of the Bonds upon receipt by the Trustee of the items listed in Section 2.11 of the Indenture. The Issuer agrees to deposit the proceeds of sale of the Bonds in accordance with the Indenture.

The Bonds will be issued pursuant to the Indenture in the aggregate principal amount, will bear interest, will mature and will be subject to redemption, mandatory tender and remarketing as set forth therein. The Borrower hereby approves the terms and conditions of the Indenture and the Bonds, and the terms and conditions under which the Bonds will be issued, sold and delivered and will comply with those provisions of the Indenture that contemplate action by the Borrower, all as if the Borrower were a party to the Indenture.

Pending disbursement pursuant to Section 3.6 hereof, the proceeds of the Bonds deposited in the Project Fund shall constitute a part of the Revenues assigned by the Issuer to the Trustee as security for the payment of Bond Service Charges as provided in the Indenture.

**Section 3.2. The Loan.** The Issuer agrees, upon the terms and conditions herein, to make the Loan to the Borrower with the proceeds received by the Issuer from the sale of the Bonds by causing such proceeds to be deposited with the Trustee for disposition as provided in the Indenture. The obligation of the Issuer to finance the Loan shall be deemed fully discharged, and the principal amount of the Bonds shall be deemed fully advanced to the Borrower under the Note, upon the deposit of the proceeds of the Bonds with the Trustee. The Loan shall be evidenced by the Note payable to the Trustee.

**Section 3.3. Mortgage Loan to Borrower.** To provide and secure funds for the repayment of the Loan, and to provide for the delivery of the Eligible Funds, the Borrower shall on or before December \_\_, 2023 obtain the Mortgage Loan from the Mortgage Lender and enter into the

Regulatory Agreement. In particular, the Borrower will promptly take all necessary actions on its part to close the Mortgage Loan and satisfy all other terms and conditions of the Fannie Mae Commitment and the requirements of the Mortgage Lender no later than December \_\_, 2023.

The Borrower represents that the Mortgage Loan will be in the maximum original principal amount of \$[2023A PAR]. The Mortgage Loan will be secured on a non-recourse basis pursuant to the Mortgage Loan Documents.

The Mortgage Lender will deposit Eligible Funds in the amount of \$[2023A PAR TOTAL] with the Trustee for deposit into the Collateral Fund to enable the Trustee to disburse an equal amount of Bond proceeds from the Project Fund as approved by the Mortgage Lender.

**Section 3.4. Acquisition, Rehabilitation, Installation, Equipment and Improvement.** The Borrower (a) has acquired or is in the process of acquiring, a fee simple interest in the Project site and shall construct and equip the Project with all reasonable dispatch and in accordance with the Plans and Specifications, (b) shall pay when due all fees, costs and expenses incurred in connection with that acquisition, rehabilitation, renovation, installation, equipment and improvement from funds made available therefor in accordance with this Agreement or otherwise, except to the extent being contested in good faith, and (c) shall ask, demand, sue for, levy, recover and receive all those sums of money, debts and other demands whatsoever which may be due, owing and payable under the terms of any contract, order, receipt, writing and instruction in connection with the acquisition, rehabilitation, renovation, improvement and equipping of the Project, and shall enforce the provisions of any contract, agreement, obligation, bond or other performance security with respect thereto. It is understood that the Project is that of the Borrower and any contracts made by the Borrower with respect thereto, whether acquisition contracts, construction contracts or otherwise, or any work to be done by the Borrower on the Project are made or done by the Borrower in its own behalf and not as agent or contractor for the Issuer. The Borrower agrees that it will compensate all workers employed in the rehabilitation, renovation, improvement, and equipping of the Project as required by law.

**Section 3.5. Plans and Specifications.** The Plans and Specifications have been or shall be filed with the Issuer. The Borrower may revise the Plans and Specifications from time to time, provided that no revision shall be made which would change the purpose of the Project to other than purposes permitted by the Act and the Regulatory Agreement. The sources and uses contemplated by the plan of financing for the Project are set forth in Exhibit D hereto, and at or prior to the execution and delivery of this Agreement, the Borrower shall provide to the Issuer evidence acceptable to the Issuer, in its sole discretion, of the availability of all financing contemplated by the plan of financing for the Project including, without limitation (and without regard to whether the immediate availability of such financing is a condition to undertaking the Project), the equity portion of the financing and all other public and private financing and any interim or bridge financing to be provided in anticipation of the closing of any of the foregoing aspects of the financing therefor. Any material changes in the plan of financing or to any information contained in Exhibit D shall be communicated promptly to the Issuer. Copies of all documents evidencing that financing, and the security therefor, all in form reasonably acceptable to the Issuer, shall be provided to the Issuer.

No material revision of the Plans and Specifications shall be made unless the Borrower has first delivered to the Issuer a narrative description of the proposed revision accompanied by a certificate of the Authorized Borrower Representative certifying the change in Project Costs resulting from the revision and that the moneys then on deposit in the Project Fund together with other identified available moneys will be sufficient to pay in full the Project Costs including the change in Project Costs resulting from such revision.

**Section 3.6. Disbursements from the Project Fund.** Subject to the provisions below, disbursements from the Project Fund shall be made only to pay any of the following Project Costs:

- (a) Costs incurred directly or indirectly for or in connection with the acquisition, rehabilitation, renovation, improvement and equipping of the Project, including costs incurred in respect of the Project for preliminary planning and studies; architectural, legal, engineering, accounting, consulting, supervisory and other services; labor, services and materials; and recording of documents and title work.
- (b) Premiums attributable to any surety bonds and insurance required to be taken out and maintained during the construction period with respect to the Project.
- (c) Taxes, assessments and other governmental charges in respect of the Project that may become due and payable during the construction period.
- (d) Costs incurred directly or indirectly in seeking to enforce any remedy against any contractor or subcontractor in respect of any actual or claimed default under any contract relating to the Project.
- (e) Subject to the limitations set forth in the Tax Agreement, Costs of Issuance of the Bonds, including, financial, legal, accounting, printing and engraving fees, charges and expenses, and all other such fees, charges and expenses incurred in connection with the authorization, sale, issuance and delivery of the Bonds, including, without limitation, the fees and expenses of the Trustee properly incurred under the Indenture that may become due and payable during the construction period.
- (f) Any other costs, expenses, fees and charges properly chargeable to the cost of acquisition, rehabilitation, renovation, improvement and equipping of the Project.
- (g) Payment of interest on the Bonds.
- (h) Payments to the Rebate Fund.

Disbursements from the Project Fund for the payment of Project Costs shall be made by the Trustee only to, or at the written direction of, the Mortgage Lender upon satisfaction of all of the following conditions:

- (i) The receipt by the Trustee of notice and instruction of a completed disbursement request (a “Disbursement Request”) in the form attached hereto as Exhibit B, signed by an Authorized Borrower Representative and providing the amount of the disbursement request



(a “Disbursement Amount”) and the expected date of disbursement (a “Disbursement Date”).

(ii) On or before the expected Disbursement Date, the Mortgage Lender will transfer to the Trustee, by immediately available funds, the Eligible Funds equal to the Disbursement Amount, in the case of a transfer from the Mortgage Lender, the Equity Bridge Lender, the Subordinate Lender or the Seller Lender.

(iii) Upon receipt by the Trustee from the Mortgage Lender, the Equity Bridge Lender, the Subordinate Lender or the Seller Lender of the Eligible Funds in an amount equal to the Disbursement Amount, such Eligible Funds shall be deposited in the Collateral Fund as provided in Section 4.2 hereof. In the event that the amount of the Eligible Funds received by the Trustee does not equal the amount of the Disbursement Request, the Trustee shall promptly return such Eligible Funds to the Mortgage Lender, the Equity Bridge Lender, the Subordinate Lender or the Seller Lender, as applicable. In the event that the Trustee is not prepared to immediately disburse funds from the Project Fund in accordance with the Disbursement Request, it shall return the Eligible Funds to the party that deposited it with the Trustee.

(iv) Upon satisfaction of the conditions set forth in clauses (i) through (iv) above, the Trustee shall be unconditionally and irrevocably obligated to disburse funds from the Project Fund in accordance with the Disbursement Request. The Trustee shall disburse funds from the Project Fund in accordance with the instructions contained in the Disbursement Request (A) no later than one (1) Business Day after it receives the Eligible Funds in the event the Trustee receives the Eligible Funds with respect to such Disbursement Request prior to 10:30 AM Local Time on such Business Day or (B) on the next succeeding Business Day if the Trustee receives the Eligible Funds after 10:30 AM Local Time.

The Borrower hereby acknowledges and agrees that it shall submit Disbursement Requests to the Trustee no more frequently than once each calendar month and that it shall, simultaneously with the submission of each Disbursement Request to the Trustee, provide a copy of such request to the Mortgage Lender. Each such Disbursement Request shall be consecutively numbered. Proceeds of the Bonds disbursed pursuant to the provisions of this Agreement may only be used to pay those Project Costs identified in the Sources and Uses of Funds attached hereto as Exhibit D, as it may be amended pursuant to the agreement of Fannie Mae, the Mortgage Lender and the Borrower.

The Borrower's right to request disbursements from the Project Fund is limited to the principal amount of the Loan.

The Borrower agrees that it will not request disbursement for any item not described in, or the cost for which item is other than as described in, the information statement filed by the Issuer in connection with the issuance of the Bonds as required by Section 149(e) of the Code, and in the notice of public hearing pertaining to the Bonds unless the Borrower provides to the Mortgage Lender, with a copy to the Trustee and the Issuer, an Opinion of Bond Counsel to the effect that such disbursement will not adversely affect the Federal Tax Status of the Bonds.

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

Notwithstanding any provision of this Agreement or any provision of the Indenture to the contrary, the Trustee shall not disburse funds from the Project Fund unless and until the Trustee confirms that the account balance of the Collateral Fund plus the account balance of the Project Fund, less the amount of the requested disbursement from the Project Fund, is at least equal to the then-outstanding principal amount of the Bonds.

**Section 3.7. Funding Agreement.** The Borrower shall cause of the Mortgage Lender to agree to deliver Eligible Funds to the Trustee in exchange for the release of a corresponding amount of Bond proceeds from the Project Fund (representing advances under the Mortgage Loan) pursuant to and consistent with Sections 3.6 and 4.7 hereof and Sections 4.04 and 4.06 of the Indenture.

**Section 3.8. Borrower Required to Pay Costs in Event Project Fund Insufficient.** If money in the Project Fund is not sufficient to pay all Project Costs, the Borrower, nonetheless, will complete the Project in accordance with the Plans and Specifications and shall pay all such additional Project Costs from its own funds. The Borrower shall pay all Costs of Issuance of the Bonds in excess of the amount permitted by the Tax Agreement. The Borrower shall not be entitled to any reimbursement for any such additional Project Costs or payment of Costs of Issuance from the Issuer, the Trustee or any Holder; nor shall it be entitled to any abatement, diminution or postponement of any Loan Payments or other amounts to be paid under this Agreement.

**Section 3.9. Completion Date.** The Borrower shall notify the Issuer and the Trustee of the Completion Date by the delivery of a Completion Certificate signed by the Authorized Borrower Representative substantially in the form of Exhibit C attached hereto, upon which the Trustee may conclusively rely. The Completion Certificate shall be delivered as promptly as practicable after the occurrence of the events and conditions referred to in paragraphs (a), (b), and (d) of the Completion Certificate and an accountant's determination has been made that the representation in Section 2.2(s) is true and correct.

**Section 3.10. Remarketing of Bonds.** The Borrower is hereby granted the right to (a) request a remarketing of the Bonds in the manner and to the extent set forth in Section 3.07 of the Indenture and (b) with the written consent of the Remarketing Agent (which consent shall not be unreasonably withheld), designate the length of the Remarketing Period and the related Mandatory Tender Date in the manner and to the extent set forth in Sections 3.05 and 3.07 of the Indenture.

**Section 3.11. Investment of Fund Money.** At the written request of the Authorized Borrower Representative, any money held as part of any of the Special Funds or the Rebate Fund shall be invested or reinvested by the Trustee in Eligible Investments as provided in the Indenture. The Issuer (to the extent within its control) and the Borrower each hereby covenants that it will restrict that investment and reinvestment and the use of the proceeds of the Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time of delivery of and payment for the Bonds or subsequent intentional acts, so that the Bonds will not constitute arbitrage bonds under Section 148 of the Code. No provision of this Agreement

shall be construed to impose upon the Trustee any obligation or responsibility for compliance with arbitrage regulations.

The Borrower acknowledges that regulations of the Comptroller of the Currency grant the Borrower the right to receive brokerage confirmations of security transactions as they occur. The Borrower specifically waives such right to notification to the extent permitted by law and acknowledges that it will receive periodic transaction statements that will detail all investment transactions.

The Borrower shall provide the Issuer with, and the Issuer may base its certifications as authorized by the Tax Agreement on, a certificate of an Authorized Borrower Representative for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the Borrower on the date of delivery of and payment for the Bonds regarding the amount and use of the proceeds of the Bonds and the facts, estimates and circumstances on which those expectations are based.

**Section 3.12. Rebate Calculations and Payments.** If required by the terms of the Tax Agreement, the Borrower shall appoint a Rebate Analyst, the expense of which shall be borne by the Borrower.

At the times required by the Tax Agreement, the Borrower shall cause the Rebate Analyst to calculate the Rebate Amount as of the end of that Bond Year or the date of such payment and the Rebate Analyst shall notify the Trustee and the Borrower of that amount in writing. If the amount then on deposit in the Rebate Fund created under the Indenture is less than the Rebate Amount (taking into account the amount or amounts, if any, previously paid to the United States), the Borrower shall, within 30 days after the date of the aforesaid calculation, deposit or cause to be deposited to the credit of the Rebate Fund an amount sufficient to cause the Rebate Fund to contain an amount equal to the Rebate Amount. The obligation of the Borrower to make or cause to be made such payments shall remain in effect and be binding upon the Borrower notwithstanding the release and discharge of the Indenture or the termination of this Agreement. The Borrower shall obtain such records of the computations made pursuant to this Section as are required under Section 148(f) of the Code and shall retain such records for at least six (6) years after the maturity or retirement of the Bonds.

The Borrower further covenants that, during the term of the Bonds, in the event the Borrower sells or otherwise disposes of the Project, it will require that the transferee execute a covenant similar to that in this Section in the sale or other documents concerning the disposition and will require such transferee to include such a covenant in future transfer documents. The special covenants of the Borrower in this Section shall survive the defeasance or payment in full of the Bonds notwithstanding any other provision of this Agreement until the requirements for payment of any Rebate Amount has been fully satisfied.

**ARTICLE IV**  
**LOAN PAYMENTS; ELIGIBLE FUNDS**  
**AND ADDITIONAL PAYMENTS**

**Section 4.1. Loan Repayment; Delivery of Note.** In consideration of and in repayment of the Loan, the Borrower shall deliver or cause to be delivered to the Trustee on or before each Bond Payment Date, Loan Payments equal to the amount necessary to pay interest on and principal of the Bonds due on the next Bond Payment Date. All such Loan Payments shall be paid to the Trustee in accordance with the terms of the Note for the account of the Issuer and shall be held and disbursed in accordance with the provisions of the Indenture and this Agreement.

The Borrower shall be entitled to a credit against the Loan Payments required to be made with respect to the Bonds on any date equal to the available money in the Bond Fund or transferred thereto from the Collateral Fund or the Project Fund for the payment of Bond Service Charges on that date.

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

Payments on the Note shall inure equally and ratably to the benefit of the Holders of all Outstanding Bonds. So long as no Event of Default has occurred and is subsisting hereunder, payments by the Borrower on the Note shall be used by the Trustee to make a like payment of Bond Service Charges and shall constitute Loan Payments.

Upon payment in full, in accordance with the Indenture, of the Bond Service Charges on any or all Bonds, whether at maturity or otherwise, or upon provision for the payment thereof having been made in accordance with the provisions of the Indenture, (a) the Note shall be deemed fully paid, the obligations of the Borrower thereunder shall be terminated, and the Note shall be surrendered by the Trustee to the Borrower, and shall be canceled by the Borrower, or (b) an appropriate notation shall be endorsed thereon evidencing the date and amount of the principal payment (or prepayment) equal to the Bonds so paid, or with respect to which provision for payment has been made, and the Note shall be surrendered by the Trustee to the Borrower for cancellation if all Bonds shall have been paid (or provision made therefor) and canceled as aforesaid. Unless the Borrower is entitled to a credit under express terms of this Agreement or the Note, all payments on the Note shall be in the full amount required thereunder.

**Section 4.2. Eligible Funds.** In consideration of and as a condition to the disbursement of Bond proceeds in the Project Fund to pay Project Costs, and to secure the Borrower's obligation to make Loan Payments, the Borrower shall direct the Mortgage Lender to deliver or cause to be delivered to the Trustee on or before each such disbursement Eligible Funds equal to the amount of the proposed disbursement from the Project Fund. All such amounts shall be paid to the Trustee for the benefit of the Holders and shall be held in the Collateral Fund and disbursed in accordance with the provisions of the Indenture. Upon receipt of Eligible Funds and satisfaction of the other conditions set forth in Section 3.6 hereof, the Trustee shall be unconditionally and irrevocably obligated to disburse an equal amount of funds in the Project Fund to, or at the direction of, the Mortgage Lender as provided in Section 3.6 hereof. In no event may funds held in the Collateral Fund be used to pay Project Costs.

**Section 4.3. Bond Fund and Collateral Fund.** The Borrower and the Issuer each acknowledge that any interest of either the Borrower or the Issuer in the Bond Fund or the Collateral Fund and any money deposited therein is subordinate to the interest of the Holders therein.

**Section 4.4. Additional Payments.** The Borrower shall pay as Additional Payments hereunder the following:

- (a) Whether out of the proceeds of the Mortgage Loan or other funds, all Costs of Issuance of the Bonds, and all expenses incurred in closing the Mortgage Loan.
- (b) All Extension Payments and other sums required under Section 3.07 of the Indenture in order to revise or extend the Mandatory Tender Date or remarket the Bonds, and the Borrower further agrees to execute any and all certificates required by the Issuer, the Trustee or the Remarketing Agent in order to effectuate such revision, extension or remarketing.
- (c) To the Trustee, (i) the Ordinary Trustee Fees and Expenses to the extent that the funds available in the Expense Fund for the payment thereof are not sufficient and available therefor and (ii) the Extraordinary Trustee Fees and Expenses.
- (d) To the Issuer (i) the Issuer Ordinary Fees and Expenses to the extent that the funds available under the Indenture for the payment thereof are not sufficient and available therefor and (ii) the Extraordinary Issuer Fees and Expenses.
- (e) All costs of printing any replacement Bonds required to be issued under the Indenture to the extent such costs are not paid by the Holders.
- (f) To the extent not paid by the Trustee from the Expense Fund, all of the fees and expenses of the Rebate Analyst (including, but not limited to, the Rebate Analyst Fee) and any other necessary consultant employed by the Borrower, the Trustee or the Issuer in connection with any of the requirements imposed by Section 4.09 of the Indenture and the Tax Agreement to the extent that the funds available under the Indenture for the payment thereof are not sufficient and available therefor. The Borrower shall provide or cause to be provided all information and money (including money necessary to make deposits to the Rebate Fund required by the Indenture and the Tax Agreement and the fees and expenses of the Rebate Analyst to the extent available money in the Bond Fund under the Indenture are inadequate to pay such amounts) to the Trustee and the Rebate Analyst to enable the Trustee and the Rebate Analyst to comply with the Indenture and the Tax Agreement.
- (g) To the Issuer Servicer, the Issuer Servicer's Fee to the extent the funds available in the Expense Fund are not sufficient and available therefor, as well as any other costs and expenses in order to provide for compliance with the terms of the Issuer Servicer Agreement.
- (h) To the Dissemination Agent, the Dissemination Agent Fee to the extent the funds available in the Expense Fund are not sufficient and available therefor, as well as any other

costs and expenses in order to provide for compliance with the terms of the Continuing Disclosure Agreement.

(i) To the Remarketing Agent, the Remarketing Agent Fee and any Remarketing Expenses.

In the event the Borrower is in default under any provision of any of the Borrower Documents, the Borrower shall be liable to, and upon demand shall pay to, the Issuer, the Trustee and the Mortgage Lender all reasonable fees and disbursements of such persons and their agents (including attorneys' fees and expenses) which are reasonably connected therewith or incidental thereto except to the extent such fees and disbursements are paid from money available therefor under the Indenture.

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

The obligations of the Borrower under this Section shall survive the termination of this Agreement and the payment and performance of all of the other obligations of the Borrower hereunder and under the other Borrower Documents, including the Tax Agreement.

**Section 4.5. Place of Payments.** The Borrower shall make all Loan Payments directly to the Trustee at its Designated Office. The Borrower shall direct the Mortgage Lender to deposit all Eligible Funds directly with the Trustee at its Designated Office. Additional Payments shall be made by the Borrower directly to the person or entity to whom or to which they are due.

**Section 4.6. Obligations Unconditional.** The obligations of the Borrower to make Loan Payments, Additional Payments and any payments required of the Borrower under Sections 4.08 and 4.09 of the Indenture shall be absolute and unconditional, and the Borrower shall make such payments without abatement, diminution or deduction regardless of any cause or circumstances whatsoever including, without limitation, any defense, set-off, recoupment or counterclaim which the Borrower may have or assert against the Issuer, the Trustee or any other Person; provided that the Borrower may contest or dispute the amount of any such obligation arising under Section 4.08 of the Indenture so long as such dispute or contest does not result in an Event of Default under the Indenture. Notwithstanding the above, the obligations of the Borrower are non-recourse pursuant to the Mortgage Loan Documents and Section 8.6 hereof.

**Section 4.7. Assignment of Agreement and Revenues; Trustee is Third Party Beneficiary.** To secure the payment of Bond Service Charges, the Issuer shall assign to the Trustee, by the Indenture, its rights under and interest in this Agreement (except for the Reserved Rights). The Borrower hereby agrees and consents to those assignments. The Issuer shall not attempt to further assign, transfer or convey its interest in the Revenues or this Agreement or create any pledge or

lien of any form or nature with respect to the Revenues, Loan Payments or Eligible Funds hereunder.

The Trustee shall be a third party beneficiary to this Agreement.

## **ARTICLE V ADDITIONAL AGREEMENTS AND COVENANTS**

**Section 5.1. Right of Inspection.** At all reasonable times and upon reasonable notice, the Borrower shall allow any duly authorized representative of the Issuer or the Trustee to visit and inspect the Project, to examine and make copies of and from its books of record and account, and to discuss its affairs, finances, and accounts with its officers, and shall furnish to the Issuer and the Trustee any information reasonably required regarding its business affairs and financial condition within a reasonable time after receipt of written request therefor.

**Section 5.2. Borrower to Maintain its Existence; Sale of Project.** The Borrower shall maintain its existence, not dissolve or sell, transfer or otherwise dispose of all or substantially all of its assets and not consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it, or take any action or allow any action to be taken to terminate the existence of the Borrower; provided, however, that it may do so if the surviving, resulting or transferee entity is (i) other than the Borrower, (ii) assumes in writing all of the obligations of the Borrower under the Borrower Documents and (iii) has a net worth equal to or greater than that of the Borrower immediately prior to such consolidation, merger, sale or transfer. Notwithstanding the foregoing, the general partnership interest of the Borrower may be transferred in accordance with the provisions of the Equity Bridge Loan Documents.

No sale, assignment or transfer of title to the Project, except as may be otherwise required by Fannie Mae or the Mortgage Lender, shall be made unless (a) the Mortgage Lender and Fannie Mae consent to such assignment or transfer, (b) the transferee or assignee, as the case may be, assumes all the duties of the Borrower under the Borrower Documents, provided that such assumption may contain an exculpation of the assignee from personal liability with respect to any obligation hereunder, except the Borrower's obligation to indemnify the Trustee and reimburse the Trustee for the fees and expenses of the Trustee, and (c) no Event of Default as certified in writing to the Trustee by the Borrower shall have occurred and be continuing under the Indenture or this Agreement. The Trustee shall consent to any such assignment or transfer if (i) the Mortgage Lender notifies it in writing that the aforesaid condition (a) is satisfied, (ii) the Trustee receives an Opinion of Bond Counsel to the effect that such transfer or assignment would not adversely affect the Federal Tax Status of the Bonds, and (iii) the Trustee receives written confirmation from the Rating Agency that such transfer or assignment will not result in a withdrawal or reduction in any rating on the Outstanding Bonds by the Rating Agency (if the Bonds are then rated by the Rating Agency). Upon the assumption of the duties of the Borrower by an assignee as provided herein, the outgoing Borrower shall be released from all executory obligations so assumed; provided, however, the Borrower shall not be released from its obligation to pay or reimburse the fees and expenses of the Issuer and the Trustee and to indemnify the Trustee and the Issuer without the express written consent of the Trustee and the Issuer, as applicable, which consent shall not be unreasonably withheld. Nothing contained in this Section shall be construed to supersede any

provisions regarding assignment and transfer of the Project contained in the Mortgage Loan Documents.

Notwithstanding anything to the contrary contained herein or in any other Borrower Document, the following shall be permitted and shall not require the prior written approval of Issuer or Trustee, (a) the transfer by Investor Limited Partner of its interest in Borrower in accordance with the terms of Borrower's Organizational Documents, (b) the removal of the Managing Member of Borrower in accordance with the Organizational Documents and the replacement thereof with the Investor Limited Partner or any of its affiliates, (c) the transfer of ownership interests in the Investor Limited Partner, and (d) any amendment to the Organizational Documents to memorialize the transfers or removals described above. The parties agree that this section shall control to the extent of any conflict in any Borrower Documents. Trustee and Issuer agree that all approvals and consents of the Trustee and/or Issuer under any loan documents related to the Bonds shall not be unreasonably withheld, delayed, or conditioned. Furthermore, the Trustee and Issuer each consents to those purchase options and rights of first refusal in favor of the Managing Member of Borrower or its designee which are set forth in Borrower's Organizational Documents, and agrees that transfer of title to the Project in accordance therewith shall not constitute a default under the loan documents related to the Bonds, provided that Borrower gives Trustee and Issuer prior written notice of such transfer and contact information for such transferee, and provided that the transferee agrees to assume the duties and obligations of the Borrower respecting the Loan on the same terms as those imposed on the Borrower.

**Section 5.3. Indemnification.** The Borrower releases the Issuer Indemnified Parties and the Trustee from, agrees that the Issuer Indemnified Parties and the Trustee shall not be liable for, and indemnifies, defends and holds the Issuer Indemnified Parties, the Trustee and the Trustee's members, employees, officers and agents harmless against, all liabilities, claims, costs and expenses and attorneys' fees (including, without limitation, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) imposed upon, incurred or asserted against the Issuer Indemnified Parties 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, rehabilitation, 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 violation of any environmental law, rule or regulation with respect to, or the release of any hazardous material from the Project or any part thereof; (c) any lien (other than liens permitted under the Mortgage Loan Documents) or any taxes (including, without limitation, all ad valorem taxes, assessments, impositions and other charges imposed on the Issuer Indemnified Parties or the Trustee with respect to the Project or any portion thereof); (d) any breach or default on the part of the Borrower in the performance of any covenant or agreement of the Borrower under this Agreement, the Regulatory Agreement, the Note or any related document, or arising from any act or failure to act by the Borrower, or any of its agents, contractors, servants, employees or licensees; (e) the Borrower's failure to comply with any requirement of this Agreement including the covenant in Section 5.4 hereof; (f) any action taken or omitted to be taken by the Issuer Indemnified Parties or the Trustee at the request of or with the consent of the Borrower; (g) the issuance, offering, sale, delivery or remarketing of the Bonds; (h) any loss of the tax exemption on the Bonds; (i) any audit or inquiry by the Internal Revenue Service with respect to the Project



and/or the tax-exempt status of the Bonds; and (j) any other claim, action or proceeding brought with respect to any matter set forth in clause (a), (b), (c), (d), (e), (f), (g) or (h) 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 Indemnified Parties or the gross negligence or willful misconduct of the Trustee or any information provided by the Issuer Indemnified Parties or the Trustee in writing for use in connection with the offering and sale of the Bonds; and provided, further, that nothing herein shall be construed as an indemnification of the obligation to pay principal or interest on the Loan as provided in the Indenture.

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

In case any action or proceeding is brought against the Issuer Indemnified Parties 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 commissioners, officials, directors, officers and employees of the Issuer Indemnified Parties and the Trustee, and any predecessor Trustee, respectively. That indemnification is intended to and shall be enforceable by the Issuer Indemnified Parties and the Trustee, respectively, to the full extent permitted by law.

**Section 5.4. Tax Covenants.** The Borrower, for the benefit of the Issuer and each Holder, represents that it has taken and caused to be taken, and covenants that it will take and cause to be taken, all actions that may be required of it, alone or in conjunction with the Issuer, to maintain the Federal Tax Status of the Bonds. The Borrower represents that it has not taken or permitted to be taken on its behalf, and covenants that it will not take or permit to be taken on its behalf, any actions that would adversely affect such Federal Tax Status. The Borrower agrees that it will not make any changes in the Project which will result in a violation of the limitation of the maturity of the Bonds under Section 147(b) of the Code.

If the Borrower becomes aware of any situation, event or condition which would adversely affect the Federal Tax Status of the Bonds, the Borrower shall promptly give written notice thereof to the Issuer, the Mortgage Lender and the Trustee.

The Issuer covenants that it will take, or require to be taken, all actions that may be required of the Issuer to maintain the Federal Tax Status of the Bonds. It will not take or authorize to be taken any actions that would adversely affect such Federal Tax Status under the Code.

The Borrower and the Issuer have entered into the Tax Agreement and will enter into the Regulatory Agreement for purposes of assuring that the Federal Tax Status of the Bonds will be maintained.

**Section 5.5. Affirmative Covenants.**

(a) Maintenance of Project. The Borrower shall maintain and preserve the Project in good working order and condition, ordinary wear and tear excepted, and shall from time to time make all necessary repairs, renewals, replacements, additions and improvements to the Project. All damage to apartment units shall be repaired promptly and apartment units shall be maintained so as to be available at all times for habitation.

(b) Keeping of Records and Books of Account. The Borrower shall keep adequate records and books of account in which complete entries will be made in accordance with the requirements of HUD or indicating deviations therefrom, reflecting all financial transactions.

(c) Payment of Taxes, Etc. The Borrower shall promptly pay and discharge: all taxes, assessments, fees, and other Governmental charges or levies or imposed upon it or upon any of its properties, income or profits, before the same shall become delinquent; all lawful claims of materialmen, mechanics, carriers, warehousemen, landlords and other similar Persons for labor, materials, supplies and rentals, which if unpaid might by law become a lien upon its properties; any indebtedness heretofore or hereafter incurred by it when due, and discharge, perform and observe covenants, provisions and conditions to be discharged, performed and observed by it in connection therewith, or in connection with any agreement or other instrument relating thereto or in connection with any lien existing at any time upon any of its properties; provided, however, that the Borrower shall not be required to pay any of the foregoing if (a) the amount, applicability or validity thereof shall currently be contested in good faith by appropriate proceedings, (b) the Borrower shall have set aside on its books adequate reserves with respect thereto and (c) the title of the Borrower to, and its right to use, its properties is not materially and adversely affected thereby. The Borrower hereby agrees that, in the event it fails to pay or cause to be paid taxes, assessments, fees and other Governmental charges or levies or the premium on any required insurance, the Trustee may make such payment, but is not obligated to do so, and the Borrower shall reimburse the Trustee therefor with interest on the amount so advanced at the Interest Rate for Advances.

(d) Insurance. The Borrower shall maintain or cause to be maintained at all times insurance of such types and in such amounts as may be required by the Mortgage Loan Documents. The Trustee and Issuer each agrees that insurance and condemnation proceeds shall be used to rebuild or restore the Project provided that (i) if such proceeds are not reasonably sufficient to so rebuild or repair, sufficient additional funds are provided from other sources to rebuild or restore the Project and (ii) Trustee and Issuer shall have the right to reasonably approve plans and specifications for any major rebuilding and the right to reasonably approve disbursement of such

proceeds under a construction escrow or similar arrangement, subject to the rights of Mortgage Lender.

(e) Performance of Contracts, Etc. Except to the extent contested in good faith, the Borrower shall perform according to and shall comply with all of its contractual obligations and all requirements of law if nonperformance thereof would materially and adversely affect the business or credit of the Borrower on an individual basis or would materially impair the ability of the Borrower to perform this Agreement, the Regulatory Agreement or the Note or any other agreement or instrument herein or therein contemplated.

(f) Cooperation in Perfecting Security Interests, Etc. The Borrower shall promptly perform such acts as may be necessary or advisable to perfect and maintain any lien provided for in this Agreement or in any agreement or document contemplated herein or therein, or otherwise to carry out the intent of this Agreement. The Borrower shall, and shall promptly execute, deliver and perform or cause to be done, executed, delivered and performed all such documents, instruments, agreements, things and acts, including, without limitation, financing statements, continuation statements and mortgages as may be necessary or advisable to perfect or maintain a lien on any and all assets or rights owned by the Borrower, or any interest of the Borrower therein, and the Trustee and its officers, employees and authorized agents, or any of them, are hereby irrevocably appointed the attorneys-in-fact of the Borrower to do all acts and things which the Trustee may deem necessary or advisable to preserve, perfect and continue perfected any lien in favor of the Trustee. The Trustee shall not be responsible for filing or for the sufficiency or accuracy or any financing statements initially filed to perfect security interests granted under the Indenture or this Agreement or in any agreement or document contemplated herein or therein, or otherwise to carry out the intent of this Agreement. The Trustee shall file continuation statements with respect to each U.C.C. financing statement relating to the trust estate filed by the Borrower at the time of this issuance of the Bonds; provided that a copy of the filed initial financing statement is timely delivered to the Trustee. In addition, unless the Trustee shall have been notified in writing by the Borrower that any such initial filing or description of collateral was or has become defective, the Trustee shall be fully protected in (a) relying on such initial filing and descriptions in filing any financing or continuation statements or modifications thereto pursuant to this section and (b) filing any continuation statements in the same filing offices as the initial filings were made. The Borrower shall be responsible for the customary fees charged by the trustee for the preparation and filing continuation statements and for the reasonable costs incurred by the Trustee in the preparation and filing of all continuation statements hereunder, including attorney's fees and expenses.

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

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

connection with the Project or working in or on the Project. The Borrower will require each manager of the Project to covenant that in the leasing of the Project it will not discriminate by reason of race, creed, color, handicap, national origin or sex.

**Section 5.6. Negative Covenants.** So long as no Event of Default or Default hereunder shall have occurred and be continuing, the Borrower shall be permitted to incur any indebtedness for any Project Cost or other obligation or payment due under this Agreement, the Indenture or the Regulatory Agreement.

**Section 5.7. Nature of Business.** The Borrower will not change the general character of its business as conducted at the date hereof, or engage in any type of business not reasonably related to its business as normally conducted.

**Section 5.8. Continuing Disclosure.** The Borrower hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. Notwithstanding any other provision of this Agreement or the Indenture, failure of the Borrower to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default hereunder or under the Indenture or a default with respect to the Bonds or the Mortgage Loan Documents.

## **ARTICLE VI PREPAYMENT AND TERMINATION**

**Section 6.1. Optional Prepayment.** Provided no Event of Default shall have occurred and be continuing, at any time and from time to time, the Borrower may deliver money to the Trustee in addition to Loan Payments or Additional Payments required to be made as a prepayment, in whole or in part, of the Loan and direct the Trustee to use the money so delivered for the purpose of purchasing Bonds, in accordance with the Indenture. Pending application for those purposes, any money so delivered shall be held by the Trustee in a special account in the Bond Fund and delivery of such money shall not operate to abate or postpone Loan Payments or Additional Payments otherwise becoming due or to alter or suspend any other obligations of the Borrower under this Agreement.

**Section 6.2. Borrower's Obligations Upon Tender of Bonds.** If any Tendered Bond is not remarketed on any Mandatory Tender Date and a sufficient amount is not available in the Collateral Fund, the Negative Arbitrage Account of the Bond Fund, and the Project Fund as provided in Section 3.05(e) of the Indenture for the purpose of paying the purchase price of such Bond, the Borrower will cause to be paid to the Trustee by the applicable times provided in the Indenture, an amount equal to the amount by which the principal amount of all Bonds tendered and not remarketed, together with interest accrued to the Mandatory Tender Date, exceeds the amount otherwise available pursuant to Section 3.05(e) of the Indenture.

**Section 6.3. Option to Terminate.** The Borrower shall have the option to cancel or terminate this Agreement at any time when (a) the Indenture shall have been released in accordance with its provisions, and (b) sufficient money or security acceptable to the Issuer and the Trustee are on deposit with the Trustee or the Issuer, or both, to meet all Loan Payments and Additional Payments due or to become due through the date on which the last of the Bonds is then scheduled to be

retired or redeemed, or, with respect to Additional Payments to become due, provisions satisfactory to the Trustee and the Issuer are made for paying such amounts as they come due. Such option shall be exercised by the Authorized Borrower Representative, on behalf of the Borrower, giving the Issuer and the Trustee five days' notice in writing of such cancellation or termination and such cancellation or termination shall become effective at the end of such notice period. The provisions of this Section shall not be deemed to permit a prepayment of the Note other than in accordance with its terms.

## **ARTICLE VII EVENTS OF DEFAULT AND REMEDIES**

**Section 7.1. Events of Default.** Each of the following shall be an Event of Default hereunder:

- (a) The Borrower shall fail to pay any Loan Payment on or prior to the date on which that Loan Payment is due and payable to the extent amounts on deposit in the Bond Fund, including amounts transferred from the Collateral Fund and the Project Fund are insufficient to pay the Bond Service Charges due on the next Bond Payment Date;
- (b) The Borrower shall fail to observe and perform any other agreement, term or condition contained in this Agreement or any other Financing Document and the continuation of such failure for a period of 60 days after written notice thereof shall have been given to the Borrower and the Investor Limited Partner by the Issuer or the Trustee, or for such longer period as the Issuer and the Trustee may agree to in writing; provided, that if the failure is other than the payment of money and is of such nature that it can be corrected but not within the applicable period, that failure shall not constitute an Event of Default so long as the Borrower institutes curative action within the applicable period and diligently pursues that action to completion, which must be resolved within 180 days after the aforementioned notice;
- (c) The Borrower shall: (i) admit in writing its inability to pay its debts generally as they become due; (ii) have an order for relief entered in any case commenced by or against it under the federal bankruptcy laws, as now or hereafter in effect, which is not dismissed within 90 days; (iii) commence a proceeding under any other federal or state bankruptcy, insolvency, reorganization or similar law, or have such a proceeding commenced against it and either have an order of insolvency or reorganization entered against it or have the proceeding remain undismissed and unstayed for ninety days; (iv) make an assignment for the benefit of creditors; or (v) have a receiver or trustee appointed for it or for the whole or any substantial part of its property which appointment is not vacated within a period of 90 days;
- (d) Any representation or warranty made by the Borrower herein or any statement in any report, certificate, financial statement or other instrument furnished in connection with this Agreement or with the purchase of the Bonds shall at any time prove to have been false or misleading in any adverse material respect when made or given; provided, however, that the Borrower shall have sixty (60) days to cure such representation beginning on the date such statement is made or given; and
- (e) There shall occur an “Event of Default” (as defined in the Indenture) by the Borrower or an event of default beyond applicable notice and cure periods under the Regulatory Agreement.

Notwithstanding the foregoing, if, by reason of Force Majeure, the Borrower is unable to perform or observe any agreement, term or condition hereof which would give rise to an Event of Default under subsection (b) hereof, the Borrower shall not be deemed in default during the continuance of such inability. However, the Borrower shall promptly give written notice to the Trustee and the Issuer of the existence of an event of Force Majeure and shall use commercially reasonable efforts to remove the effects thereof; provided that the settlement of strikes or other industrial disturbances shall be entirely within its discretion.

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

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

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

**Section 7.2. Remedies on Default.** Whenever an Event of Default shall have happened and be subsisting, any one or more of the following remedial steps may be taken:

- (a) If acceleration of the principal amount of the Bonds has been declared pursuant to Section 6.03 of the Indenture, the Trustee shall declare all Loan Payments to be due and payable together with any other amounts payable by the Borrower under this Agreement and the Note whereupon the same shall become immediately due and payable;<sup>1</sup>
- (b) The Trustee may exercise any or all or any combination of the remedies specified in this Agreement or any other Financing Document;
- (c) The Issuer or the Trustee may have access to, inspect, examine and make copies of the books, records, accounts and financial data of the Borrower pertaining to the Project; or
- (d) The Issuer or the Trustee may pursue all remedies now or hereafter existing at law or in equity to collect all amounts then due and thereafter to become due under this Agreement and the

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<sup>1</sup> Colliers Team: The Borrower team has requested language allowing for defeasance/purchase in lieu of acceleration at the election of the Borrower. Please coordinate and advise.

Regulatory Agreement and the Note or to enforce the performance and observance of any other obligation or agreement of the Borrower under those instruments.

Notwithstanding the foregoing, neither the Issuer nor the Trustee shall be obligated to take any step which in its opinion will or might cause it to expend time or money or otherwise incur liability unless and until a satisfactory indemnity bond has been furnished to the Issuer or the Trustee at no cost or expense to the Issuer or the Trustee. Any amounts collected as Loan Payments or applicable to Loan Payment and any other amounts which would be applicable to payment of Bond Service Charges collected pursuant to action taken under this Section shall be paid into the Bond Fund and applied in accordance with the provisions of the Indenture or, if the Outstanding Bonds have been paid and discharged in accordance with the provisions of the Indenture, shall be paid as provided in Section 4.14 of the Indenture for transfers of remaining amounts in the Bond Fund.

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

**Section 7.3. No Remedy Exclusive.** No remedy conferred upon or reserved to the Issuer or the Trustee by this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement, the Regulatory Agreement or the Note, or now or hereafter existing at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair that right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than any notice required by law or for which express provision is made herein.

**Section 7.4. Agreement to Pay Attorneys' Fees and Expenses.** If an Event of Default should occur and the Issuer or the Trustee should incur expenses, including reasonable attorneys' fees, in connection with the enforcement of this Agreement, the Regulatory Agreement or the Note or the collection of sums due thereunder, the Borrower shall reimburse the Issuer and the Trustee, as applicable, for the expenses so incurred upon demand.

**Section 7.5. No Waiver.** No failure by the Issuer or the Trustee to insist upon the strict performance by the Borrower of any provision hereof shall constitute a waiver of their right to strict performance and no express waiver shall be deemed to apply to any other existing or subsequent right to remedy the failure by the Borrower to observe or comply with any provision hereof.

**Section 7.6. Notice of Default.** The Borrower shall notify the Trustee in writing immediately if it becomes aware of the occurrence of any Event of Default hereunder or of any fact, condition

or event which, with the giving of notice or passage of time or both, would become an Event of Default.

**Section 7.7. Limited Partners' Cure Rights.** The Issuer hereby agrees that any cure of any Event of Default hereunder made or tendered by the Investor Limited Partner shall be deemed to be a cure by the Borrower, and shall be accepted or rejected by the Issuer on the same basis as if made or tendered by the Borrower.

## **ARTICLE VIII MISCELLANEOUS**

**Section 8.1. Term of Agreement.** This Agreement shall be and remain in full force and effect from the date of delivery of the Bonds to the Holder until such time as all of the Bonds shall have been fully paid (or provision made for such payment) pursuant to the Indenture and all other sums payable by the Borrower under this Agreement and the Note shall have been paid, except for obligations of the Borrower under Sections 3.8, 3.12, 4.4, 5.3, and 5.4 hereof, which shall survive any termination of this Agreement.

**Section 8.2. Amounts Remaining in Funds.** Subject to any applicable escheat laws, any amounts in the Bond Fund remaining unclaimed by the Holders of Bonds for four years after the due date thereof (whether at stated maturity or otherwise), at the option of the Borrower, shall be deemed to belong to and shall be paid, at the written request of the Borrower, to the Borrower by the Trustee as overpayment of Loan Payments. With respect to that principal of and interest on the Bonds to be paid from money paid to the Borrower pursuant to the preceding sentence, the Holders of the Bonds entitled to such money shall look solely to the Borrower for the payment of such money. Further, any amounts remaining in the Bond Fund, the Project Fund and any other Special Funds or accounts created under this Agreement, the Regulatory Agreement or the Indenture after all of the Outstanding Bonds shall be deemed to have been paid and discharged under the provisions of the Indenture and all other amounts required to be paid under this Agreement, the Note, Regulatory Agreement and the Indenture have been paid, shall, subject to Section 4.14 of the Indenture, be paid to the Borrower to the extent that such money are in excess of the amounts necessary to effect the payment and discharge of the Outstanding Bonds.

**Section 8.3. Notices.** All notices, certificates, requests or other communications hereunder shall be in writing and shall be deemed to be sufficiently given when mailed by registered or certified mail, postage prepaid, or forwarded by overnight courier service, delivery charges prepaid, and addressed to the appropriate Notice Address. A duplicate copy of each notice, certificate, request or other communication given hereunder to the Issuer, the Borrower, the Investor Limited Partner, the Mortgage Lender, or the Trustee shall also be given to the others. The Borrower, the Issuer, the Mortgage Lender, the Investor Limited Partner and the Trustee, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

**Section 8.4. Extent of Covenants of the Issuer; No Personal Liability.** All covenants, obligations and agreements of the Issuer contained in this Agreement and the Indenture shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future



commissioner, member, director, officer, agent or employee of the Issuer, other than their official capacity, and neither the members of the Issuer nor any official executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof or by reason of the covenants, obligations or agreements of the Issuer contained in this Agreement or in the Indenture.

**Section 8.5. Limited Liability of the Issuer.** All obligations of the Issuer incurred hereunder and under the Indenture shall be limited obligations of the Issuer, payable solely and only from Bond proceeds, revenues and other amounts derived by the Issuer from the Trust Estate. No agreements or provisions contained in this Agreement or any agreement, covenant or undertaking by the Issuer contained in any document executed by the Issuer in connection with the Project or the issuance, sale and delivery of the Bonds shall give rise to any pecuniary liability of the Issuer or a charge against its general credit or shall obligate the Issuer financially in any way except with respect to this Agreement and the application of revenues therefrom that have been pledged to the payment of the Bonds and of the proceeds of the Bonds. No failure of the Issuer to comply with any term, condition, covenant or agreement herein shall subject the Issuer to liability for any claim for damages, costs or other financial or pecuniary charge except to the extent that the same can be paid or recovered from this Agreement or revenues therefrom that have been pledged to the payment of the Bonds or proceeds of the Bonds. Nothing herein shall preclude a proper party in interest from seeking and obtaining to the extent permitted by law specific performance against the Issuer for any failure to comply with any term, condition, covenant or agreement herein; provided that no costs, expenses or other monetary relief shall be recoverable from the Issuer except as may be payable from this Agreement or revenues therefrom that have been pledged to the payment of the Bonds or the proceeds of the Bonds. Anything herein to the contrary notwithstanding, the Issuer shall not be obligated to take any action or execute any instruments pursuant to any provision of this Agreement until it shall have been requested to do so by the Borrower or the Trustee and shall have received from the Borrower, the Trustee, or the Holders assurance satisfactory to the Issuer that it will be indemnified, and reimbursed for its reasonable expenses incurred in taking such action or executing such instruments.

**THE ISSUER SHALL NOT IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS, OR FOR THE PERFORMANCE OF ANY PLEDGE, MORTGAGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WHICH MAY BE UNDERTAKEN BY THE ISSUER EXCEPT FROM THE SOURCES SPECIFICALLY PLEDGED THERETO PURSUANT TO THE INDENTURE, AND NEITHER THE BONDS NOR ANY OF THE AGREEMENTS OR OBLIGATIONS OF THE ISSUER SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE BONDS AND THE INTEREST THEREON SHALL NOT BE DEEMED TO CONSTITUTE OR TO CREATE IN ANY MANNER A DEBT, LIABILITY OR OBLIGATION OF THE STATE, ST. JOHNS COUNTY, FLORIDA (THE "COUNTY") OR OF ANY MUNICIPALITY OR ANY POLITICAL SUBDIVISION THEREOF OR A PLEDGE OR A GRANT OF THE FAITH AND CREDIT OF THE STATE, THE COUNTY, ANY MUNICIPALITY OR ANY SUCH POLITICAL SUBDIVISION, BUT SHALL BE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE SECURITY AND OTHER FUNDS PLEDGED THEREFOR AND SHALL NOT BE**

**PAYABLE FROM ANY OTHER ASSETS OR FUNDS OF THE ISSUER, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE, THE COUNTY, ANY MUNICIPALITY OR ANY POLITICAL SUBDIVISION IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS. THE ISSUER HAS NO TAXING POWER.**

**NEITHER THE DIRECTORS OR MEMBERS OF THE ISSUER NOR ANY PERSON EXECUTING THE BONDS SHALL BE LIABLE PERSONALLY ON THE BONDS BY REASON OF THE ISSUANCE THEREOF. THE BONDS AND OTHER OBLIGATIONS OF THE ISSUER SHALL NOT BE A DEBT OF THE COUNTY, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) AND NEITHER THE COUNTY, NOR THE STATE OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) SHALL BE LIABLE THEREON, NOR IN ANY EVENT SHALL SUCH BONDS OR OBLIGATIONS BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN THOSE OF THE ISSUER. THE BONDS SHALL NOT CONSTITUTE AN INDEBTEDNESS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION.**

**Section 8.6. Limited Liability of Borrower.** Anything in this Agreement to the contrary notwithstanding, the monetary obligations of the Borrower contained in this Agreement (except for fees, payments and indemnification under Sections 3.12, 4.4, 5.3 and 7.4 hereof) shall be limited obligations payable solely from the income and assets of the Project and neither the Borrower nor any partner, Investor Limited Partner, manager, member, director, official or officer of the Borrower shall have any personal liability for the satisfaction of any obligation of the Borrower or claim against the Borrower, arising out of this Agreement. Notwithstanding anything contained in this Agreement to the contrary, neither the Issuer nor the Trustee may assert any claim arising hereunder against the Borrower's interest in the Project, any reserve or deposit made with the Mortgage Lender or with any other entity that is required by Fannie Mae in connection with the Mortgage Loan, or in the rents or other income of the Project for the payment of any charge due hereunder.

**Section 8.7. Binding Effect.** This Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the Issuer, the Borrower, the Trustee and their respective permitted successors and assigns provided that this Agreement may not be assigned by the Borrower (except in connection with a sale or transfer of assets pursuant to Section 5.2 hereof) and may not be assigned by the Issuer except to the Trustee pursuant to the Indenture or as otherwise may be necessary to enforce or secure payment of Bond Service Charges. This Agreement may be enforced only by the parties, their assignees and others who may, by law, stand in their respective places.

**Section 8.8. Amendments and Supplements.** Except as otherwise expressly provided in this Agreement or the Indenture, subsequent to the issuance of the Bonds and prior to all conditions provided for in the Indenture for release of the Indenture having been met, this Agreement, the Regulatory Agreement and the Note may not be effectively amended, changed, modified, altered or terminated except in accordance with the provisions of Article X of the Indenture, as applicable. The Borrower acknowledges and agrees that the Trustee is a third party beneficiary of certain

provisions of this Agreement and no amendment hereof that adversely impacts the Trustee shall be effective unless consented to by the Trustee.

**Section 8.9. Execution Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

**Section 8.10. Severability.** If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

**Section 8.11. Governing Law.** This Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State.

**Section 8.12. Conflict; Subordination.** In the event of a conflict between the terms of this Agreement and the Mortgage Loan Documents, the Mortgage Loan Documents shall govern. Issuer and Trustee's rights and interests under this Agreement and any other Financing Document shall be subject and subordinate to the rights and interests of Mortgage Lender and Fannie Mae under the Mortgage Loan Documents.

[Signature Page Follows]

IN WITNESS WHEREOF, the Issuer and the Borrower have caused this Agreement to be duly executed in their respective names, all as of the date hereinbefore written.

**HOUSING FINANCE AUTHORITY OF ST.  
JOHNS COUNTY, FLORIDA**

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

ATTEST:

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

**PONTE VEDRA BEACH LEASED HOUSING  
ASSOCIATES I, LLLP,**  
a Minnesota limited liability limited partnership

By: PONTE VEDRA LEASED HOUSING  
ASSOCIATES I, LLC, its general partner  
and manager

By: \_\_\_\_\_  
Name: Terrence M. Sween  
Title: Vice President

**SCHEDULE I**  
**FORM OF REGULATORY AGREEMENT**

(See Attached)

**EXHIBIT A**  
**FORM OF NOTE**

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

[\$[2023A PAR]

December \_\_, 2023

Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “**Borrower**”), for value received, promises to pay in installments to the Housing Finance Authority of St. Johns County, Florida (the “**Issuer**”), the principal amount of

\_\_\_\_\_ AND 00/100 DOLLARS (\$[2023A PAR])

and to pay interest on the unpaid balance of such principal sum from and after the date hereof at the rate or rates set forth in the Bonds (as defined below), until the payment of such principal sum has been made or provided for. The principal amount stated above shall be paid on or before July 1, 2028. Interest shall be calculated on the basis of a 360-day year of 12 equal months. Interest on this Note shall be paid in Federal Reserve funds on each Interest Payment Date set forth in the Bonds.

This Note has been executed and delivered by the Borrower to U.S. Bank Trust Company, National Association, as trustee (the “**Trustee**”) under the Indenture hereinafter referred to pursuant to a certain Loan Agreement (the “**Loan Agreement**”) dated as of December 1, 2023, between the Issuer and the Borrower. Terms used but not defined herein shall have the meanings ascribed to such terms in the Loan Agreement and the Indenture, as defined below.

Under the Loan Agreement, the Issuer has loaned the Borrower the principal proceeds received from the sale of the Issuer's \$[2023A PAR] Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023A dated December \_\_, 2023 (the “**Bonds**”) to assist in the financing of the Project, and the Borrower has agreed to repay such loan by making payments (“**Loan Payments**”) at the times and in the amounts set forth in this Note for application to the payment of Bond Service Charges on the Bonds as and when due. The Bonds have been issued, concurrently with the execution and delivery of this Note, pursuant to, and are secured by, the Trust Indenture (the “**Indenture**”), dated as of December 1, 2023, between the Issuer and the Trustee. The Issuer's rights under the Loan Agreement and this Note (other than the Reserved Rights, as defined in the Indenture) have been assigned to the Trustee pursuant to the Indenture and the Endorsement attached hereto.

To provide funds to pay the principal of and interest on the Bonds as and when due as specified herein, the Borrower hereby agrees to and shall make Loan Payments in Federal Reserve funds on each Interest Payment Date in an amount equal to the Bond Service Charges on the Bonds payable on such Interest Payment Date. In addition, to provide funds to pay the Bond Service Charges on the Bonds as and when due at any other time, the Borrower hereby agrees to and shall make Loan Payments in Federal Reserve funds on any other date on which any Bond Service Charges on the Bonds shall be due and payable, whether at maturity, upon acceleration or otherwise, in an amount equal to those Bond Service Charges.

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

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

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

This Note is subject to prepayment, in whole or in part, without premium or penalty, upon the terms and conditions set forth in Article VI of the Loan Agreement. Any prepayment is subject to satisfaction of any applicable notice, deposit or other requirements set forth in the Agreement or the Indenture.

Whenever an Event of Default under Section 6.01 of the Indenture shall have occurred and, as a result thereof, the principal of and any premium on all Bonds then Outstanding, and interest accrued thereon, shall have been declared to be immediately due and payable pursuant to Section 6.03 of the Indenture, the unpaid principal amount of and any premium and accrued interest on this Note shall also be due and payable in Federal Reserve funds on the date on which the principal of and premium and interest on the Bonds shall have been declared due and payable; provided that the annulment of a declaration of acceleration with respect to the Bonds shall also constitute an annulment of any corresponding declaration with respect to this Note.

The payment obligations of this Note are non-recourse to the Borrower to the extent set forth in Section 8.6 of the Loan Agreement.

[Remainder of page intentionally left blank]



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

**PONTE VEDRA BEACH LEASED HOUSING  
ASSOCIATES I, LLLP,**  
a Minnesota limited liability limited partnership

By: PONTE VEDRA LEASED HOUSING  
ASSOCIATES I, LLC, its general partner  
and manager

By: \_\_\_\_\_  
Terrence M. Sween, Vice President

**ENDORSEMENT**

Pay to the order of U.S. Bank Trust Company, National Association, as trustee, without recourse, as Trustee under the Indenture referred to in the within mentioned Note, as security for the Bonds issued under the Indenture. This endorsement is given without any warranty as to the authority or genuineness of the signature of the maker of the Note.

**HOUSING FINANCE AUTHORITY OF ST.  
JOHNS COUNTY, FLORIDA**

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

Dated: December \_\_, 2023

**EXHIBIT B**

**FORM OF DISBURSEMENT REQUEST**

STATEMENT NO. \_\_\_\_\_ REQUESTING DISBURSEMENT OF FUNDS FROM  
PROJECT FUND PURSUANT TO SECTION 3.6 OF THE LOAN AGREEMENT

Pursuant to Section 3.6 of the Loan Agreement (the “**Loan Agreement**”) between the Housing Finance Authority of St. Johns County, Florida (the “**Issuer**”) and Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “**Borrower**”) dated as of December 1, 2023, the undersigned Authorized Borrower Representative hereby requests and authorizes U.S. Bank Trust Company, National Association, as trustee (the “**Trustee**”), as depository of the Project Fund created by the Trust Indenture between the Issuer and the Trustee dated as of December 1, 2023 (the “**Indenture**”), to make a disbursement out of the money deposited in the Project Fund.

Disbursement is subject to the following conditions:

- (1) The amount of this disbursement shall be \$\_\_\_\_\_.
- (2) The expected disbursement date is \_\_\_\_\_.
- (3) The disbursement is conditioned on receipt by the Trustee of the amount of \$\_\_\_\_\_ by wire transfer from [the Issuer][the Mortgage Lender][the Equity Bridge Lender][the Subordinate Lender][the Seller Lender] prior to the disbursement requested by this Disbursement Request.
- (4) Colliers Mortgage LLC (the “**Mortgage Lender**”) has directed that disbursement is to be made in accordance with the following wire instructions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

In connection with the foregoing request and authorization, the undersigned Authorized Borrower Representative hereby certifies that:

- (a) Each item for which disbursement is requested hereunder is properly payable out of the Project Fund in accordance with the terms and conditions of the Loan Agreement and none of those items has formed the basis for any disbursement heretofore made from said Project Fund.
- (b) Each such item is or was necessary in connection with the acquisition, rehabilitation, installation, equipment or improvement of the Project, as defined in the Indenture.
- (c) Each item for which disbursement is requested hereunder, and the cost for each such item, is as described in the information statement filed by the Issuer in connection with the issuance of

the Bonds (as defined in the Indenture), as required by Section 149(e) of the Code; provided that if any such item is not as described in that information statement, attached hereto is an Opinion of Bond Counsel to the effect that such disbursement will not adversely affect the Federal Tax Status of the Bonds.

(d) There is no current or existing Event of Default pursuant to the terms of the Loan Agreement or the Regulatory Agreement and no event exists which by notice or passage of time or both would constitute an event of default under any of the foregoing documents.

(e) No amount for which disbursement is sought formed the basis for any prior disbursement.

(f) Each item for which disbursement is sought was or is necessary in connection with the Project and qualifies for disbursement pursuant to the provisions of the Loan Agreement.

(g) No representation or warranty of the Borrower contained in the Loan Agreement or the Regulatory Agreement is materially incorrect or inaccurate, and there has been no event of default under the terms of any of those documents and no event shall exist which by notice, passage of time or both would constitute an event of default under any of those documents.

(h) This statement shall be conclusive evidence of the facts and statements set forth herein and shall constitute full warrant, protection and authority to the Trustee for its actions taken pursuant hereto.

(i) No Determination of Taxability (as defined in the Indenture) has occurred with respect to the Bonds.

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

Date: \_\_\_\_\_, 20\_\_

By: \_\_\_\_\_  
Authorized Borrower Representative

**EXHIBIT C**

\$[2023A PAR]  
Housing Finance Authority of St. Johns County, Florida  
Multifamily Housing Revenue Bonds  
(Oaks at St. John), Series 2023A

**FORM OF COMPLETION CERTIFICATE**

Pursuant to Section 3.9 of the Loan Agreement (the “**Loan Agreement**”) between the Housing Finance Authority of St. Johns County, Florida (the “**Issuer**”) and Ponte Vedra Beach Leased Housing Associates I, LLLP, a Virginia limited liability company (the “**Borrower**”) dated as of December 1, 2023, and relating to the captioned Bonds, the undersigned Authorized Borrower Representative hereby certifies that (with capitalized words and terms used and not defined in this Certificate having the meanings assigned or referenced in the Loan Agreement):

- (a) The construction of the Project was substantially completed and available and suitable for use as multifamily housing on \_\_\_\_\_.
- (b) The acquisition, rehabilitation, renovation, equipping and improvement of the Project have been accomplished in such a manner as to conform in all material respects with all applicable zoning, planning, building, environmental and other similar governmental regulations.
- (c) The costs of the Project financed with the Loan were \$\_\_\_\_\_.
- (d) The applicable Government having jurisdiction over the Project has issued all required certificates of occupancy with respect to each building in the Project.
- (e) At least 95% of the proceeds of the Bonds were expended for qualified Project costs as described in the Tax Agreement.
- (f) This Certificate is given without prejudice to any rights against third parties that now exist or subsequently may come into being.

IN WITNESS WHEREOF, the Authorized Borrower Representative has set his or her hand as of the \_\_\_\_ day of \_\_\_\_\_.

By: \_\_\_\_\_  
Authorized Borrower Representative

**EXHIBIT D**

**SOURCES AND USES**

**Sources of Funds**

Bond Proceeds (Par)	\$[2023A PAR].00
Bond Proceeds (Premium)	_____
Mortgage Loan	_____
Federal Tax Credit Equity <sup>1</sup>	_____
Seller Loan	_____

**Total**

**Uses of Funds**

Acquisition Costs	\$_____
Construction Costs	_____
Architect/Engineer/Third Party	_____
Developer Legal Fees	_____
Financing Fees	_____
Costs of Issuance	_____
Accounting and Tax Credit Fees	_____
Developer Fee	_____
Relocation and Contingency	_____
Operating Reserve & Escrows	_____
Payment of Bond Principal	_____

**Total**

**EXHIBIT C**  
**SERIES 2023B TRUST INDENTURE**  
**(see attached)**



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**TRUST INDENTURE**

**Between**

**HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA  
as Issuer**

**and**

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

**[\$2023B PAR]  
Housing Finance Authority St. Johns County, Florida  
Multifamily Housing Revenue Bonds  
(Oaks at St. John), Series 2023B**

**Dated as of December 1, 2023**

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## TRUST INDENTURE

**THIS TRUST INDENTURE** (this “Indenture”), dated as of December 1, 2023, is made by and between the **HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA**, a public body corporate and politic duly created, organized and existing under the laws of the State of Florida (the “State”) and **U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION**, a national banking association (together with any successor trustee or co-trustee appointed hereunder, the “Trustee”) authorized to exercise corporate trust powers in the State, and authorized to accept and execute trusts of the character herein set out, as Trustee (together with its successors and assigns, the “Trustee”). All capitalized terms not defined in the recitals and granting clauses being used herein are defined in Article I hereof.

### RECITALS

**WHEREAS**, the Issuer has been created and organized pursuant to and in accordance with the provisions of the Florida Housing Finance Authority Law, Sections 159.601 through 159.623, Florida Statutes, as amended (the “Act”), for the purpose, among others, of financing costs of residential developments that will provide decent, safe and sanitary housing for persons or families of low, moderate and middle income in the State of Florida; and

**WHEREAS**, the Housing Finance Authority Law authorizes the Issuer: (a) to make loans to sponsors to provide financing for residential developments within the State, and intended to be occupied, to the extent required by applicable federal tax law, by persons or families of low, moderate and middle income, as determined by the Issuer; (b) to authorize the issuance of revenue bonds by the Issuer for the purpose of obtaining moneys to make such loans and to provide such financing and to pay administrative costs and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues and receipts to be received by the Issuer from or in connection with such loans, and to mortgage, pledge or grant security interests in such loans in order to secure the payment of the principal or redemption price of and interest on such bonds; and

**WHEREAS**, the Issuer has determined to issue and sell its Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023B in the original aggregate principal amount of \$[2023BPAR] (the “Series 2023B Bonds”), for the purpose of financing the costs of the acquisition, rehabilitation, installation and equipping of a 160-unit multifamily rental housing facility to be occupied by persons of low, moderate, or middle income and related personal property and equipment located at 210 Nettles Lane, Ponte Vedra Beach, Florida 32081 in an unincorporated area of St. Johns County, Florida (the “Project”), pursuant to this Indenture and that certain Loan Agreement, dated as of December 1, 2023 (the “Loan Agreement”), between the Issuer and Ponte Vedra Beach Leased Housing Associates I, LLLP, a limited liability limited partnership duly organized and existing under the laws of the State of Minnesota (the “Borrower”) providing for the Issuer to finance a portion of the costs of the Project by making a loan (the “Loan”) to the Borrower;

**WHEREAS**, as security for the payment of the Bonds, the Issuer has agreed to assign and pledge to the Trustee, among other things, all right, title and interest of the Issuer in and to the Loan Agreement (except the Issuer’s Unassigned Rights (as hereinafter defined)), including the Basic Payments (as hereinafter defined);

**WHEREAS**, as additional security for the Bonds, the Borrower has delivered the Security Documents (as defined below); and

**WHEREAS**, simultaneously with the issuance of the Series 2023B Bonds, the Issuer is issuing its (i) Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023A, in the original aggregate

principal amount of \$[2023A PAR] (the “2023A Bonds”), pursuant the Trust Indenture dated as of December 1, 2023 (the “2023A Indenture”), by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee, and its (ii) Multifamily Housing Revenue Bonds (Oaks at St. John), Subordinate Series 2023C, in the original aggregate principal amount of \$[2023C PAR] (the “Subordinate Bonds”), pursuant the Trust Indenture dated as of December 1, 2023 (the “Subordinate Indenture”), by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee;

**WHEREAS**, simultaneously with the issuance of the Series 2023A Bonds, Colliers Mortgage LLC (the “Mortgage Lender”) will make a loan to the Borrower (the “Mortgage Loan”), in order to deposit certain proceeds thereof into a collateral fund held under the 2023A Indenture, which Mortgage Loan will be secured by a Multifamily Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing, dated as of [\_\_\_\_\_, 2023] (the “Senior Mortgage”), by the Borrower, as mortgagor, in favor of the Mortgage Lender, as mortgagee;

**WHEREAS**, in connection with the issuance of the Bonds, the Borrower will enter into the Land Use Restriction Agreement, dated as of December 1, 2023 (the “Regulatory Agreement”), with the Issuer and the Trustee relating to compliance with certain federal and state requirements applicable to the Project; and

**WHEREAS**, the Issuer has made the Loan to the Borrower, subject to the terms and conditions of the Loan Agreement and this Indenture; and

**WHEREAS**, all things necessary to make the Bonds, when authenticated by the Trustee and issued as in this Indenture provided, valid, binding and legal limited obligations of the Issuer according to the import thereof, and to constitute this Indenture a valid contract for the security of the Bonds, have been done and performed; and the creation, execution and delivery of this Indenture, and the creation, execution and issuance of said Bonds, subject to the terms hereof, have in all respects been duly authorized; and

**WHEREAS**, the Trustee has accepted the trusts created by this Indenture, and in evidence thereof has joined in the execution hereof.

**NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS, THIS INDENTURE WITNESSETH:**

The Issuer, in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Bonds by the Holders (as herein defined) thereof, in order to secure the payment of the principal of and interest and premium, if any, on the Bonds according to their tenor and effect and the performance and observance by the Issuer of all the covenants expressed or implied herein and in the Bonds, does hereby grant a security interest in, assign, transfer in trust, and pledge to the Trustee, and to its successors in trust, and to them and their assigns forever, the following:

**FIRST**

All rights, title, interest and privileges of the Issuer in, to and under the Loan Agreement, including, but not limited to, all sums which the Issuer is entitled to receive from the Borrower pursuant to the Loan Agreement and in particular the Basic Payments (but excluding the Issuer’s Unassigned Rights) and [the Revenues,] and all other sums (including Bond proceeds) which are required to be deposited in the trust accounts in accordance with Article 5 hereof, except for the Rebate Fund which is not a part of the Trust Estate; and the earnings derived from the investment of any of the foregoing sums as provided herein; and

**SECOND**

Any and all other property of every name and nature which may from time to time hereafter by delivery or by writing of any kind be subjected to the lien hereof by the Issuer or by anyone on its behalf or with its written consent, including, but not limited to, the interests of the Issuer, if any, under the Collateral Documents (including, without limitation, the proceeds of the Assigned Capital Contributions), and the Trustee is hereby authorized to receive any and all such property at any and all times and to hold and apply the same as additional security hereunder subject to the terms hereof; and

### **THIRD**

Any and all other property of every name and nature which may from time to time hereafter by delivery or by writing of any kind be subjected to the lien hereof by the Issuer or by anyone on its behalf or with its written consent, and the Trustee is hereby authorized to hold and apply the same as additional security hereunder subject to the terms hereof.

**TO HAVE AND TO HOLD** all the same (herein called the “Trust Estate”) with all privileges and appurtenances hereby granted and assigned, or agreed or intended so to be, to the Trustee and its successors in trust and to them and their assigns forever;

**SUBJECT TO** the rights of the Borrower under the Loan Agreement;

**IN TRUST NEVERTHELESS**, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of all Holders from time to time of the Bonds issued under and secured by this Indenture, without privilege, priority or distinction as to lien or otherwise of any of the Bonds over any of the others except as otherwise provided herein;

**PROVIDED, HOWEVER**, that if the Issuer, its successors or assigns, shall well and truly pay, or cause to be paid, or provide fully for payment as herein provided of the principal of the Bonds and the interest due or to become due thereon (together with premium, if any), at the time and in the manner set forth in the Bonds according to the true intent and meaning thereof, and shall make the payments into the Bond Fund as required under Article 5 or shall provide, as permitted hereby, for the payment thereof by depositing with the Trustee sums sufficient for payment of the entire amount due or to become due thereon as herein provided, and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Indenture to be kept, performed and observed by it, and shall pay to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then this Indenture and the rights hereby granted shall cease, terminate and be void except as otherwise provided herein; otherwise, this Indenture shall be and remain in full force and effect.

**UNDER THE PROVISIONS OF THE ACT** the Bonds may not be payable from or be a charge upon any funds of the Issuer other than the revenue pledged to the payment thereof nor shall the Issuer be subject to any pecuniary liability thereon and no Holder or Holders of the Bonds shall ever have the right to compel any exercise of the taxing power of the State to pay any Bonds or the interest and premium, if any, thereon, or to enforce payment thereof against any property of the Issuer or the State, except as above provided; the Bonds shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the Issuer or the State, except as above provided; and no Bond shall constitute a debt of the Issuer or the State within the meaning of any constitutional or statutory limitation, but nothing in the Act impairs the rights of the Holders of Bonds issued under this Indenture to enforce the covenants made for the security thereof as provided in this Indenture and in the Act; the Issuer has no taxing power; and by authority of the Act the Issuer and the Trustee mutually covenant and agree, to the extent specifically provided herein, for the equal and proportionate benefit of all Holders of the Bonds, as follows:

## ARTICLE 1

### DEFINITIONS, EXHIBITS AND GENERAL PROVISIONS

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

*Act*: the Florida Housing Finance Authority Law, Sections 159.601 through 159.623, Florida Statutes, as amended, resolutions duly adopted by the Issuer, and other applicable provisions of law;

*Act of Bankruptcy*: any of the following events:

(i) If the Borrower shall (a) apply for or consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee, liquidator or the like, or of all or a substantial part of its property, (b) commence a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), or (c) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts; or

(ii) A proceeding or case shall be commenced, without the application or consent of the Borrower, in any court of competent jurisdiction, and shall not be dismissed, vacated, or stayed within 60 days after commencement, seeking (a) the liquidation, reorganization, dissolution, winding-up, or the composition or adjustment of its debts, (b) the appointment of a trustee, receiver, custodian, liquidator or the like of the Borrower, or of all or any substantial part of its assets, or (c) similar relief in respect of the Borrower under any law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts;

*Additional Charges*: the payments required by Section 4.4 of the Loan Agreement;

*Arbitrage Certificate*: the certificate as to tax matters delivered by the Issuer on the Closing Date;

*Arbitrage Rebate Agreement*: agreement as to arbitrage matters among the Issuer, the Trustee and the Borrower dated as of December 1, 2023;

*Assigned Capital Contributions*: (i) the second capital installment, which is in the expected amount of [\$\_\_\_\_\_] and (ii) the third capital installment, which is in the expected amount of [\$\_\_\_\_\_] of the equity contribution to be made by the Investor Limited Partner to the Borrower, pursuant to Section [\_\_\_\_\_] and [Exhibit \_] of the Partnership Agreement, but only to the extent such installments are dedicated in the Partnership Agreement towards redemption or repayment of the then Outstanding Bonds in full, and subject to the conditions, terms and provisions of the Partnership Agreement;

*Authorized Denominations*: \$250,000, or any or any integral multiple of \$1 in excess thereof;

*Authorized Officer*: means the chairperson, vice chairperson, any member, executive director, chief financial officer, general counsel, secretary and any other officer or employee of the Issuer designated by resolution or 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;

*Basic Payments*: the payments required by Section 4.2 of the Loan Agreement;



*Beneficial Owner:* the Person for which a DTC Participant holds an interest in the Bonds as shown on the books and records of the DTC Participant;

*Bond Closing:* December [ ], 2023, the date on which there is delivery by the Issuer of and payment by the Underwriter for the Bonds;

*Bond Counsel:* shall mean Butler Snow, LLP, or any other attorney or firm of attorneys of nationally recognized standing in the field of municipal finance law whose opinions are generally accepted by purchasers of tax exempt obligations and who is selected by the Issuer;

*Bond Fund:* the Bond Fund so designated in Section 5.3 from which the principal of and interest on the Bonds are payable;

*Bond Purchase Agreement:* the Bond Purchase Agreement, dated December [ ], 2023, among the Underwriter, the Issuer and the Borrower;

*Bond Register:* the register maintained by the Trustee pursuant to Section 2.9;

*Bond Resolution:* Resolution No. [2023- ] authorizing the issuance of the Bonds to finance the Project, adopted by the Issuer on November [16], 2023;

*Bondholder or Holder:* a Person in whose name a Bond is registered in the Bond Register;

*Bond Year:* any 12 month period ending on [ \_\_\_\_\_ ] of each year; provided that the first Bond Year shall run from the date of the Bond Closing to [November 30, 2024];

*Bonds:* means the Issuer's Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023B, in the original aggregate principal amount of \$[2023B PAR];

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

*Borrower:* Ponte Vedra Beach Leased Housing Associates I, LLLP, a limited liability limited partnership duly organized and existing under the laws of the State of Minnesota or other Person which may assume its obligations under the Loan Agreement;

*Borrower Pledge Agreement:* the Pledge and Security Agreement (Borrower), dated as of December 1, 2023, from the Borrower to the Trustee, as amended, modified, supplemented or restated from time to time or any agreement entered into in substitution therefor;

*Borrower Representative:* an officer of the general partner of the Borrower, or any other person at any time designated to act on behalf of the Borrower, as the case may be, as evidenced by a written certificate furnished to the other party and the Trustee containing the specimen signature of such person and signed by an officer of the general partner of the Borrower;

*Business Day:* any day on which the Trustee or the Federal Reserve Bank of New York are not authorized by law to close;

*Capitalized Interest Fund:* the fund so designated in Section 5.4 from which interest on the Bonds is payable;

*Cede & Co.:* initially, Cede & Co., as nominee of DTC, and any successor or subsequent such nominee designated by DTC respecting DTC's functions as book-entry depository for any Bond or Bonds;

*Code or Internal Revenue Code:* the Internal Revenue Code of 1986, as amended, and all applicable Treasury Regulations;

*Collateral Documents:* the Security Documents and any other written instrument other than the Loan Agreement and this Indenture, whereby any property or interest in property of any kind is granted, pledged, conveyed, assigned, or transferred to the Issuer or Trustee, or both, as security for payment of the Bonds or performance by the Borrower of its obligations under the Loan Agreement;

*Completion Date:* the date on which the Borrower certifies that the Project was substantially completed and available, and suitable for use as multifamily housing;

*Compliance Monitoring Agreement:* the Compliance Monitoring Agreement, dated as of December 1, 2023, among the Issuer, the Issuer Servicer, U.S. Bank Trust Company, National Association in its capacity as Trustee, as the trustee for the Series 2023A Bonds and the trustee for the Series 2023C Bonds, and the Borrower, as the same may hereafter be amended or supplemented;

*Compliance Monitoring Fee:* the fee payable by the Borrower to the Issuer Servicer pursuant to the Compliance Monitoring Agreement.

*Condemnation:* the word "Condemnation" or phrase "eminent domain" as used herein shall include the taking or requisition by governmental authority or by a Person, acting under governmental authority and a conveyance made under threat of Condemnation, and "Condemnation award" shall mean payment for property condemned or conveyed under threat of Condemnation;

*Continuing Disclosure Agreement:* the Continuing Disclosure Agreement dated as of the date hereof, between the Borrower and U.S. Bank Trust Company, National Association, as dissemination agent, as the same may be amended, modified or supplemented from time to time;

*County:* St. Johns County, a body politic and corporate, and a political subdivision of the State;

*Defaulted Interest:* shall have the meaning stated in Section 2.2 hereof;

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

*Determination of Taxability:* a determination that the interest income on any of the Bonds is included in gross income for federal income tax purposes under Section 103 of the Code for any reason,

other than that the Holder is a Substantial User of the Project or a Related Person thereto, which determination shall be deemed to have been made upon the occurrence of the first to occur of the following:

(i) the date on which any change in law or regulation becomes effective or on which the Internal Revenue Service has issued any private ruling, technical advice or any other written communication to the effect that the interest income on any of the Bonds is included in gross income for federal income tax purposes; or

(ii) the date on which the Borrower shall receive notice from the Trustee or the Issuer in writing that the Trustee has been advised by any Holder that the Internal Revenue Service has issued a 30-day letter or other notice which asserts that the interest on such Bond is included in gross income for federal income tax purposes;

*Discharge Date:* the date on which all Outstanding Bonds are discharged under Article 7;

*Dissemination Agent:* U.S. Bank Trust Company, National Association, or any successor, as Dissemination Agent under the Continuing Disclosure Agreement;

*DTC:* The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York, or any successor book-entry securities depository for the Bonds appointed pursuant to Section 2.13;

*DTC Participants:* those broker-dealers, banks and other financial institutions from time to time for which DTC holds bonds or securities as depository;

*Event of Default:* any of the events set forth in Section 8.1 hereof;

*Extraordinary Services and Extraordinary Expenses:* all services rendered and all reasonable expenses properly incurred by the Trustee or the Issuer under this Indenture or the Loan Agreement, 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;

*Federal Bankruptcy Code:* the United States Bankruptcy Reform Act of 1978, as amended, or any similar or succeeding federal bankruptcy law;

*Fee Guaranty & Environmental Indemnity:* the Fee Guaranty and Environmental Indemnity Agreement (Series 2023B), dated as of December 1, 2023, by and among the Issuer, the Trustee and the Issuer Guarantors;

*Final Maturity Date:* the Stated Maturity, Discharge Date or Redemption Date on which all Outstanding Bonds either mature, are redeemed or discharged, whichever is earlier;

*General Partner:* Ponte Vedra Beach Leased Housing Associates I, LLC, a Minnesota limited liability company, its permitted successors and assigns;

*Government Obligations:* direct general obligations of, or obligations the prompt payment of the principal of and the interest on which are fully and unconditionally guaranteed by, the United States of America;

*GP Pledge Agreement:* the Pledge and Security Agreement (General Partner), dated as of December 1, 2023 from the General Partner to the Trustee, as amended, modified, supplemented or restated from time to time or any agreement entered into in substitution therefor;

*Guarantors:* means Dominion Holdings I, LLC and Dominion Holdings II, LLC, each a Minnesota limited liability company;

*Guaranty:* the Guaranty Agreement, dated as of December 1, 2023, from the Guarantors to the Trustee, securing repayment of the Series 2023B Bonds, as may be amended, modified, supplemented or restated from time to time, or any agreement entered into in substitution therefor;

*Guaranty of Completion:* the Absolute and Unconditional Guaranty of Completion (Series 2023B), dated as of December 1, 2023, from the Issuer Guarantors, jointly and severally, in favor of the Issuer and the Trustee;

*Guaranty of Recourse Obligations:* the Absolute and Unconditional Guaranty of Recourse Obligations (Series 2023B), dated as of December 1, 2023, from the Issuer Guarantors, jointly and severally, in favor of the Issuer and the Trustee;

*Holder or Bondholder:* the Person in whose name a Bond is registered in the Bond Register;

*Indenture:* this Trust Indenture, dated as of December 1, 2023, by and between the Issuer and the Trustee, as the same may from time to time be amended or supplemented as herein provided;

*Independent Accountant:* a certified public accountant or firm of certified public accountants registered and qualified to practice as such under the laws of the State, who does not have any direct financial interest in the Borrower, other than the payment to be received under contract for services performed and who is not connected with the Borrower as an officer, employee, underwriter, partner, affiliate, subsidiary, or person performing similar functions and is not a trustee or director of the Borrower;

*Independent Counsel:* any attorney duly admitted to practice law before the highest court of any state, who may be counsel to the Borrower or the Issuer but who may not be an officer or a full time employee of the Borrower or the Issuer;

*Initial Remarketing Date:* the Initial Mandatory Tender Date, but only if the conditions for remarketing the Bonds on such date as provided in Section 3.8 hereof are satisfied;

*Initial Mandatory Tender Date:* July 1, 2026;

*Interest Payment Date:* semi-annually, each January 1 and July 1, commencing July 1, 2024, and continuing until payment in full of the Bonds;

*Investor Limited Partner:* Alliant Credit Facility IV, LLC, a California limited liability company, and its successors and assigns in accordance with the requirements of the Partnership Agreement;

*Issuer:* the Housing Finance Authority of St. Johns County, Florida, a public body corporate and politic of the State of Florida, duly organized and existing under the laws of the State of Florida, including the Act, or any successor to its rights and obligations under the Bond Loan Agreement and this Indenture.

*Issuer Documents:* collectively, the Bonds, the Loan Agreement, this Indenture, the Bond Purchase Agreement, the Note, the Regulatory Agreement, the Issuer Servicer Agreement, the Compliance

Monitoring Agreement, the Issuer Guaranty Documents, the Tax Certificate, and any other agreement, certificate, contract, or instrument to be executed by the Issuer in connection with the issuance of the Bonds or the financing of a portion of the expense associated with the Project;

*Issuer Extraordinary Fees and Expenses:* 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 the Issuer, Bond Counsel and counsel to the Issuer which are to be paid by the Borrower pursuant to the Bond Loan Agreement;

*Issuer Fee:* collectively, the Issuer Ordinary Fees and Expenses and the Issuer Extraordinary Fees and Expenses;

*Issuer Guarantors:* means the Borrower, Ponte Vedra Beach Leased Housing Associates I, LLC, Ponte Vedra Beach Leased Housing Associates LP I, LLC, Ponte Vedra Beach Leased Housing Development I, LLC, Dominion Holdings I, LLC and Dominion Holdings II, LLC, each a Minnesota limited liability company, or any other person or entity which may hereafter become a guarantor of any of the Borrower's obligations under the Issuer Documents.

*Issuer Guaranty Documents:* collectively, the Fee Guaranty & Environmental Indemnity, the Guaranty of Completion, the Guaranty of Recourse Obligations, and the Operating Deficit Guaranty;

*Issuer Ordinary Fees and Expenses:* collectively, (i) the Issuer's one (1) time initial issuance fee payable to the Issuer on or before the Closing Date in the amount of [\$\_\_\_\_], attributable to the bonds; (ii) the annual fee of the Issuer, payable by the Borrower in the amount of 25 basis points (0.25%) of the outstanding principal amount of the Bonds (calculated on the Business Day prior to any reduction on such payment date) payable in semiannual installments in arrears on each [January] 1 and [July] 1, commencing [January 1,] 2024; (iii) the Compliance Monitoring Fee, and (iv) the Issuer Short-Term Prepayment Fee;

*Issuer Servicer:* AmeriNat®, a Minnesota limited liability company, or any other servicer appointed by the Issuer to service the Loan on behalf of Issuer and to monitor the Development.

*Issuer Servicer Agreement:* the Construction Loan Servicing Agreement, dated as of December 1, 2023, by and among the Issuer, U.S. Bank Trust Company, National Association, in its capacity as Trustee, trustee for the Series 2023A Bonds and trustee for the Series 2023C Bonds, the Borrower and the Issuer Servicer.

*Issuer Servicer's Fee:* the following fees and expenses: (a) payable directly by the Borrower to the Issuer Servicer: (i) during construction of the Project, an on-site inspection fee of [\$\_\_\_\_] per hour for services rendered, but not to exceed [\$\_\_\_\_] per disbursement, (ii) during construction of the Project, an in-house review fee of [\$\_\_\_\_] per hour for services rendered, (iii) a fee for extraordinary services rendered of [\$\_\_\_\_] per hour, and (iv) a fee for providing financial monitoring services in the amount of [\$\_\_\_\_] (subject to annual increases of 3%) payable in semiannual installments in advance on each [January] 1 and [July] 1.

*Issuer Short-Term Prepayment Fee:* the applicable fee in the following schedule determined based on the original principal amount of the Bonds and the length of time between the date of issuance of the Bonds and the prepayment, in full, or final maturity of all of the Bonds; provided, however, such fee shall not be less than \$20,000, which fee is payable on the prepayment date:

Prepayment Date
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18 months or less	24 months or less but longer than 18 months	36 months or less but longer than 24 months
0.31%	0.24%	0.18%

*Issuer Indemnified Party or Issuer Indemnified Parties:* the Issuer, its past, present, and future directors, members, officers, program managers, counsel, advisors, employees, agents, contractors, consultants and executive director, its past, present, and future directors, members, officers, program managers, counsel, advisors, employees, agents, contractors, consultants and executive director, individually and collectively, and the State;

*Issuer’s Unassigned Rights:* those certain rights of the Issuer under the Issuer Documents to indemnification and to payment or reimbursement of fees and expenses of the Issuer, including the Issuer’s Fee as well as the fees and expenses of counsel (including Bond Counsel), assumption fees and indemnity payments, its right to give and receive notices and to enforce notice and reporting requirements and restrictions on transfer of ownership, its right to inspect and audit the books, records and premises of the Borrower and of the Development, its right to legal fees and related expenses, its right to enforce the terms of the Land Use Restriction Agreement including the Borrower’s covenant to comply with applicable federal tax law and State law (including the Act and the rules and regulations of the Issuer thereunder), its right to receive notices and reports under the Issuer Documents, and its right to give or withhold consent to amendments, changes, modifications, alterations and restatements to this Indenture, the other Issuer Documents and the Loan Documents to which the Issuer is a party and such other matters where, under this Indenture or under any other Issuer Document or Loan Document, the Issuer’s consent or approval is required;

*Loan:* the loan of Bond proceeds by the Issuer to the Borrower described in Section 4.1 of the Loan Agreement;

*Loan Agreement:* the Loan Agreement, dated as of December 1, 2023, by and between the Issuer and the Borrower, as the same may from time to time be amended or supplemented as provided therein and in this Indenture;

*Loan Documents:* the Loan Agreement, the Regulatory Agreement, the Tax Certificate, this Indenture and the Bond Purchase Agreement;

*Local Time:* Eastern Standard time (daylight or standard, as applicable);

*Mandatory Tender Date:* the latest of (a) the Initial Mandatory Tender Date and (b) if the Bonds outstanding on such date or on any subsequent Mandatory Tender Date are remarketed pursuant to Section 3.8 for a Remarketing Period that does not extend to the final maturity of the Bonds, the day after the last day of the Remarketing Period;

*Maximum Interest Rate:* the interest rate equal to the lesser of: [(a) \_\_\_% per annum,] or (b) the maximum interest rate per annum permitted by applicable State law;

*Moody’s:* Moody’s Investors Service, Inc., a corporation organized and existing under the laws of the State of New York, and its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a municipal securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized municipal securities rating agency designated by the Issuer (other than S&P);

*Mortgage:* the Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Leases and Rents dated as of the date hereof, from the Borrower to the Issuer and assigned to the Trustee, securing the Series 2023B Bonds.

*Note:* the [promissory note] of the Borrower, dated December \_\_, 2023, in the form attached to the Loan Agreement as Exhibit \_\_, evidencing the Borrower's [obligation to may loan payments.]

*Notice by Mail:* notice of any action or condition by mail shall mean a written notice meeting the requirements of this Indenture mailed by first-class mail, postage prepaid, to the Holders of specified Bonds at the addresses shown in the Bond Register;

*Operating Deficit Guaranty:* the Absolute and Unconditional Guaranty of Operating Deficits (Series 2023B), dated as of December 1, 2023, from the Issuer Guarantors, jointly and severally, to the Issuer and the Trustee;

*Ordinary Services and Ordinary Expenses:* those services normally rendered, and those expenses normally incurred, by an issuer or a trustee under instruments similar to this Indenture;

*Original Purchaser:* the Underwriter;

*Outstanding:* with respect to the Bonds issued under this Indenture, as of the date of determination, all Bonds theretofore validated, authenticated and delivered under this Indenture except:

(i) Bonds theretofore cancelled by the Trustee or Paying Agent or delivered to the Trustee or Paying Agent cancelled or for cancellation;

(ii) Bonds for which payment or redemption money or securities (as provided in Article 7) shall have been theretofore deposited with the Trustee in trust for the Holders of such Bonds; provided, however, that if such Bonds are to be redeemed, notice of such redemption shall have been duly given pursuant to this Indenture or irrevocable action shall have been taken to call such Bonds for redemption at a stated Redemption Date; and

(iii) Bonds in exchange for or in lieu of which other Bonds shall have been issued and delivered pursuant to this Indenture;

provided, however, that in determining whether the Holders of the requisite principal amount of Outstanding Bonds have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Bonds owned by the Borrower shall be disregarded and deemed not to be Outstanding Bonds, except that in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent, or waiver, only Bonds which the Trustee knows to be owned by the Borrower shall be disregarded;

*Paying Agent:* the Trustee or any other entity designated pursuant to this Indenture as the agent of the Issuer and the Trustee to receive and disburse the principal of and premium, if any, and interest on the Bonds;

*Payment Date:* any Interest Payment Date, any Stated Maturity, the Discharge Date or any Redemption Date;

*Partnership Agreement*: the Amended and Restated Agreement of Limited Liability Limited Partnership of the Borrower, dated as of December 1, 2023, as amended, modified, supplemented or restated from time to time, or any agreement entered into in substitution therefor;

*Permitted Investments*:

- (i) Government Obligations;
- (ii) obligations of any of the following federal agencies which obligations represent full faith and credit of the United States of America, including:
  - Export-Import Bank
  - Farmers Home Administration
  - General Services Administration
  - U.S. Maritime Administration
  - Small Business Administration
  - Government National Mortgage Association (GNMA)
  - U.S. Department of Housing & Urban Development (PHA's)
  - Federal Housing Administration;
- (iii) bonds, notes or other evidences of indebtedness rated on the date of purchase "AAA" by S&P and "Aaa" by Moody's issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding three years;
- (iv) U.S. dollar denominated deposit accounts, federal funds and banker's acceptances with domestic commercial banks which have a rating on their short term certificates of deposit on the date of purchase of "A-1" or "A-1+" by S&P and "P-1" by Moody's and maturing no more than 360 days after the date of purchase (ratings on holding companies are not considered as the rating of the bank);
- (v) commercial paper which is rated at the time of purchase in the single highest classification, "A-1+" by S&P and "P-1" by Moody's and which matures not more than 270 days after the date of purchase;
- (vi) investments in a money market fund rated on the date of purchase "AAAm" or "AAAm-G" or better by S&P; which fund invests primarily in Government Obligations;
- (vii) Pre-refunded municipal obligations defined as follows: Any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and
  - (a) which are rated on the date of purchase, based on an irrevocable escrow account or fund (the "escrow"), in the highest rating category of S&P and Moody's; or
  - (b) (1) which are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in paragraph (i) above, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable



instructions, as appropriate, and (2) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates specified in the irrevocable instructions referred to above, as appropriate;

(viii) investment agreements issued by any financial institution maintaining a rating of “A” or better by S&P or “A2” or better by Moody’s; or

(ix) fixed income securities issued by any state of the United States of America or any agency, instrumentality or political subdivision thereof which are rated on the date of purchase not less than “A” by S&P or “A2” by Moody’s;

Permitted Investments shall not include (a) any investment with a final maturity or any agreement with a term ending later than the earlier of (i) the Mandatory Tender Date in effect at the time of investment, or (ii) the Stated Maturity, (b) Permitted Investments that constitute obligations of the Issuer or any affiliate or subsidiary of the Issuer, and (c) any investment which may be prepaid or called at a price less than its purchase price prior to stated maturity;

*Person*: any natural person, corporation, limited liability company, joint venture, cooperative, partnership, trust or unincorporated organization, government or governmental body or agency, political subdivision or other legal entity, as in the context may be appropriate;

*Pledge and Security Agreements*: collectively, the Borrower Pledge Agreement and the GP Pledge Agreement;

*Project*: the acquisition, rehabilitation, improvement, equipping and operation of an approximately 160-unit multifamily housing development located at 210 Nettles Lane, Ponte Vedra Beach, Florida 32081 in an unincorporated area of St. Johns County, Florida to be known as “Oaks at St. John”;

*Project Costs*: the cost items enumerated in Section 3.2 of the Loan Agreement;

*Project Equipment*: any and all (i) fixtures or tangible personal property now or hereafter attached or affixed to the Project, (ii) other tangible personal property now or hereafter located within or used in connection with the Project and (iii) any additions to, replacements of and substitutions for any of the foregoing;

*Project Fund*: the Project Fund so designated in Section 5.2 of this Indenture;

*Rating Agency*: S&P or Moody’s;

*Rating Category*: one of the generic rating categories of a Rating Agency, without regard to any refinement or gradation of such Rating Category by a numerical or other modifier;

*Rebate Amounts*: the amount determined pursuant to Section 7.7(12) of the Loan Agreement to be rebated to the United States;

*Rebate Fund*: the fund so designated in Section 5.5 hereof;

*Record Date*: the 15th day of the calendar month next preceding an Interest Payment Date, whether or not such day is a Business Day;

*Redemption Date:* when used with respect to any Bond to be redeemed shall mean the date on which it is to be redeemed pursuant hereto;

*Redemption Price:* when used with respect to any Bond to be redeemed shall mean the price at which it is to be redeemed pursuant hereto;

*Regular Interest Payments:* all interest payments on the Bonds, other than Special Interest Payments;

*Regulatory Agreement:* the Land Use Restriction Agreement, dated as of December 1, 2023 by and among the Issuer, U.S. Bank Trust Company, National Association, in its capacity as Trustee, as trustee for the Series 2023A Bonds and the trustee for the Series 2023C Bonds, and the Borrower, as the same may be amended from time to time;

*Related Documents:* the Loan Agreement, the Regulatory Agreement and the Security Documents;

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

*Remarketing Agent:* Colliers Securities LLC, or any successor remarketing agent named by the Borrower in compliance with the terms of the Remarketing Agreement;

*Remarketing Agent’s Fee:* the fee of the Remarketing Agent for its remarketing services;

*Remarketing Agreement:* the Remarketing Agreement, dated as of December 1, 2023, by and between the Borrower and the Remarketing Agent, as amended, supplemented or restated from time to time, or any agreement entered into in substitution therefor;

*Remarketing Date:* the Initial Remarketing Date and, if the Bonds Outstanding on such date or on any subsequent Remarketing Date are remarketed pursuant to Section 3.8 for a Remarketing Period that does not extend to the final maturity of the Bonds, the day after the last day of the Remarketing Period;

*Remarketing Expenses:* the costs and expenses incurred by the Trustee and its counsel, the Remarketing Agent and its counsel, the Issuer and its counsel, and Bond Counsel in connection with the remarketing of the Bonds, including bond printing and registration costs, costs of funds advanced by the Remarketing Agent, registration and filing fees, and other costs and expenses incurred in connection with or properly attributable to the remarketing of Bonds as certified to the Trustee by the Remarketing Agent in writing;

*Remarketing Notice Parties:* the Borrower, the Issuer, the Trustee, the Remarketing Agent and the Investor Limited Partner;

*Remarketing Period:* the period beginning on a Remarketing Date and ending on the last day of the term for which Bonds are remarketed pursuant to Section 3.8 or the Final Maturity Date of the Bonds, as applicable;

*Remarketing Rate:* the interest rate or rates established pursuant to Section 3.9 and borne by the Bonds then Outstanding from and including each Remarketing Date to, but not including, the next succeeding Remarketing Date or the Final Maturity Date of the Bonds, as applicable;

*Representation Letter:* such Letter of Representations to DTC or other documentation required by DTC as a condition to its acting as book-entry depository for any bond or bonds together with any replacement thereof or amendment or supplement thereto (and including any standard procedures or policies referenced therein or applicable thereto) respecting the procedures and other matters relating to DTC's role as book-entry depository for the Bonds;

*Responsible Officer:* when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture;

*Responsible Agent:* any Person duly authorized and designated by the Trustee to act on its behalf in carrying out the applicable duties and powers of the Trustee as set forth in this Indenture (any action required by the Trustee under this Indenture may be taken by a Responsible Agent);

*Restricted Project Funds:* any Bond proceeds, including interest thereon, which are required to be transferred on the Completion Date from the Project Fund to the Bond Fund and which the Trustee is required under Section 5.3(2) to apply towards the prepayment or pro rata payment of Bonds;

[*Revenues:* for any period, the revenues actually collected during such period (a) generated from all tenants and others occupying or having a right to occupy or use the Project or any portion thereof, adjusted to reflect rental concessions over the term of any applicable lease, and (b) from the use and occupancy of any amenities and services of the Project, including vending machine income, net cable TV revenues, laundry service and parking income, but exclusive of (i) capital contributions, (ii) net proceeds from the sale or refinancing of the Project, (iii) net proceeds of insurance (other than proceeds of loss of rent insurance to the extent paid for apartment units occupied at the time of the loss), and net condemnation awards, (iv) security deposits and prepaid rents to the extent not permitted to be released to the Borrower pursuant to the terms of leases, and (v) interest earnings;]

*Security Documents:* the Pledge and Security Agreements, the Guaranty and the Mortgage;

*SLGS:* United States Treasury Certificates of Indebtedness, Notes and Bonds State and Local Government Series;

*Special Interest Payments:* all payments of (or with respect to) interest on the Bonds made upon the acceleration of the Bonds pursuant to Section 8.3 hereof;

*Special Record Date:* the date fixed by the Trustee pursuant to Section 2.2 hereof relating to the payment of any Defaulted Interest;

*S&P:* S&P Global Ratings, and its successors and their assigns, and if such entity shall be dissolved or liquidated or shall no longer perform the functions of a municipal securities rating agency, "S&P" shall be deemed to refer to any other nationally recognized municipal securities rating agency designated by the Issuer (other than Moody's);

*State:* the State of Florida;

*Stated Maturity:* when used with respect to any Bond or any installment of interest thereon shall mean the date specified in such Bond as the fixed date on which principal of such Bond or such installment of interest is due and payable;

*Substantial User:* a “Substantial User” within the meaning of Section 147(a)(1) of the Code;

*Tax Certificate:* the Borrower’s Tax Compliance Certificate executed by the Borrower and the Issuer on the Bond Closing with respect to the Bonds.

*Trust Estate:* the Trust Estate as defined and set forth in the Granting Clauses hereof;

*Trustee:* U.S. Bank Trust Company, National Association, a national banking association, and any co-trustee or successor trustee appointed, qualified and then acting as such under the provisions of this Indenture;

*Underwriter:* Colliers Securities LLC;

*Unpaid Bonds:* all Outstanding Bonds and any other Bonds which have neither matured nor been redeemed or purchased and cancelled under this Indenture.

Section 1.2 Rules of Interpretation. This Indenture shall be interpreted in accordance with and governed by the laws of the State.

The words “herein” and “hereof” and “hereunder” and words of similar import, without reference to any particular section or subdivision, refer to this Indenture as a whole rather than to any particular section or subdivision of this Indenture.

References in this Indenture to any particular article, section or subdivision hereof are to the designated article, section or subdivision of this Indenture as originally executed.

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

The Table of Contents and titles of articles and sections herein are for convenience only and are not a part of this Indenture.

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

Articles, sections, subsections and clauses mentioned by number only are those so numbered which are contained in this Indenture.

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

Any opinion of counsel called for herein shall be a written opinion of such counsel.

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

## ARTICLE 2

### THE BONDS

Section 2.1 Authorized Amount and Form of Bonds. Bonds secured by this Indenture shall be issued in fully registered form, without coupons, in any Authorized Denominations, in substantially the forms set forth in Exhibit A hereto with such appropriate variations, omissions and insertions as are permitted or required by this Indenture, and in accordance with the further provisions of this Article 2. The total principal amount of the Bonds that may be outstanding hereunder is expressly limited to \$[2023B PAR]. No additional bonds may be issued hereunder. Portions of the text of the Bonds may be printed on the back of the Bonds to permit the printing of Bonds of a size which can be registered by machine. If a portion of the text of the Bond is to be printed on the back of the Bond, the face of the Bond shall contain a provision in substantially the following form:

“REFERENCE IS HEREBY MADE TO THE FURTHER PROVISIONS OF THIS BOND WHICH ARE SET FORTH ON THE REVERSE HEREOF, AND SUCH PROVISIONS SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS IF SET FORTH HERE.”

Section 2.2 Initial Issue. The Bonds to be issued and secured under this Indenture shall be designated the “Housing Finance Authority of St. Johns County, Florida Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023B” and shall:

- (1) be dated as of their date of original issuance;
- (2) be issued and delivered to the designated office of the Trustee for the account of the Original Purchaser as fully registered bonds without coupons in any Authorized Denomination and shall be numbered R-1 upward;
- (3) the Bonds shall be initially issued in the original aggregate principal amount of [\$2023B PAR] and, subject to the provisions of Section 3.1 and 3.7 hereof, mature in the principal amount and bear interest as provided below until paid or discharged as herein provided, with interest computed on the basis of a 360-day year composed of twelve 30-day months;

<b>Stated Maturity</b>	<b>Principal</b>	<b>Interest</b>
<u>(July 1)</u>	<u>Amount</u>	<u>Rate</u>
2028*	[\$[2023B PAR]	%**

\*Subject to mandatory tender on the Initial Mandatory Tender Date.

\*\* Interest rate on the Bonds from the Bond Closing to but not including the Initial Mandatory Tender Date.

- (4) bear interest payable semiannually on each Interest Payment Date and continuing until payment in full of the Bonds;
- (5) be subject to redemption upon the terms and conditions and at the prices specified in Article 3 hereof;
- (6) be payable in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts, at the principal trust office of the Trustee acting as the Paying Agent, or a duly appointed successor Paying Agent, except that

interest on the Bonds will be payable by check or draft mailed by the Trustee to the Holders of such Bonds on the applicable Record Date (the "Record Date Holders" as defined in the Bond) at the last addresses thereof as shown in the Bond Register on the applicable Record Date, and principal of and any premium on any Bonds shall be payable at the principal office of the Trustee; provided that any interest on any Bond which is payable but which is not punctually paid or duly provided ("Defaulted Interest") shall be payable, on a date selected by the Trustee, to the Person in whose name such Bond is registered in the Bond Register at the close of business on a Special Record Date selected by the Trustee and which shall be at least 10 days but not more than 30 days before the date selected by the Trustee for payment of such Defaulted Interest. The Trustee shall give Notice by Mail of the Special Record Date and date for payment of Defaulted Interest at least 10 days before the Special Record Date; and

(7) Notwithstanding the foregoing, if the date for payment of the principal of, premium, if any, or interest on any Bond shall be a day which is not a Business Day, then the date for such payment shall be the next succeeding day which is a Business Day, and payment on such later date shall have the same force and effect as if made on the nominal date of payment.

Notwithstanding the foregoing, any Record Holder of at least \$1,000,000 in principal amount of the Outstanding Bonds may file with the Trustee an instrument satisfactory to the Trustee requesting the interest payable by the Trustee to such Holder be paid by transferring by wire transfer in immediately available funds, on the day such payment is due, the amount to be distributed to such Holder to a designated account maintained by such Holder at any bank in the United States. The Trustee shall pay all amounts payable by the Trustee hereunder to such Holder by transfer directly to said designated bank in accordance with the provisions of any such instrument, provided that if such amount represents a payment of the principal of any Bond, such Bond shall have been presented to the Trustee. All payments so made shall be valid and effectual to satisfy and discharge the liability upon such Bonds.

Notwithstanding the foregoing, the Bonds issued under this Indenture are subject to the procedures of DTC.

Section 2.3 Execution and Authentication of Bonds. The Bonds shall be executed on behalf of the Issuer with the manual or facsimile signature of an Authorized Officer. The signature of such officer may be mechanically or photographically reproduced on the Bonds. If any officer of the Issuer whose signature appears on any Bond ceases to be such officer before delivery thereof, such signature shall remain valid and sufficient for all purposes as if such officer had remained in office until such delivery. Any Bond may be executed on behalf of the Issuer by any Authorized Officer as is at the time of execution of such Bond an Authorized Officer, even though at the date of this Indenture, such person was not an Authorized Officer.

The Bonds shall each bear thereon a certificate of authentication, substantially in the form set forth in Exhibit A hereto and executed by the Trustee. Only Bonds which bear thereon such executed certificate of authentication shall be entitled to any right or benefit under this Indenture, and no Bond shall be valid for any purpose under this Indenture until such certificate of authentication shall have been duly executed by the Trustee. Such certificate of authentication upon any Bond shall be conclusive evidence that the Bond so authenticated has been duly issued under this Indenture and that the holder thereof is entitled to the benefits of this Indenture. The Trustee's certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized officer or signatory of the Trustee, but it shall not be necessary that the same officer or signatory sign the certificate of authentication on all of the Bonds issued hereunder. The certificate of authentication on all Bonds delivered by the Trustee hereunder shall be dated the date of its authentication.

The form of the Bonds issued pursuant to this Indenture shall be in substantially the form set forth in Exhibit A hereto, with such variations, omissions or insertions as are permitted by this Indenture.

Section 2.4     [Reserved].

Section 2.5     Delivery of Initial Issue. Upon the execution and delivery of this Indenture the Issuer shall execute and deliver to the Trustee, and the Trustee shall authenticate, the Bonds in the original aggregate principal amount of \$[2023B PAR]. The Trustee shall deliver the Bonds to the Original Purchaser as hereinafter provided after receipt by the Trustee of the following:

- (1)     original executed counterparts of the Loan Agreement, the Regulatory Agreement, the Security Documents, and this Indenture;
- (2)     an executed copy of the Resolution duly certified by an Authorized Officer of the Issuer;
- (3)     a request and authorization (which may be part of a certificate of the Issuer) to the Trustee by the Issuer to authenticate and deliver the Bonds to the Original Purchaser therein identified upon payment to the Trustee for the account of the Issuer of a sum specified in such request and authorization, plus accrued interest thereon, if any, to the date of delivery;
- (4)     the opinion of the Borrower's counsel in the form required by Bond Counsel, Issuer's Counsel and counsel to the Original Purchaser;
- (5)     the opinion of Bond Counsel approving the legality of the Bonds issued pursuant to this Indenture and the tax-exempt status of the Bonds;
- (6)     any other documents or opinions as Bond Counsel may require for purposes of rendering its opinion required under subsection (5) of this Section; and
- (7)     evidence that the Bonds have been authenticated, validated and delivered.

Upon receipt of these documents, the Trustee shall authenticate and deliver the Bonds to or upon the written order of the Underwriter but only upon payment to the Trustee of the purchase price of the Bonds, together with accrued interest thereon, if any.

Section 2.6     Mutilated, Lost, Stolen or Destroyed Bonds.

(1)     In case any Bond issued hereunder shall become mutilated or be destroyed or lost, the Issuer shall, if not then prohibited by law, cause to be executed, and the Trustee shall authenticate and deliver, a new Bond of like series, amount, maturity date and tenor in exchange and substitution for and upon cancellation of any such mutilated Bond, or in lieu of and in substitution for any such Bond destroyed or lost, upon the Holder's paying the reasonable expenses and charges of the Trustee and the Issuer and, in the case of a Bond destroyed or lost, the filing with the Trustee evidence satisfactory to the Trustee that such Bond was destroyed or lost, and of the ownership thereof, and furnishing the Issuer and the Trustee with indemnity satisfactory to them. If the mutilated, destroyed or lost Bond has already matured or been called for redemption in accordance with its terms, it shall not be necessary to issue a new Bond prior to payment.

(2)     In executing a new Bond and in furnishing the Trustee with the written authorization to authenticate and deliver a new Bond as provided for in this Section, the Issuer may rely conclusively on a



representation of the Trustee that the Trustee is satisfied with the adequacy of the evidence presented concerning the mutilation, loss, theft or destruction of any Bond.

Section 2.7 Ownership of Bonds. The Issuer, Trustee and Paying Agent may deem and treat the Holder of any Bond, whether or not such Bond shall be overdue, as the absolute owner of such Bond for the purpose of receiving payment thereof and for all other purposes whatsoever, and the Issuer (or any agent thereof), Trustee and Paying Agent shall not be affected by any notice to the contrary.

Section 2.8 Preparation of Bonds. The Bonds shall be printed or typewritten bonds substantially in the form attached hereto as Exhibit A.

Section 2.9 Registration, Transfer and Exchange of Bonds.

(1) The Trustee shall, at the expense of the Borrower, cause to be kept at the designated corporate trust office of the Trustee a Bond Register in which, subject to such reasonable regulations as the Trustee may prescribe and the Trustee is hereby appointed “Bond Registrar” for the purpose of registering the Bonds and transfers of the Bonds as herein provided. The Bond Register shall contain a record of every Bond at any time authenticated hereunder, together with the name and address of the Holder thereof, the date of authentication, the date of transfer or payment, and such other matters as are appropriate for the Bond Register in the estimation of the Trustee.

(2) The Bonds may only be transferred, in whole or in part, to a Qualified Institutional Buyer as defined in Rule 144A promulgated under the Securities Act of 1933, as amended (the “Securities Act”), which has executed and delivered an investor letter to the Trustee substantially in the form attached hereto as Exhibit B. The Trustee shall have no duty or obligation to determine whether or not the Investor Letter has been delivered to the Issuer and the transferor as required hereunder and the Trustee shall be entitled to rely on the statements set forth therein, including the statements of the purchaser therein that the purchaser qualifies as a purchaser hereunder.

(3) The transfer of each Bond is subject to registration by the Holder thereof only upon compliance with the conditions imposed on the Holder under this Section 2.9. Upon surrender for transfer of any Bond at the designated corporate trust office of the Trustee, the Issuer shall execute (if necessary, and at the sole cost and expense of the Borrower), and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees (but not registered in blank or to “bearer” or a similar designation), one or more new Bonds of any Authorized Denomination, having the same Stated Maturity and interest rate, as requested by the transferor. The execution by the Issuer of any Bond of any denomination shall constitute full and due authorization of such denomination and the Trustee shall thereby be authorized to authenticate and deliver such Bond.

(4) At the option of the Holder, Bonds may be exchanged for other Bonds of the same series of any Authorized Denomination of a like aggregate principal amount and Stated Maturity, upon surrender of the Bonds to be exchanged at the designated corporate trust office of the Trustee, and upon payment, if the Issuer shall so require, of the taxes, if any, hereinafter referred to. Whenever any Bonds are so surrendered for exchange, the Issuer shall execute (at the sole cost and expense of the Borrower), and the Trustee shall authenticate and deliver, the Bonds which the Holder making the exchange is entitled to receive.

(5) All Bonds surrendered upon any exchange or transfer provided for in this Indenture shall be promptly cancelled by the Trustee and thereafter disposed of as in accordance with the Trustee’s policies and procedures.

(6) All Bonds delivered in exchange for or upon transfer of Bonds shall be valid special, limited obligations of the Issuer evidencing the same debt, and entitled to the same benefits under this Indenture, as the Bonds surrendered for such exchange or transfer.

(7) Transfer of a Bond may be made on the Bond Registrar's books by the registered owner in person or by the registered owner's attorney duly authorized in writing. Every Bond presented or surrendered for transfer or exchange shall (if so required by the Issuer or the Trustee) be duly endorsed or be accompanied by a written instrument or instruments of transfer, in the form printed on the Bond or in another form satisfactory to the Trustee, duly executed and with guaranty of signature of the Holder thereof or his attorney duly authorized in writing and shall include written instructions as to the details of the transfer of the Bond.

(8) No service charge shall be made to the Holder for any registration, transfer or exchange, but the Trustee or the Trustee may require payment of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in connection with any transfer or exchange of Bonds, other than exchanges expressly provided in this Indenture to be made without expense or without charge to Bondholders.

(9) Subject to the provisions of subsection (9) below, the Trustee as Bond Registrar shall endeavor to comply with rules applicable to transfer agents registered with the Securities and Exchange Commission as to the 72-hour "turnaround" standard established for the transfer of registered corporate securities.

(10) The Trustee shall not be required (i) to transfer or exchange any Bond during a period beginning at the opening of business 10 days before the day of the first publication or the mailing (if there is no publication) of a notice of redemption of Bonds under this Indenture and ending at the close of business on the day of such publication or mailing, or (ii) to transfer or exchange any Bond so selected for redemption in whole or in part.

(11) The Bond Registrar shall insert in each Bond the date of registration which, for purposes of delivering the original Bonds to the Original Purchaser, shall be the date of original issue, and which for all other events shall be the last Interest Payment Date preceding the date of authentication to which interest on the Bond has been paid or made available for payment, unless the date of authentication is an interest payment date to which interest has been paid or made available for payment, in which case the Bond shall be dated as of the date of authentication. Each Bond shall be so dated that neither gain nor loss in interest shall result from any transfers, exchange or substitution provided for herein.

(12) Notwithstanding the foregoing, transfers are subject to the requirements of DTC while the Bonds are held in Book-Entry Form. Neither the Trustee nor the Issuer, nor any agent of either shall have any responsibility or liability for any actions taken or not taken by DTC.

Section 2.10 Interest Rights Preserved. Each Bond of a series delivered upon transfer of or in exchange for or in lieu of any other Bond of such series shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond.

Section 2.11 Cancellation of Bonds. Whenever any Outstanding Bond shall be delivered to the Trustee for cancellation pursuant to this Indenture, upon payment of the principal amount and interest

represented thereby or for replacement pursuant to Section 2.6 or transfer pursuant to Section 2.9, such Bond shall be cancelled and, subject to the Trustee's business practices, destroyed by the Trustee.

Section 2.12 Book-Entry System. The Bonds will be issued in book-entry form. DTC will act as securities depository for the Bonds. The Bonds will be issued as fully registered securities registered in the name of Cede & Co., as nominee of DTC. One fully registered Bond will be issued for each maturity in the total aggregate principal amount due on such maturity and will be deposited with DTC.

With respect to Bonds registered in the Bond Register in the name of Cede & Co., as nominee of DTC, neither the Issuer, the Borrower nor the Trustee shall have any responsibility or obligation to any DTC Participant or to any Beneficial Owner. Without limiting the immediately preceding sentence, neither the Issuer, the Borrower, nor the Trustee shall have any responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co., or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant, any Beneficial Owner or any other Person, other than DTC, of any notice with respect to the Bonds, including any notice of redemption, (iii) the payment to any DTC Participant, any Beneficial Owner or any other Person, other than DTC, of any amount with respect to the principal of or premium, if any, or interest on the Bonds, or (iv) the failure of DTC to provide any information or notification on behalf of any DTC Participant or Beneficial Owner.

The Issuer, the Borrower and the Trustee may treat as and deem DTC to be the absolute owner of each Bond for the purpose of payment of the principal of and premium and interest on such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers with respect to such Bonds, and for all other purposes whatsoever (except for the giving of certain Bondholder consents). The Trustee shall pay all principal of and premium, if any, and interest on the Bonds to the Bondholders as shown on the Bond Register, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer's obligations with respect to the principal of and premium, if any, and interest on the Bonds to the extent of the sum or sums so paid.

Upon delivery by DTC to the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the transfer provisions in Section 2.9, references to "Cede & Co." in this Section shall refer to such new nominee of DTC.

Notwithstanding the provisions of this Indenture to the contrary (including without limitation surrender of Bonds, registration thereof, and Authorized Denominations), as long as the Bonds are held in Book-Entry Form, full effect shall be given to the Representation Letter and the procedures and practices of DTC thereunder.

Replacement Bonds may be issued directly to beneficial owners of Bonds other than a Depository, or its nominee, but only in the event that (i) the Depository determines not to continue to act as securities depository for the Bonds (which determination shall become effective no less than 90 days after written notice to such effect to the Issuer and the Trustee); or (ii) the Issuer has advised a Depository of its determination (which determination is conclusive as to the Depository and beneficial owners of the Bonds) that the Depository is incapable of discharging its duties as securities depository for the Bonds; or (iii) the Issuer has determined (which determination is conclusive as to the Depository and the beneficial owners of the Bonds) that the interests of the beneficial owners of the Bonds might be adversely affected if such book-entry only system of transfer is continued. Upon occurrence of any of the foregoing events, the Issuer and the Borrower shall use commercially reasonable efforts to attempt to locate another qualified securities depository. If the Issuer and the Borrower fail to locate another qualified securities depository to replace the Depository, the Issuer and the Borrower, at the Borrower's sole cost and expense, shall cause to be authenticated and delivered replacement Bonds, in certificate form, to the beneficial owners of the Bonds. In the event that the Issuer makes the determination noted in (ii) or (iii) above (provided that the Issuer

undertakes no obligation to make any investigation to determine the occurrence of any events that would permit the Issuer to make any such determination and shall be provided notice by the Trustee if it undertakes any such investigation), and has made provisions to notify the beneficial owners of Bonds of such determination by mailing an appropriate notice to the Depository, the Trustee 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 and notice to the Issuer, 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 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 sole cost and expense of the Borrower.

Whenever, during the term of the Bonds, the beneficial ownership thereof is determined by a book entry at a Depository, (i) the requirements in this Indenture of holding, delivering or transferring Bonds shall be deemed modified to require the appropriate person or entity to meet the requirements of the Depository as to registering or transferring the book entry to produce the same effect and (ii) delivery of the Bonds will be in accordance with arrangements among the Issuer, the Trustee and the Depository notwithstanding any provision of this Indenture to the contrary.

The Issuer shall enter into any letter of representation with a Depository to implement the Book-Entry System of bond registration described above.

Neither the Trustee nor any of its agents shall have any responsibility or liability for any actions taken or not taken by DTC.

Section 2.13 Termination of Book-Entry Only System. DTC may determine to discontinue providing its services with respect to any Bonds registered in the name of Cede & Co. at any time by giving written notice to the Trustee and discharging its responsibilities with respect thereto under applicable law. Upon the termination of the services of DTC as provided above and notice to the Issuer, the Bonds may be registered in whatever name or names the Bondholders shall designate at that time, in accordance with Section 2.9. To the extent that the Beneficial Owners are designated as the transferee by the Bondholders, in accordance with Section 2.9 the Bonds will be delivered in appropriate form, content and Authorized Denominations to the Bondholders.

So long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to the principal of and premium, if any, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, to DTC as provided in the Representation Letter.

## ARTICLE 3

### REDEMPTION AND REMARKETING OF BONDS BEFORE MATURITY

Section 3.1 Redemption Provisions. The Bonds are subject to redemption and prepayment as follows:

(1) Optional Prepayment. The Bonds are subject to redemption and prepayment upon written request by the Borrower to the Trustee on any Business Day, on and after January 1, 2026, in whole or in part, at par plus accrued interest up to the redemption date, in principal increments of \$5,000, so long as no Bond is Outstanding in an amount less than \$100,000, and by lot within any Stated Maturity, at a Redemption Price equal to the principal amount thereof, without premium, plus accrued interest thereon to the date fixed for redemption.

(2) Redemption from Money Remaining in Project Fund. The Bonds are subject to mandatory redemption in part at a Redemption Price equal to the principal amount thereof, without premium, plus accrued interest thereon to the date fixed for redemption, on the earliest practicable date for which notice can be given pursuant to Section 3.3, to the extent of money remaining on deposit in the Project Fund that is transferred to the Bond Fund upon completion of the Project and payment of all Costs of the Project as provided in Section 5.2(2).

(3) Mandatory Redemption from Certain Money. The Bonds are subject to mandatory redemption in part, at a Redemption Price equal to the principal amount thereof, without premium, plus accrued interest thereon to the date fixed for redemption, on the earliest practicable date for which notice can be given pursuant to Section 3.3, from the proceeds of the Assigned Capital Contributions, redemption of the Bonds in part to occur upon each receipt by the Borrower or its designee and deposit with the Trustee in accordance with Section 4.2(1)(c) of the Loan Agreement. If the mandatory redemption pursuant to this subsection (3) occurs resulting in the redemption of all Outstanding Bonds, remaining money on deposit in the Capitalized Interest Fund will be used to pay first the portion of the Redemption Price attributable to accrued interest on the Outstanding Bonds, and second the portion of the Redemption Price attributable to principal of the Outstanding Bonds.

(4) No Redemption Prior to Placed in Service Date. Notwithstanding anything to the contrary contained herein, none of the Bonds shall be redeemed prior to the date upon which the Borrower has advised the Trustee in writing that the Project has been placed in service for purposes of Section 42 of the Code.

Section 3.2 Partial Redemption of Bonds. In the case of any partial redemption of Bonds of the same maturity pursuant to any provision of this Indenture, the particular Bonds or portions thereof to be redeemed shall be selected by the Trustee by lot. Notwithstanding the foregoing, DTC shall select the Bonds with respect to any Bonds registered in the name of Cede & Co. for redemption within particular maturities according to its stated procedures. In the case of any partial redemption of a Bond in a denomination greater than \$5,000 then for all purposes in connection with such redemption, the first \$5,000 of face value of such Bond shall be treated as though it were a separate Bond in the denomination of \$5,000 and each remaining \$5,000 of face value of such Bond shall be treated as though it were a separate Bond in the denomination of \$5,000, and such Bond shall be redeemed only in a principal amount sufficient to redeem one or more of such separate Bonds in full and so long as no Bond is Outstanding in an amount less than \$100,000. Any Bond which is to be redeemed only in part shall be surrendered to the Trustee (i) for payment of the Redemption Price (including accrued interest thereon to the Redemption Date) of the portion thereof called for redemption and (ii) for exchange for Bonds in any Authorized Denomination in aggregate

principal amount equal to the unredeemed portion of such Bond without charge therefor. No Bond will be selected for redemption if, upon redemption, the remaining principal amount of the Bond would not be an Authorized Denomination. For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Bonds shall relate, in the case of any Bond redeemed or to be redeemed only in part, to the portion of the principal of such Bond which has been or is to be redeemed.

Section 3.3 Procedure for Redemption.

(1) Notice of the intended redemption of any Bonds shall be given by the Trustee not less than 20 nor more than 60 days prior to the date fixed for redemption by first class mail, overnight delivery service, postage prepaid, to the registered owner of each Bond (with a copy to the Remarketing Agent) to be redeemed, at the address of such owner shown on the Bond Register; and a second notice of redemption shall be sent by first class mail, overnight delivery service, postage prepaid at such address to the registered owner of any Bond who has not submitted his Bond to the Trustee for payment on or before the date 60 days following the date fixed for redemption of such Bond in each case stating:

- (a) the complete official caption of which the Bonds being redeemed are a part;
- (b) the date of mailing of the notice of redemption;
- (c) the date fixed for redemption;
- (d) the redemption price or prices;
- (e) with respect to the redemption of the Bonds in part, the numbers of the Bonds to be redeemed, by giving the individual certificate number of each Bond to be redeemed (or stating that all Bonds between two stated certificate numbers, both inclusive, are to be redeemed or that all of the Bonds of one or more maturities have been called for redemption);
- (f) the CUSIP numbers of all Bonds being redeemed (provided that such notice may contain a disclaimer as to the accuracy of the CUSIP numbers);
- (g) in the case of a partial redemption of Bonds, the principal amount and maturity date of each Bond being redeemed;
- (h) the date of issue of the Bonds as originally issued;
- (i) the rate or rates of interest borne by each Bond being redeemed;
- (j) the maturity date of each Bond being redeemed; and
- (k) the place or places where amounts due upon such redemption will be payable.

The notice will state that Bonds must be surrendered at the payment office of the Trustee for redemption at the Redemption Price and shall state that further interest on such Bond will not accrue from and after the Redemption Date provided the Trustee has on deposit sufficient funds to redeem the Bonds on such date. CUSIP number identification with appropriate dollar amounts for each CUSIP number also shall accompany all redemption payments made by check or draft.

With respect to optional redemptions, such notice may be conditioned upon money being on deposit with the Trustee on or prior to the Redemption Date in an amount sufficient to pay the

Redemption Price on the Redemption Date. If such notice is conditional and either the Trustee receives written notice from the Borrower that money sufficient to pay the Redemption Price will not be on deposit on the Redemption Date, or such money is not received on or prior to the Redemption Date, then such notice shall be of no force and effect, the Trustee shall not redeem such Bonds and the Trustee shall give notice, in the same manner in which the notice of redemption was given, that such money was not or will not be so received and that such Bonds will not be redeemed.

(2) Notice of such redemption also shall be sent by certified mail, return receipt requested, overnight delivery service or other secure means (including electronic transmission), postage prepaid, to any registered owner of \$1,000,000 or more in aggregate principal amount of Bonds to be redeemed, to certain municipal registered securities depositories which are known to the Trustee to be holding Bonds and to at least two of the national information services that disseminate securities redemption notices, when possible, at least two days prior to the mailing of notices required by the first paragraph above, but in any event at least 20 days, but not more than 60 days, prior to the Redemption Date; provided that neither failure to receive such notice nor any defect in any notice so delivered shall affect the sufficiency of the proceedings for the redemption of such Bonds.

(3) Failure to give notice by mailing to the registered owner of any Bond designated for redemption or any defect in such notice shall not affect the validity of the proceedings for the redemption of such Bond.

(4) As long as DTC is effecting book-entry transfers of the Bonds or is acting as a registered securities depository with respect to any Bonds, the Trustee shall provide the notices specified in this Section 3.3 to the Securities Depository by overnight delivery service, facsimile transmission or by certified mail, return receipt requested at least one day prior to the mailing of the notice to Bondowners required pursuant to Section 3.3(1). It is expected that DTC shall, in turn, notify the DTC Participants and that the DTC Participants, in turn, will notify or cause to be notified the Beneficial Owners. Any failure on the part of DTC or a DTC Participant, or failure on the part of a nominee of a Beneficial Owner of a Bond (having been mailed notice from the Trustee, a DTC Participant or otherwise) to notify the Beneficial Owner of the Bond so affected, shall not affect the validity of the redemption of such Bond.

(5) Notice of redemption having been given in the manner provided above, and money sufficient for the redemption being held by the Trustee or Paying Agent for that purpose, thereupon the Bonds so called for redemption shall become due and payable on the Redemption Date, and interest thereon shall cease to accrue; and the owners of the Bonds so called for redemption shall thereafter no longer have any security or benefit under this Indenture except to receive payment of the Redemption Price for such Bonds.

Section 3.4 Payment of Bonds Upon Redemption. The Redemption Price of Bonds or portions thereof called for redemption in accordance with Section 3.3 shall be payable on the date of redemption upon presentation and surrender of such Bonds at the place or places of payment. If, on the Redemption Date, sufficient money shall have been deposited with the Trustee to effect such redemption in accordance

with this Indenture, then interest shall cease to accrue on all Bonds or portions thereof so called for redemption.

Section 3.5 No Partial Redemption During Default. Anything in this Indenture to the contrary notwithstanding, if there shall have occurred and be continuing an Event of Default, there shall be no redemption of less than all of the Bonds at the time Outstanding.

Section 3.6 Cancellation. All Bonds which have been redeemed shall be cancelled by the Trustee as provided in Section 2.11 and shall not be reissued.

Section 3.7 Mandatory Purchase of Bonds on Mandatory Tender Date. All Bonds then outstanding are subject to initial mandatory purchase from the Bondholders on July 1, 2026 (the "Initial Mandatory Tender Date") at a purchase price equal to 100% of the outstanding principal amount thereof plus accrued interest (the "Mandatory Purchase Price"). All Bonds purchased on the Mandatory Tender Date as provided for herein and in the Loan Agreement shall continue to be outstanding for all purposes hereof and shall be registered in the name or at the direction of the Remarketing Agent or the Borrower, as the case may be, following such mandatory purchase on the Mandatory Tender Date. Pursuant to the Loan Agreement, the Borrower shall, on or prior to the Mandatory Tender Date, deposit or cause to be deposited into the Bond Fund a sum equal to the Mandatory Purchase Price and the Mandatory Purchase Price shall be paid on the Mandatory Tender Date by the Trustee to the registered owners of record of the Bonds from such funds deposited by or on behalf of the Borrower.

On the Mandatory Tender Date, if the Bonds are remarketed pursuant to Section 3.8 hereof, the interest rates on the Bonds shall be adjusted in accordance with Section 3.9 hereof. On or prior to the Mandatory Tender Date a schedule of such adjusted rates for each of the Bonds shall be furnished to the Trustee and the Borrower by the Remarketing Agent. On the Mandatory Tender Date, all of the then Outstanding Bonds shall be subject to mandatory tender for purchase by or on behalf of the Borrower from the Bondholders on the Mandatory Tender Date, and the Bondholders shall have no right to retain the ownership of such Bonds following the Mandatory Tender Date. The Trustee shall deliver or mail by first class mail a notice of the mandatory purchase at least 30 days but not more than 45 days prior to the Mandatory Tender Date to each registered owner of such Bonds (with a copy to the Remarketing Agent) at the address shown on the registration books. Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not a particular Bondholder receives the notice. Said notice shall state in substance the following:

- (1) The Mandatory Tender Date.
- (2) That all registered owners of the Bonds then outstanding are required to tender such Bonds to the Trustee at its principal office for purchase at the Mandatory Purchase Price on the Mandatory Tender Date.
- (3) That all of the Bondholders shall be deemed to have tendered their Bonds for purchase on the Mandatory Tender Date regardless of whether they tender such Bonds on or prior to such date and no interest will accrue on or after the Mandatory Tender Date to the owners of such Bonds tendered or deemed tendered.

The Mandatory Tender Date shall be (i) the Initial Mandatory Tender Date and (ii) any subsequent dates for mandatory tender of the Bonds established by the Borrower in consultation with the Remarketing Agent in connection with a remarketing of the Bonds pursuant to Section 3.8 hereof.



All owners of Bonds shall be required to tender such Bonds to the Trustee for purchase by or on behalf of the Borrower at the Mandatory Purchase Price, and any such Bonds not delivered to the Remarketing Agent or the Trustee on or prior to the Mandatory Tender Date (“Undelivered Bonds”), for which there has been irrevocably deposited in trust with the Trustee an amount of money sufficient to pay the Mandatory Purchase Price of the Undelivered Bonds, shall be deemed to have been purchased on the Mandatory Tender Date pursuant to this Section. IN THE EVENT OF A FAILURE BY AN OWNER OF BONDS TO DELIVER SUCH BONDS ON OR PRIOR TO THE MANDATORY TENDER DATE, SAID OWNER SHALL NOT BE ENTITLED TO ANY PAYMENT (INCLUDING ANY INTEREST TO ACCRUE SUBSEQUENT TO THE MANDATORY TENDER DATE) OTHER THAN THE MANDATORY PURCHASE PRICE FOR SUCH UNDELIVERED BONDS, AND ANY UNDELIVERED BONDS SHALL NO LONGER BE ENTITLED TO THE BENEFITS OF THE INDENTURE, EXCEPT FOR THE PURPOSE OF PAYMENT OF THE MANDATORY PURCHASE PRICE THEREFOR.

Section 3.8 Remarketing of Bonds.

(a) *Notice of Mandatory Tender.* No later than 11:00am Local Time on the 35th day prior to each Mandatory Tender Date, the Trustee shall give notice in writing to the Remarketing Notice Parties which states the aggregate principal amount of Bonds which are to be tendered or deemed to be tendered pursuant to Section 3.7 hereof.

(b) *Preliminary Conditions to Remarketing.* No later than 11:00 a.m. Local Time on the 20th day prior to the Mandatory Tender Date then in effect, the Borrower may give notice in writing to the Remarketing Notice Parties that the Borrower elects to cause the Bonds to be remarketed. A remarketing of the Bonds shall be permitted only if the following conditions are satisfied no later than the time the foregoing election notice is given:

(i) Notice by the Borrower to the Remarketing Agent of the Remarketing Period pursuant to Section 8.4 of the Loan Agreement; and

(ii) Notice by the Borrower to the Remarketing Agent that it has approved as to form and substance any disclosure document or offering materials which, in the discretion of the Remarketing Agent, is necessary to be used in connection with the remarketing of the Outstanding Bonds.

(c) *Remarketing.* Not less than 10 days before each Remarketing Date, the Remarketing Agent shall offer for sale and use its best efforts to sell the Bonds Outstanding on the Remarketing Date at a price equal to 100% of the principal amount of such Bonds in accordance with Section 3.9 hereof plus, if such Remarketing Date is a date other than an Interest Payment Date, accrued interest on such Bonds from the preceding Interest Payment Date to which interest has been paid. Not less than 4 Business Days before each Remarketing Date, the Remarketing Agent shall give notice in writing to the Remarketing Notice Parties specifying the principal amount of Bonds, if any, it has remarketed (including Bonds to be purchased by the Remarketing Agent on the Remarketing Date for its own account, if any), the Remarketing Rate and the Remarketing Period applicable to the Bonds.

The Remarketing Agent shall have the right to remarket any Bond tendered pursuant to Section 3.7 hereof; provided, however, that no such Bond shall be remarketed at a price less than 100% of the principal amount thereof in accordance with Section 3.9 hereof plus accrued interest (if any). The Remarketing Agent shall have the right but not the obligation to purchase any Bond tendered or deemed tendered pursuant to Section 3.7 hereof at 100% of the principal amount thereof, and to thereafter sell such Bond. Any such purchase shall constitute a remarketing hereunder.

The Remarketing Agent shall not remarket any Bond to the Issuer, the Borrower, any guarantor of the Bonds or any person which is an “insider” of the Issuer, Borrower, or any such guarantor within the meaning of the Federal Bankruptcy Code.

(d) *Final Conditions to Remarketing.* If, not later than the Remarketing Date:

(i) the Remarketing Agent shall have notified the Trustee in writing of the remarketing of the Outstanding Bonds and that the proceeds from the remarketing (including proceeds of remarketing of Outstanding Bonds to be purchased by the Remarketing Agent on the Remarketing Date for its own account) or other funds equal to the amount needed to purchase the remarketed Bonds on the Remarketing Date are expected to be available to the Trustee on the Remarketing Date for deposit into the Bond Fund;

(ii) there shall be on deposit with the Trustee, from funds made available by the Borrower, an amount determined by the Remarketing Agent for deposit to the Capitalized Interest Fund with respect to the payment of Bond Service Charges during the new Remarketing Period; and

(iii) there shall either (A) be on deposit with the Trustee an amount sufficient to pay the estimated Remarketing Expenses as certified in writing to the Trustee by the Borrower, or (B) the Remarketing Agent shall have certified in writing to the Trustee that provision for the payment of the estimated Remarketing Expenses shall have been made to the satisfaction of the Remarketing Agent;

then the Trustee shall immediately give notice in writing to the Remarketing Notice Parties that (a) all conditions precedent to the remarketing of the Outstanding Bonds have been satisfied and (b) the sale and settlement of the Outstanding Bonds is expected to occur on the Remarketing Date. Following the Trustee’s notice, the Outstanding Bonds shall be sold to the purchasers identified by the Remarketing Agent for delivery and settlement on the Remarketing Date, and the Trustee shall apply the funds in the Bond Fund on the Remarketing Date to payment of the purchase price of the Outstanding Bonds.

(e) *Failure to Satisfy Final Conditions.* If, not later than the Remarketing Date, any condition set forth in paragraph (d) of this Section 3.8 has not been satisfied, then, unless the Outstanding Bonds are otherwise purchased on the Remarketing Date, the Remarketing Agent shall not sell any of the Outstanding Bonds on the Remarketing Date.

(f) *Remarketing Proceeds.* No later than 11:00 a.m. Local Time on each Remarketing Date, the Remarketing Agent shall pay to the Trustee, in immediately available funds, the proceeds theretofore received by the Remarketing Agent from the remarketing of Bonds tendered for purchase on such Remarketing Date; provided, that the Remarketing Agent may use its best efforts to cause the purchasers of the remarketed Bonds to pay the purchase price plus accrued interest (if any) to the Trustee in immediately available funds. The proceeds from the remarketing of the Bonds shall be segregated from any funds of the Borrower and the Issuer and shall in no case be considered to be or be assets of the Borrower or the Issuer. Funds representing remarketing proceeds received by the Remarketing Agent after 11:00 a.m. Local Time on each Remarketing Date shall be paid to the Trustee as soon as practicable upon such receipt.

(g) *Delivery of Purchased Bonds.* On or before the Business Day next preceding each Remarketing Date, the Remarketing Agent shall notify the Trustee in writing of (i) the principal amount of Bonds to be sold by the Remarketing Agent pursuant to this Section 3.8 and the purchase price, and, unless the Bonds are then in Book-Entry Form, the names, addresses and social security numbers or other tax

identification numbers of the proposed purchasers thereof and (ii) the principal amount of Bonds tendered for purchase on such Remarketing Date which will not be sold by the Remarketing Agent pursuant to this Section 3.8.

Bonds purchased by the Trustee on a Mandatory Tender Date that have been remarketed shall be delivered to the purchasers thereof as directed by the Remarketing Agent. Bonds delivered as provided in this Section shall be registered in the manner directed in writing by the recipient thereof.

Section 3.9 Establishment and Notice of Remarketing Rate.

The Remarketing Agent shall establish the interest rate on the Bonds outstanding for each Remarketing Period at the Remarketing Rate in accordance with this Section. Not less than 10 Business Days preceding each Remarketing Date, the Remarketing Agent, taking into consideration prevailing market conditions, shall, using its best professional judgment, determine the minimum rate(s) of interest which, if borne by the Bonds then Outstanding for the Remarketing Period specified by the Borrower as provided in Section 3.8 hereof, would permit all such Bonds to be remarketed at a price equal to par. The rate of interest determined in accordance with the previous sentence shall be the Remarketing Rate for the specified Remarketing Period; provided that if the rate of interest so determined for such period would exceed the Maximum Interest Rate, the Bonds outstanding shall be remarketed for the longest Remarketing Period for which the minimum rate of interest that would enable such Bonds to be remarketed at a price equal to 100% of the principal amount of such Bonds that would not exceed the Maximum Interest Rate. Notwithstanding the foregoing, if the rate of interest so determined for any Remarketing Period would exceed the Maximum Interest Rate, the Bonds outstanding shall not be remarketed.

The Remarketing Agent shall, upon determination of the Remarketing Rate and Remarketing Period, immediately (and in no event later than the Business Day following the day on which the Remarketing Agent makes its determination of the Remarketing Rate and the Remarketing Period) give notice of its determination in writing to the Remarketing Notice Parties. The Remarketing Rate and the Remarketing Period shall be conclusive and binding upon the Remarketing Notice Parties and the Holders for the purposes of this Indenture.

Section 3.10 Cancellation of Bonds.

The Trustee shall immediately cancel Bonds if the tender price of the Bonds is paid from amounts other than proceeds derived from the remarketing of the Bonds.

Section 3.11 Concerning the Remarketing Agent.

The Remarketing Agent identified in Section 1.1 hereof shall serve as the Remarketing Agent for the Bonds. The Remarketing Agent shall designate to the Trustee its designated office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer, the Borrower and the Trustee. In addition, the Remarketing Agent will agree particularly to:

- (a) keep such records relating to its computations of interest rates for the Bonds as shall be consistent with prudent industry practice and to make such records available for inspection by the Issuer, the Trustee and the Borrower at all reasonable times; and
- (b) perform all of its functions and duties under this Indenture.

The Remarketing Agent shall be entitled to advice of legal counsel on any matter relating to the Remarketing Agent's obligations hereunder and shall be entitled to act upon the opinion of such counsel in the exercise of reasonable care in fulfilling such obligations.

The Remarketing Agent shall be entitled to appoint additional co-Remarketing Agents to assist in the performance of the Remarketing Agent's obligations under this Indenture, and any such appointment shall be effective without any action by the Issuer or the Borrower being necessary; provided that any such co-Remarketing Agent, shall have a capitalization of at least \$5,000,000, or shall have a line of credit with a commercial bank in the amount of at least \$5,000,000, shall be in conformity with all standards and requirements of the Municipal Securities Rulemaking Board and the Securities and Exchange Commission, and shall be authorized by law to perform all the duties imposed upon it by this Indenture. The Remarketing Agent shall take responsibility for any co-Remarketing Agent it appoints.

#### Section 3.12 Qualifications of Remarketing Agent.

The Remarketing Agent shall be a member in good standing of the Financial Industry Regulatory Authority having a capitalization of at least \$5,000,000, or shall have a line of credit with a commercial bank in the amount of at least \$5,000,000, and shall be authorized by law to perform all the duties imposed upon it by this Indenture. Subject to the terms of the Remarketing Agreement, the Remarketing Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 30 days' written notice of such resignation to the Issuer, the Borrower, Investor Limited Partner and the Trustee. The Remarketing Agent may be removed, with prior notice to the Issuer, at any time by the Borrower, with at least 30 days' notice of such removal to the Remarketing Agent.

Upon any resignation or removal of the Remarketing Agent, the departing Remarketing Agent shall pay over, assign and deliver any money and Bonds held by it in such capacity to its successor.

The Trustee, within 30 days of the resignation or removal of the Remarketing Agent or the appointment of a successor Remarketing Agent, shall give notice thereof by registered or certified mail to the Holders of the Bonds.

#### Section 3.13 Notices to Remarketing Notice Parties.

The Trustee shall notify the Remarketing Notice Parties of (a) the occurrence of an Event of Default of which the Trustee has actual notice, (b) the occurrence of any monetary or other material default under the Loan of which the Trustee has actual notice, (c) any change in the identity of the Trustee, (d) any amendments, modifications, supplements or changes to this Indenture, the Loan Agreement, or the Bonds, including any extension of principal or modification of interest or redemption premium due on any of the Bonds, in each case only in the event the Trustee has actual notice, (e) any change or proposed change in the structure or identity of the Borrower of which the Trustee has actual knowledge, (f) any change or notification of proposed change of the Mandatory Tender Date or Remarketing Date, (g) any partial prepayment of the Loan or the giving of notice of the call for redemption of any Bonds, (h) any defeasance or acceleration of the Bonds hereunder, or (i) any change in the Remarketing Agent of which its Trustee has actual knowledge.

The Trustee shall not, however, be subject to any liability to any Holder or any party to the transaction by reason of its failure to mail any such notice, and any such failure shall not affect the validity of actions which are the subject of such notice.

## ARTICLE 4

### GENERAL COVENANTS

Section 4.1 Payment of Principal, Premium and Interest. Subject to the other provisions of this Indenture, the Issuer shall duly and punctually pay or cause to be paid, solely from amounts available in the Trust Estate, the principal of, premium, if any, and interest on the Bonds, at the dates and places and in the manner provided herein and in each said Bond, according to the true intent and meaning thereof. The principal of and interest and redemption premium if any, on the Bonds are payable solely from the Trust Estate (except to the extent paid out of monies attributable to the proceeds derived from the sale of the Bonds or to income from the temporary investment thereof) and nothing in the Bonds or in this Indenture shall be construed as pledging any other funds or assets of the Issuer or the Borrower except to the extent as set forth in any of the Loan Documents. The Bonds are special limited obligations of the Issuer, payable solely from amounts to be paid by the Borrower under the Loan Agreement and amounts credited to such payment under the terms of this Indenture and are secured under this Indenture by an assignment to the Trustee of the Loan Agreement and all amounts paid by the Borrower thereunder and are further secured as provided in the Security Documents.

Section 4.2 [Reserved].

Section 4.3 Instruments of Further Assurance. The Issuer covenants that it will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered by the parties within its control, such instruments supplemental hereto and such further acts, instruments, and transfers as the Trustee may reasonably require for the better assuring, transferring, mortgaging, conveying, pledging, assigning, and confirming unto the Trustee, the Issuer's interest in and to all interests, revenues, proceeds, and receipts pledged hereby to the payment of the principal of, premium, if any, and interest on the Bonds in the manner and to the extent contemplated herein. The Issuer shall be under no obligation to prepare, record, or file any such instruments or transfers.

Section 4.4 Recording and Filing. The Borrower, in accordance with Section 5.3 of the Loan Agreement, has covenanted to cause the Security Documents and all supplements thereto, to be kept, recorded and filed in such manner and in such places as may be required by law in order to preserve and protect fully the security of the Holders of the Bonds and the rights of the Trustee hereunder and under any other instruments aforesaid.

The Trustee is not responsible for the legality, effectiveness or sufficiency of any Security Document. To continue the security interest evidenced by such Security Documents or financing statements where the Trustee is named as the secured party, which are filed upon the issuance of the Bonds and included in the transcript of documents delivered to the Trustee, the Borrower shall file and record such necessary continuation statements, at its own expense, from time to time as may be required pursuant to the provisions of the said Uniform Commercial Code or other similar law to fully preserve and protect the security interest of the Trustee in the Trust Estate and to perfect the security interest in the Security Documents.

Section 4.5 Books and Records. The Trustee covenants that so long as any Outstanding Bonds issued hereunder and secured by this Indenture shall be unpaid, the Trustee will keep proper books or records and accounts, in which full, true and correct entries will be made of all its financial dealings or transactions in relation to the Project and the payments derived from the Loan Agreement and this Indenture. At reasonable times and under reasonable regulations established by the Trustee, such books shall be open to the inspection of Holders and such accountants or other agencies as the Trustee may from time to time designate.

Section 4.6 Bondholders' Access to Bond Register. Except as otherwise may be provided by law, the Bond Register shall not be deemed a public record and shall not be made available for inspection by the public, unless and until notice to the contrary is given to the Trustee by the Issuer.

Section 4.7 Rights Under Loan Agreement. The Loan Agreement sets forth covenants and obligations of the Issuer and the Borrower, and reference is hereby made to the same for a detailed statement of said covenants and obligations. The Issuer agrees to cooperate in the enforcement of all covenants and obligations of the Borrower under the Loan Agreement and agrees that the Trustee in its name or in the name of the Issuer may enforce all rights of the Issuer and all obligations of the Borrower under and pursuant to the Loan Agreement and on behalf of the Holders, whether or not the Issuer has undertaken to enforce such rights and obligations.

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## ARTICLE 5

### FUNDS AND ACCOUNTS

Section 5.1 “Trust Money” Defined. All money received by the Trustee:

- (1) as elsewhere herein provided to be held and applied under this Article 5, or required to be paid to the Trustee and whose disposition is not elsewhere herein otherwise specifically provided for, including, but not limited to the investment income of all Trust Funds held by the Trustee under this Indenture; or
- (2) as proceeds from the sale of the Bonds; or
- (3) as Basic Payments or Revenues, or as otherwise payable under the Loan Agreement;

(all such money being herein sometimes called “Trust Money”) shall be held by the Trustee as a part of the Trust Estate, and, upon the exercise by the Trustee of any remedy specified in Article 8 hereof, such Trust Money shall be applied in accordance with Section 8.7 hereof, except to the extent that the Trustee is holding in Trust Money or Government Obligations, as the case may be, for the payment of any specified Bonds which are no longer deemed to be Outstanding under the provisions of Article 7 hereof, which money or Government Obligations shall be applied only as provided in said Article 7. Prior to the exercise of any such remedy, all or any part of the Trust Money shall be held, invested, withdrawn, paid or applied by the Trustee, from time to time, as provided in this Article 5, in Article 6 and Article 7 hereof.

Section 5.2 Project Fund.

(1) There is hereby created a Project Fund. On the Bond Closing, the Project Fund will be funded with a portion of the proceeds of the Bonds in the amount of [\$ \_\_\_\_]. Subject to the provisions of this Section 5.2, other than disbursements on the Bond Closing to pay Project Costs in accordance with the closing memorandum and without a disbursement request, the Trustee shall make disbursements from the Project Fund to pay Project Costs only upon the receipt of a written request of the Borrower in accordance with the Loan Agreement, and this Indenture, upon which the Trustee shall conclusively rely. Proceeds of the Bonds deposited in the Project Fund shall be disbursed by the Trustee in accordance with the applicable provisions of Article 3 of the Loan Agreement. The issuance expenses of the Bonds may be disbursed by the Trustee from the Project Fund, upon a written request of the Borrower, without having to comply with the provisions of the Loan Agreement regarding disbursement of Bond proceeds for the payment of Project Costs.

(2) Any sums in the Project Fund in excess of any amount required to pay Project Costs shall be transferred to the Bond Fund at the time or times and in the manner provided in Article 3 of the Loan Agreement.

(3) Any funds deposited in the Project Fund by the Borrower shall be disbursed before any proceeds of the Bonds, including any earnings thereon, shall be disbursed.

(4) Any interest earned on sums held in the Project Fund prior to the Completion Date shall remain a part of the Project Fund.

(5) All payments made from the Project Fund shall be presumed by the Trustee to be made for the purposes certified in said written requests, and the Trustee shall not be required to see to the application of any payments made from the Project Fund or to inquire into the purposes for which withdrawals are

being made from the Project Fund. The Trustee shall not be bound to make an investigation into the facts or matters stated in any written request. The Trustee shall not be responsible for determining whether the funds on hand in the Project Fund are sufficient to complete the Project. The Trustee shall have no responsibility whatsoever to disburse or transfer funds absent written instructions from the Borrower.

Section 5.3 Bond Fund.

(1) There is hereby created a Bond Fund.

(a) There shall be credited to the Bond Fund, as and when received:

(i) each payment received by the Trustee under and pursuant to any of the provisions of this Indenture or the Loan Agreement which is required to be paid into the Bond Fund, or which is accompanied by directions that such payment is to be credited to the Bond Fund;

(ii) funds transferred from the Capitalized Interest Fund pursuant to Section 5.4(1);

(iii) funds received from Assigned Capital Contributions and any other amounts payable under a Security Document; and

(iv) all income derived from the investment of amounts described in clause (i), as realized.

(b) The Trustee shall disburse, from time to time, sufficient money from the Bond Fund as specified below to pay the principal of, premium, if any, and the interest on, the Bonds as the same become due and payable.

(c) If any Bond shall not be presented for payment at maturity, provided money sufficient to pay such Bond shall have been made available to the Trustee and held by the Trustee for the benefit of the Holder thereof, all liability of the Issuer to the Holder thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such money, without liability for interest thereon, for the benefit of the Holder of such Bond, who shall thereafter be restricted exclusively to such money for any claim of whatever nature on his part hereunder or on, or with respect to, such Bond.

(d) Any money remaining in the Bond Fund after payment in full of the respective series of Bonds, and payment of the fees, charges and expenses of the Trustee, the Paying Agent, the Issuer and any Co-Paying Agent which have accrued and which will accrue and all other items required to be paid hereunder shall be paid to the Borrower.

(e) Money in the Bond Fund shall be invested as provided in Section 6.1 hereof.

(f) At any time upon request, the Trustee shall advise the Borrower and the Investor Limited Partner of the amount of funds determined by the Trustee to be necessary to redeem the Bonds in full pursuant to Section 3.1(3) of the Indenture, which determination shall take into account any money on deposit in the Capitalized Interest Fund that may be applied to the Redemption Price of the Bonds pursuant to this Indenture.



(2) Any surplus money in the Project Fund at the Completion Date which is transferred to the Bond Fund as provided in Section 5.2(2) (and interest earned thereon) shall be used by the Trustee (a) to redeem the largest number of respective Bonds callable, without premium or penalty, under the terms of this Indenture at the first opportunity or (b) to pay that portion of the annual principal due on the respective Bonds in an amount that bears the same ratio to the annual principal due that the total of such surplus funds bears to the face amount of such Bonds; and such funds, to the extent transferred to the Bond Fund, shall be invested as directed by the Borrower and shall not be invested to produce a yield greater than the yield on the Bonds, as required by Internal Revenue Service Revenue Procedure 79-5, Revenue Procedure 81-22 and 26 CFR 601.201 (and any subsequent amendments, modifications or replacements thereof), provided that, if the Trustee receives an opinion of Bond Counsel, the funds may be invested at a yield greater than the yield on the Bonds or the balance may be applied to meet current debt service requirements and accordingly become a part of the balance in the Bond Fund which may be credited against current installments of Basic Payments.

#### Section 5.4 Capitalized Interest Fund.

(1) There is hereby created a Capitalized Interest Fund. On the Bond Closing, the Capitalized Interest Fund will be funded with a portion of the proceeds of the Bonds in the amount of \$\_\_\_\_\_ for payment of interest on the Bonds through the Initial Mandatory Tender Date. Funds in the Capitalized Interest Fund shall be transferred automatically by the Trustee to the Bond Fund on the last Business Day of the month prior to a month in which an Interest Payment Date occurs in full or partial satisfaction of the interest payment payable by the Borrower with respect to the Bonds until the Capitalized Interest Fund is fully depleted.

(2) Any interest earned on sums held in the Capitalized Interest Fund prior to the Completion Date shall remain a part of the Capitalized Interest Fund.

(3) At the written direction of the Borrower, any funds remaining in the Capitalized Interest Fund following the Completion Date of the Project shall be transferred to the Bond Fund.

#### Section 5.5 Rebate Fund.

(1) There is hereby created a Rebate Fund. The Trustee shall deposit in the Rebate Fund, upon receipt, all Rebate Amounts deposited with the Trustee in accordance with Section 7.7(12) of the Loan Agreement; and for purposes of making such deposits the Trustee shall, at the written direction of the Borrower, transfer from the appropriate fund to the Rebate Fund a sum equal to any Rebate Amounts attributable to sums held in the Project Fund.

(2) The Trustee shall cooperate with the Borrower in making the determinations for each computation required pursuant to 7.7(12) of the Loan Agreement; and to that end, the Trustee shall, within 30 days after the end of the fifth Bond Year for the Bonds, prepare and file with the Borrower (and the Issuer, upon request) a report with respect to the Project Fund setting forth the total amount invested during the preceding five Bond Years, the investments made with the money in the Project Fund and the investment earnings (and losses) resulting from such investments, together with such additional information concerning the Bond Fund and the investments therein as the Rebate Consultant (as defined in 7.7(12) of the Loan Agreement) or the Borrower shall reasonably request.

(3) The Trustee shall remit sums in the Rebate Fund to the United States as provided in Section 7.7(12) of the Loan Agreement.

(4) Upon written direction of the Borrower, the Trustee shall remit to the Borrower, or transfer to the Bond Fund, any surplus rebate sums held in the Rebate Fund as provided in Section 7.7(12) of the Loan Agreement.

(5) Within the Rebate Fund, the Trustee shall maintain such accounts as shall be necessary to comply with written instructions of the Borrower given pursuant to the terms and conditions of the Tax Certificate. Subject to the transfer provisions provided below, all money at any time deposited in the Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the required rebate payments (the "Rebate Requirement") to the federal government of the United States of America. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section, and by the Tax Certificate (which is incorporated herein by reference). The Trustee shall be deemed conclusively to have complied with such provisions of the Tax Certificate if it follows the directions of the Borrower including supplying all necessary information in the manner provided in the Tax Certificate, and shall have no liability or responsibility to enforce compliance by the Borrower or the Issuer with the terms of the Tax Certificate or any other tax covenants contained in the Loan Agreement. The Trustee shall not be responsible for calculating rebate amounts or for the adequacy or correctness of any rebate report or rebate calculations. The Trustee shall have no independent duty to review such calculations or enforce the compliance by the Borrower with such rebate requirements. The Trustee shall have no duty or obligation to determine the applicability of the Code and shall only be obligated to act in accordance with written instructions provided by the Borrower.

(6) Computations of the Rebate Requirement shall be furnished by or on behalf of the Borrower (and the Issuer, upon request) in accordance with the Tax Certificate. The Trustee shall supply to the Borrower and/or the Issuer and any Rebate Consultant of the Borrower all necessary information in the manner provided in the Tax Certificate to the extent such information is reasonably available to the Trustee.

(7) The Trustee shall have no obligation to rebate any amounts required to be rebated pursuant to this Section, other than from moneys held in the funds and accounts created under this Indenture or from other moneys provided to it by the Borrower.

(8) At the written direction of the Borrower, which shall include a statement to the effect that such direction complies with the restrictions set forth in the Tax Certificate, the Trustee shall invest all amounts held in the Rebate Fund in Permitted Investments. The Trustee shall not be liable for any consequences arising from such investment.

(9) Any funds remaining in the Rebate Fund after each five year remission to the United States of America, redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Requirement, or provision made therefor satisfactory to the Trustee, shall be withdrawn and remitted to the Borrower.

(10) [Reserved].

(11) Notwithstanding any other provision of this Indenture, the obligation to remit the Rebate Requirement to the United States and to comply with all other requirements of this Section and the Tax Certificate shall survive the defeasance or payment in full of the Bonds.

#### Section 5.6 Deposit of Funds with Paying Agent.

(1) The Trustee shall transfer and remit sums from the Bond Fund to the Paying Agent in advance of each interest and principal due date and redemption date, from the balance then on hand in the

Bond Fund, sufficient to pay all principal, interest and redemption premiums then due on the Bonds. The Paying Agent shall hold in trust for the Holders of such Bonds all sums so transferred to it until paid to such Holders or otherwise disposed of as herein provided.

(2) Interest on each Bond including accrued interest to the date of deposit and interest, to the extent permitted by law, on overdue installments of interest at the rate borne by such Bond, (a) shall cease on its Stated Maturity, or on any prior date on which it shall have been duly called for redemption as herein provided, provided that funds sufficient for the payment thereof with accrued interest and any redemption premium have been deposited with the Paying Agent on or before the Stated Maturity or Redemption Date, as the case may be, and in the case of redemption, that the requirements of Article 3 have been complied with, or (b) shall cease on any date after Stated Maturity on which such deposit has been made, and the Holder shall have no further rights with respect to the Bonds or under this Indenture except to receive the payment so deposited.

(3) If any Bond is not presented for payment when due and funds sufficient to pay such Bond shall have been paid to the Trustee (or other Paying Agent, if any): (a) all liability of the Issuer for payment of such Bond shall forthwith cease, (b) such Bond shall forthwith cease to be entitled to any lien, benefit or security under this Indenture, and the Holder of such Bond shall forthwith have no rights in respect thereof except to receive payment thereof, and (c) the Trustee (or other Paying Agent, if any) shall hold such funds, without liability for interest thereon, for the benefit of the Holder of such Bond. Any money still held by the Trustee (or other Paying Agent, if any) after two years and eleven months from the date on which the Bond with respect to such amount was paid to the Trustee (or other Paying Agent, if any), shall, if and to the extent permitted by law, be paid by the Trustee (or other Paying Agent, if any) to the Borrower and shall be discharged from the trust and all liability of the Paying Agent or the Trustee with respect to such trust money shall cease; and the Bondholders shall thereafter be entitled to look only to the Borrower for payment, and the Borrower shall not be liable for any interest thereon.

(4) If there is any Paying Agent who is not the Trustee, the Trustee will cause such Paying Agent to execute and deliver to it an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section 5.7, that such Paying Agent will:

(a) hold all sums held by it for the payment of principal of (and premium, if any) or interest on Bonds in trust for the benefit of the Holders of such Bonds until such sums shall be paid to such Holders or otherwise disposed of as herein provided; and

(b) at any time during the continuance of any default in the making of any such payment of principal (and premium, if any) or interest, upon the written request of the Trustee forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

The Trustee, acting as Paying Agent, shall also be bound by the terms of the foregoing requirements.

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## ARTICLE 6

### INVESTMENTS

#### Section 6.1 Investments by Trustee.

(1) Except during the continuance of an Event of Default, and subject to the provisions of Section 8.3, money held for the credit of the funds established by Article 5 shall be held by the Trustee as required by law and shall, at the written request and direction of the Borrower Representative and except as provided below with respect to the money in the Bond Fund, be invested as received and reinvested by the Trustee in Permitted Investments (including investments in securities authorized by the Act, through a common trust fund or similar fund maintained by a bank (including the Trustee) exclusively for the collective investment and reinvestment of money contributed thereto by the bank in its capacity as trustee, certificates of deposit, and repurchase agreements).

Subject to the Permitted Investments, as to the investment of sums (other than Bond proceeds) held in the Bond Fund, the type, amount and maturity of such investments shall be as specified by the Borrower Representative, provided that sums in the Bond Fund may in any event only be invested in securities which mature or are subject to redemption or repurchase at the option of the Trustee on or prior to the date or dates on which the Trustee anticipates that cash funds will be required.

(2) The Trustee shall sell and reduce to cash funds a sufficient portion of investments under the provisions of this Section whenever the cash balance in the fund for which the investment was made is insufficient for its current requirements. Securities so purchased as an investment of money shall be held by the Trustee, shall be registered in the name of the Trustee if registration is required, and shall be deemed at all times a part of the applicable fund, and the interest accruing thereon and any profit realized from such investments shall be credited to the fund from which the investment was made, subject to any transfer to another fund as herein provided. Any loss resulting from such investment shall be charged to the fund from which the investment was made.

(3) The Trustee shall have no liability whatsoever for any loss, fee, tax or other charge incurred in connection with any investment, reinvestment, sale or liquidation of an investment hereunder. The Trustee shall be entitled to rely on any written direction of the Borrower as to the suitability and legality of the directed investments. The Trustee shall have no responsibility whatsoever to determine whether any investments made pursuant to this Indenture are or continue to be Permitted Investments. Any deposit or investment directed by the Borrower shall constitute a certification by the Borrower to the Trustee that the assets so deposited or to be purchased pursuant to such directions are Permitted Investments. In no event shall the Trustee be deemed an investment manager or adviser in respect of any selection of investments hereunder.

(4) Such Permitted Investments shall be made so as to mature or be subject to redemption at the option of the holder thereof on or prior to the date or dates that the Borrower anticipates that money therefrom will be required. The Trustee may trade with itself or its affiliates in the purchase and sale of such Permitted Investments. Such Permitted Investments shall be registered in the name of the Trustee. The Trustee may invest in Permitted Investments through its own trust department or through or from any of its affiliates and Trust Money may be deposited in time deposits, or certificates of deposit issued by, the Trustee or any of its affiliates.

(5) The Trustee shall without further direction from the Issuer or the Borrower sell such Permitted Investments as and when required to make any payment for the purpose of which such investments are held. Each investment shall be credited to the fund for which it is held, subject to any

other provision of this Indenture directing some other credit, but income on such Permitted Investments shall be held or transferred, as received, in accordance with this Indenture.

(6) If the Borrower does not file a Borrower Request with the Trustee with respect to the investment of the money held under this Indenture, the Trustee shall invest to the extent practicable in investments described in clause (vi) above of the definition of the term “Permitted Investment”; provided, however, that any such investment shall be made by the Trustee only if, prior to the date on which such investment is to be made, the Trustee shall have received a written Borrower request specifying a specific money market fund or other Permitted Investment and, if no such written Borrower request is so received, the Trustee shall hold such moneys uninvested.

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

#### Section 6.2 Return on Investments.

(1) In directing investments pursuant to Section 8.3 of the Loan Agreement, the Borrower will not instruct the Trustee to use the proceeds of the Bonds or other sums pledged to the payment of the Bonds, directly or indirectly, to acquire any securities or obligations the acquisition of which would cause any of the Bonds to be an “arbitrage bond” as defined in Section 148 of the Code, and for this purpose the Trustee, in order to restrict yield on investments, may invest in SLGS, when available (and accordingly is hereby authorized to act as agent of the Issuer for such purpose). The Trustee has no duty to monitor the yield on any directed investment or any obligation to limit the yield or any investment the Borrower directs the Trustee to make. The Trustee shall be fully protected in relying on the Borrower’s directions with respect to whether the acquisition of any securities or obligations would have the effect prohibited by this Section.

(2) No money in any fund or account shall be invested in investments which cause the Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code. If at any time the money in all funds and accounts relating to the Bonds exceeds, within the meaning of Section 149(b) of the Code, (a) amounts invested for an initial temporary period until the money is needed for the purpose for which the Bonds were issued, (b) investments of a bona fide debt service fund, and (c) investments of a reserve which meet the requirement of Section 148(d) of the Code, then money in excess of such amounts shall be invested at the direction of the Borrower pursuant to Section 8.3 of the Loan Agreement in (i) obligations issued by the United States Treasury, (ii) other investments permitted under regulations, or (iii) obligations which are (a) not issued by, or guaranteed by, or insured by, the United States or any agency or instrumentality thereof or (b) not federally insured deposits or accounts, all within the meaning of Section 149(b) of the Code. The Borrower shall not direct the Trustee to take any action or do anything the effect of which shall be to cause the Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code.

(3) The provisions of this Section 6.2 shall survive discharge and release of the Indenture.

Section 6.3 Computation of Balances in Funds. In computing the assets of any fund established hereunder, investments and accrued but unpaid interest thereon shall be deemed a part thereof, and such investments shall be valued at par value, or at the Redemption Price thereof, if then redeemable at the option of the holder; provided that in any event for purposes of determining whether any balance in a fund may only be invested at a restricted yield to comply with Section 148 of the Code and the federal arbitrage regulations, any investments in the fund shall be valued at their par value or the price (less accrued interest) at which they were purchased, whichever is the greater.

Section 6.4 Rebate to United States. The Bonds are subject to the rebate to the United States of earnings in excess of the yield on the Bonds imposed by Section 148 of the Code and Section 1.148-3 of the Treasury Regulations. The Trustee shall have no obligation to calculate the amount of any required rebate as provided in Section 5.5. The Trustee shall cooperate with the Borrower in determining the amount of any rebate.

Section 6.5 Waiver of Right to Receive Notice of Security Transactions. The Issuer and the Borrower (by its execution of the Loan Agreement) acknowledge that regulations of the Comptroller of the Currency grant the Issuer and the Borrower the right to receive brokerage confirmations of security transactions as they occur. The Issuer and the Borrower specifically waive such right to notification to the extent permitted by law and acknowledge that they will receive periodic transaction statements that will detail all investment transactions.

Section 6.6 Issuer's Tax Covenants. The Issuer covenants and agrees not to take, or cause to be taken, any action or fail to take any action reasonably within its control with respect to the investment of monies under this Indenture that is inconsistent with the provisions of this Indenture and which would result in the Bonds becoming arbitrage bonds within the meaning of Code Section 148(a). The Issuer further covenants and agrees to comply with and take all actions required of it by the Tax Certificate and to continue to do so as specified in the Tax Certificate notwithstanding any satisfaction or discharge of this Indenture.

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## ARTICLE 7

### DISCHARGE OF LIEN

Section 7.1 Payment of Bonds; Satisfaction and Discharge of Bonds and Obligation to Bondholders. Whenever the conditions specified in either clause (a) or clause (b) of the following subsection (1) and the conditions specified in the following subsections (2) and (3) to the extent applicable, shall exist, namely:

(1) either

(a) all Bonds have been cancelled by the Trustee or delivered to the Trustee for cancellation, excluding, however,

(i) Bonds for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Paying Agent or Trustee and thereafter repaid to the Borrower or discharged from such trust, and

(ii) Bonds alleged to have been destroyed, lost or stolen which have been replaced or paid as provided in Section 2.6 hereof, and (a) which, prior to the satisfaction and discharge of this Indenture as hereinafter provided, have not been presented to the Paying Agent or the Trustee with a claim of ownership and enforceability by the Holder thereof, or (b) whose enforceability by the Holder thereof has been determined adversely to the Holder by a court of competent jurisdiction or other competent tribunal; or

(b) the Issuer or the Borrower has deposited or caused to be deposited as trust funds:

(i) with the Paying Agent, cash which shall be sufficient, or

(ii) with the Trustee cash and/or Government Obligations, which do not permit the redemption thereof at the option of the issuer thereof, the principal of, premium, if any, and interest on which when due (or upon the redemption thereof at the option of the holder), will, without reinvestment, provide cash which together with the cash, if any, deposited with the Trustee at the same time, shall be sufficient,

to pay and discharge the entire indebtedness on Bonds not theretofore cancelled by the Trustee or delivered to the Trustee for cancellation by the payment of interest on and principal (and premium, if any) of the Bonds which have become due and payable or which shall become due at their Stated Maturity or Redemption Date, as the case may be, and which are to be discharged under the provisions hereof, and has made arrangements satisfactory to the Trustee for the giving of notice of redemption, if any, by the Trustee in the name, and at the expense, of the Borrower in the same manner as is provided by Section 3.2 hereof; and

(2) the Borrower has paid, caused to be paid or made arrangements satisfactory to the Trustee for the payment of all other sums payable hereunder and under the Loan Agreement, and the Related Documents by the Trustee or the Borrower until the Bonds are so paid; and

(3) the Borrower has delivered to the Trustee a report of an Independent Accountant stating that the payments to be made on the security referred to in clause (b)(ii) of subsection (1) above will be sufficient to pay when due the principal of, premium, if any, and interest on the Bonds to be defeased; and

(4) if discharge is to be effected under clause (b) of subsection (1), an opinion of Bond Counsel is delivered to the Trustee stating in effect that such discharge will not impair the tax exempt status of the Bonds;

then, except as otherwise provided in Article 7 and Sections 8.3 and 9.3, the rights of the Bondholders shall be limited to the cash or cash and securities deposited as provided in paragraph 1, clauses (a) or (b) above, and upon the Borrower's request the rights and interest hereby granted or granted by the Loan Agreement and the Collateral Documents to or for the benefit of the Trustee or Bondholders shall cease, terminate and become null and void, and the Issuer and the Trustee shall, at the sole cost and expense of the Borrower, execute and deliver such instruments of satisfaction and transfer as may be necessary, and forthwith the estate, right, title and interest of the Trustee in and to all of the Project and in and to all rights under the Loan Agreement and this Indenture (except the money or securities or both deposited as required above and except as may otherwise be provided in Article 7 and Sections 8.3 and 9.3 shall thereupon be discharged and satisfied); except that in any event the obligations of the Borrower under Sections 7.4, 7.7, 7.8, 10.10, 10.11, 10.12, and 10.13 of the Loan Agreement shall survive.

Section 7.2 Discharge of the Indenture. Notwithstanding the fact that the lien of this Indenture upon the Trust Estate may have been discharged and cancelled in accordance with Section 7.1 hereof, this Indenture and the rights granted and duties imposed hereby, to the extent not inconsistent with the fact that the lien upon the Trust Estate may have been discharged and cancelled, shall nevertheless continue until the principal of and the interest on, all of the Bonds shall have actually been paid in full and the Trustee shall have applied all funds theretofore held by the Trustee for payment of any Bonds not theretofore presented for payment or purchase, as the case may be, which funds shall be held in trust solely for the Holders of such Bonds pending their application in accordance herewith.

## ARTICLE 8

### DEFAULT PROVISIONS AND REMEDIES

Section 8.1 Events of Default. Each of the following events is hereby defined as, and declared to be and to constitute, an "Event of Default" hereunder:

(1) default in the due and punctual payment of any interest on any Bond or the Mandatory Purchase Price of any Bond on the Mandatory Tender Date; or

(2) default in the due and punctual payment of the principal of any Bond at its Stated Maturity; or

(3) if default shall be made in the due and punctual payment of any other money required to be paid to the Trustee under the provisions hereof and such default shall have continued for a period of 30 days after written notice thereof, specifying such default, shall have been given by the Trustee to the Issuer and the Borrower, or to the Issuer, the Borrower and the Trustee by the Holders of not less than 25% in aggregate principal amount of the then Outstanding Bonds; or

(4) if default shall be made in the performance or observance of any other of the covenants, agreements or conditions on the part of the Issuer contained in this Indenture or in the Bonds, and such default shall have continued for a period of 30 days after written notice thereof given in the manner provided in clause (3) above. Notwithstanding the foregoing, if the default reasonably requires more than 30 days to cure, such default shall not constitute an Event of Default, provided that the curing of the default is promptly commenced upon receipt by the Issuer and Trustee of the notice of the default, and with due diligence is thereafter continuously prosecuted to



completion and is completed within a reasonable period of time, and provided that Issuer or Borrower keeps the Trustee well informed at all times of its progress in curing the default; provided in no event shall such additional cure period extend beyond 90 days; or

(5) the occurrence of an Act of Bankruptcy; or

(6) the occurrence of an “Event of Default” under the Loan Agreement or the Security Documents.

#### Section 8.2 Notice of Default.

If an Event of Default shall occur, the Trustee shall give written notice of the Event of Default, by registered or certified mail, to the Issuer, the Borrower, the Investor Limited Partner, the Registrar or the Paying Agent and Authenticating Agent, within five days after a Responsible Officer of the Trustee has actual notice of the Event of Default pursuant to Section 9.2(6) of this Indenture. If an Event of Default occurs of which the Trustee has actual notice pursuant to this Indenture, the Trustee shall give written notice thereof, within 30 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 15 days prior to the mailing of that notice.

The Investor Limited Partner shall be entitled (but not obligated) to cure any Event of Default hereunder within the time frame provided to the Borrower hereunder. The Issuer and Trustee agree that cure of any default or Event of Default made or tendered by the Investor Limited Partner 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 8.3 Acceleration.<sup>1</sup>

(1) Upon the occurrence of an Event of Default referred to in Section 8.1 hereof, the Trustee may, and at the written request of the Holders of not less than 25% in aggregate principal amount of the Outstanding Bonds shall, by notice in writing delivered to the Issuer and the Borrower declare the principal of all Bonds immediately due and payable, whereupon the same shall become immediately due and payable any time herein or in the Bonds to the contrary notwithstanding.

(2) Upon any declaration of acceleration, or occurrence resulting in acceleration under this Section 8.3, the Trustee shall immediately declare the Basic Payments required to be made by the Borrower under the Loan Agreement to be immediately due and payable in accordance with Section 9.2 of the Loan Agreement.

(3) Upon any acceleration required under this Section 8.3, interest shall cease to accrue on the Bonds as of the date of declaration of such acceleration.

(4) Except as provided in this Section 8.3, under no other circumstances may the Trustee accelerate the payment of the Bonds.

#### Section 8.4 Remedies.

(1) Subject to the provisions of Section 8.3, upon the occurrence of an Event of Default and acceleration of the Bonds, the Trustee may proceed to pursue any available remedy by suit at law or in equity to enforce all rights of the Bondholders, including without limitation the right to the payment of the

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<sup>1</sup> Colliers Team: The Borrower team has requested language allowing for defeasance/purchase in lieu of acceleration at the election of the Borrower. Please coordinate and advise.

principal or premium, if any, and interest on the then Outstanding Bonds. Upon the occurrence of an Event of Default under the Loan Agreement, the Trustee may also enforce any and all rights, if any, of the Issuer thereunder. The Issuer may also exercise any of its rights as provided in Section 9.2 of the Loan Agreement.

(2) If any Event of Default shall have occurred, and if it shall have been requested to do so by the Holders of 75% in aggregate principal amount of the then Outstanding Bonds, and if it shall have received an indemnity bond as provided in Section 9.1 hereof, the Trustee shall be obliged to exercise such rights and powers conferred on the Trustee by this Section and Section 8.3 as the Trustee (being advised by Independent Counsel), shall deem most expedient in the interests of the Bondholders; provided, however, that the Trustee shall have the right to decline to comply with any such request if the Trustee shall be advised by Independent Counsel that the action so requested may not lawfully be taken or if the Trustee in good faith shall determine that such action would be unjustly prejudicial to the Bondholders not parties to such request.

(3) No remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the Bondholders) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy (i) given to the Trustee or to the Holders hereunder or (ii) now or hereafter existing at law or in equity or by statute.

(4) No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default, or acquiescence therein; and every such right and power may be exercised from time to time and as often as may be deemed expedient.

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

Section 8.5 Direction of Proceedings By Bondholders. The Holders of a majority in aggregate principal amount of the then Outstanding Bonds shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, the Loan Agreement, the Collateral Documents or for the appointment of a receiver or any other proceedings hereunder; provided, that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture.

Section 8.6 Waiver of Stay or Extension Laws. Upon the occurrence of an Event of Default, to the extent that such rights may then lawfully be waived, neither the Issuer nor anyone claiming through it or under it shall or will set up, claim, or seek to take advantage of any appraisal, valuation, stay, extension or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement of this Indenture, but the Issuer, for itself and all who may claim through or under it, hereby waives to the extent that it lawfully may do so the benefit of all such laws and all right of appraisal and redemption to which it may be entitled under the laws of the State.

Section 8.7 Priority of Payment and Application of Money. All money received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of the costs and expenses of the proceedings resulting in the collection of such other money and of the related expenses, liabilities and advances incurred or made by the Issuer or the Trustee, be deposited in the Bond Fund. All money in the Bond Fund shall be applied, subject to the provisions of Article 5, pro rata with respect to the outstanding amounts of the Bonds, as follows:

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

FIRST: To the payment to the Persons entitled thereto of all installments of interest then due on the Bonds, in the order of the maturity of the installments of such interest and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the Persons entitled thereto, without any discrimination or privilege;

SECOND: To the payment to the Persons entitled thereto the unpaid principal of any of the Bonds which shall have become due in the order of their due dates with interest on such Bonds at the applicable rate and, if the amount available shall not be sufficient to pay in full the unpaid principal on Bonds due on any particular due date, then to the payment ratably, according to the amount of principal and premium, if any, due on such date, to the Persons entitled thereto, without any discrimination or privilege; and

(2) If the principal of all Bonds shall have become due or shall have been declared due and payable, all such money shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds, without preference or priority of principal or any redemption premium over interest or of interest over principal or any redemption premium, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Persons entitled thereto, without any discrimination or privilege.

(3) If the principal of all the Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of this Article, then, subject to the provisions of paragraph (2) of this Section in the event that the principal of all the Bonds shall later become due or be declared due and payable, the money shall be applied in accordance with the provisions of paragraph (1) of this Section.

Whenever money is to be applied by the Trustee pursuant to the provisions of this Section, such money shall be applied by it at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such money available for application and the likelihood of additional money becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall (i) fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue and (ii) on or before such date set aside the money necessary to effect such application. The Trustee shall give to the Bondholders and the Issuer mailed notice of the deposit with it of any such money and of the fixing of any such date. Neither the Trustee nor any Paying Agent shall be required to make payment to the Holder of any Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Whenever all Bonds and interest thereon have been paid under the provisions of this Section 8.7, and all expenses and charges of the Trustee and the Issuer have been paid, any balance remaining shall be paid to the person entitled to receive the same pursuant to Section 12.11.

Section 8.8 Remedies Vested in Trustee. All rights of action (including the right to file proof of claims) under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any Holders of the Bonds, and any recovery or judgment

shall be for the equal benefit of the Holders of the Outstanding Bonds to the extent and in the manner provided herein. The Issuer and the Trustee hereby agree, without in any way limiting the effect and scope thereof, that the pledge and assignment hereunder to the Trustee of all rights included within the Trust Estate shall constitute an agency appointment coupled with an interest on the part of the Trustee which, for all purposes of this Indenture, shall be irrevocable and shall survive and continue in full force and effect notwithstanding the bankruptcy or insolvency of the Issuer or its default hereunder or on the Bonds.

Section 8.9 Rights and Remedies of Holders. No Holder of any Bond shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture, the Loan Agreement, or for the execution of any trust hereof or any remedy hereunder or thereunder or for the appointment of a receiver, unless: (1) a default thereunder shall have become an Event of Default and the Holders of 75% in aggregate principal amount of the Bonds then Outstanding shall have made written request to the Trustee and shall have offered it reasonable opportunity either to proceed to exercise the powers hereunder granted or to institute such action, suit or proceeding in its own name; (2) such Holders shall have offered to indemnify the Trustee as provided in Section 9.2(9); and (3) the Trustee shall thereafter fail or refuse to exercise within a reasonable period of time the remedies hereunder granted, or to institute such action, suit or proceeding in its own name. Such notification, request and offer of indemnity are hereby declared in every such case at the option of the Trustee to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, the Loan Agreement, or for the appointment of a receiver or for any other remedy hereunder; it being understood and intended that no one or more Holders of the Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture, by its, his or their action or to enforce any right thereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Holders of all Bonds then Outstanding, provided, however, that nothing herein shall be construed to preclude any Bondholder from enforcing, or impair the right of any Bondholder to enforce, the payment by the Trustee of principal of, and interest and premium, if any, on any Bond of such Bondholder at or after its date of maturity, if and to the extent that such payment is required to be made to such Bondholder by the Trustee from available funds in accordance with the terms hereof.

Section 8.10 Termination of Proceedings. In case the Trustee shall have proceeded to enforce any right under this Indenture or the Loan Agreement by the appointment of a receiver, by entry and possession or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then and in every such case the Issuer and the Trustee shall be restored to their former positions and rights hereunder with respect to the property herein conveyed, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 8.11 Waiver of an Event of Default. The Trustee may waive any Event of Default and its consequences and shall do so upon written request of the Holders of a majority in aggregate principal amount of the Bonds then Outstanding. No Event of Default giving rise to mandatory acceleration may be waived. No such waiver or rescission shall extend to any subsequent or other Events of Default, or impair any right consequent thereon.

Section 8.12 Borrower as Agent of Issuer.

(1) No default under Section 8.1(4) of this Indenture shall constitute an Event of Default until actual notice of such default by registered or certified mail shall be given by the Trustee to the Issuer and the Borrower, and the Issuer and the Borrower shall have had the time permitted by the applicable subsection after receipt of such notice to correct said default or cause said default to be corrected and the

Issuer or the Borrower shall not have corrected said default or caused said default to be corrected within said time.

(2) With regard to any alleged default concerning which notice is given to the Borrower under the provisions of this Section 8.12, the Issuer hereby names and appoints the Borrower as its attorney-in-fact and agent with full authority to perform any covenant or obligation of the Issuer alleged in said notice to constitute a default, in the name and stead of the Issuer with full power to do any and all things and acts to the same extent that the Issuer could do and perform any such things and acts and with power of substitution; provided that the Borrower shall give the Issuer notice of its intention so to perform on behalf of the Issuer, and provided further that the Issuer may at any time, by a writing addressed to the Borrower withdraw, limit or modify the appointment hereby made.

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## ARTICLE 9

### THE TRUSTEE

#### Section 9.1 Trustee's Acceptance and Responsibilities.

The Trustee accepts the trusts imposed upon it by this Indenture, and agrees to observe and perform those trusts, but only upon and subject to the terms and conditions set forth in this Article, to all of which the parties hereto and the Holders agree.

(1) Prior to the occurrence of a default or an Event of Default (as defined in Section 8.1 hereof) of which the Responsible Officer has been notified in writing, as provided in paragraph (6) of Section 9.2 hereof, or of which by that paragraph the Trustee is deemed to have actual notice, and after the cure or waiver of all defaults or Events of Default which may have occurred,

(a) the Trustee undertakes to perform only those duties and obligations which are set forth specifically in this Indenture, and no duties or obligations shall be implied to the Trustee; and

(b) in the absence of bad faith, willful misconduct, or negligence on its part, the Trustee may rely conclusively, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; provided, however, any such opinion is also addressed to the Issuer and/or the Issuer is entitled to rely thereon.

(2) In case a default or an Event of Default has occurred and is continuing hereunder (of which the Responsible Officer has been notified, or is deemed to have notice), the Trustee shall exercise those rights and powers vested in it by this Indenture and shall use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs. The Trustee shall not be liable for any action taken or omitted by it in the performance of its duties hereunder except for its own negligence or willful misconduct.

(3) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct or breach of trust, except that

(a) this Subsection shall not be construed to affect the limitation of the Trustee's duties and obligations provided in subparagraph (1)(a) of this Section or the Trustee's right to rely on the truth of statements and the correctness of opinions as provided in subparagraph (1)(b) of this Section;

(b) the Trustee shall not be liable for any error of judgment made in good faith by any one of its officers, unless it shall be established that the Trustee was grossly negligent in ascertaining the pertinent facts;

(c) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a majority in principal amount of the Bonds then outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture; and

(d) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have reasonable grounds in its sole discretion for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(e) In no event shall the Trustee be liable for incidental, special, indirect, consequential or punitive damages or penalties (including but not limited to lost profits), even if the Trustee has been advised of the likelihood of such damages or penalty regardless of the form of action.

(4) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section 9.1 and shall apply to the Trustee's directors, officers, employees and agents and to the Trustee when acting in each of its capacities hereunder (e.g., Authenticating Agent, Paying Agent and Registrar).

Section 9.2 Certain Rights and Obligations of the Trustee.

Except as otherwise provided in Section 9.1 hereof:

(1) The Trustee (i) may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees (but shall be answerable therefor only in accordance with the standard specified above and shall not be answerable for the conduct of such attorneys, agents, or receivers if appointed with due care), (ii) shall be entitled to the advice of counsel (who may be counsel for the Issuer or the Borrower) concerning all matters of trusts hereof and duties hereunder, and (iii) may pay reasonable compensation in all cases to all of those attorneys, agents, and receivers reasonably employed by it in connection with the trusts hereof (at the expense of the Borrower as provided in Section 9.3 hereof). The Trustee may act upon the opinion or advice of any attorney (who may be the attorney or attorneys for the Issuer or the Borrower) approved by the Trustee in the exercise of reasonable care. The Trustee shall not be responsible for any loss, fee, tax or damage resulting from any action taken or omitted to be taken in good faith in reliance upon that opinion or advice.

(2) The Trustee shall not be responsible for:

(a) the validity, priority, recording, re-recording, filing or re-filing of this Indenture or any Supplemental Indenture, the Regulatory Agreement, any financing statements or any continuation statements,

(b) any instrument or document of further assurance or collateral assignment,

(c) insurance of the Project,

(d) the validity of the execution by the Issuer of this Indenture, any Supplemental Indenture or instruments or documents of further assurance,

(e) the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby,

(f) the value of or title to the Project,

except that, in the event that the Trustee enters into possession of a part or all of the Project pursuant to any provision of the Regulatory Agreement or any other instrument or document collateral thereto, the Trustee shall use due diligence in preserving that property. The Trustee shall not be bound to ascertain or inquire as to the observance or performance of any covenants, agreements or obligations on the part of the Issuer or the Borrower under the Loan Agreement except as set forth hereinafter; but the Trustee may require of the Issuer or the Borrower full information and advice as to the observance or performance of those covenants, agreements and obligations. Except as otherwise provided in Section 8.4 hereof, the Trustee shall have no obligation to observe or perform any of the duties of the Issuer under the Loan Agreement.

(3) The Trustee shall not be accountable for the application by the Borrower or any other Person of the proceeds of any Bonds authenticated or delivered hereunder.

(4) The Trustee shall be protected, in the absence of bad faith on its part, in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document reasonably believed by it to be genuine and correct and to have been signed or sent by the proper Person or Persons. Any action taken by the Trustee pursuant to this Indenture upon the request, authority or consent of any Person who is the Holder of any Bonds at the time of making the request or giving the authority or consent, shall be conclusive and binding upon all future Holders of the same Bond and of Bonds issued in exchange therefor or in place thereof.

(5) As to the existence or nonexistence of any fact for which the Issuer or the Borrower may be responsible or as to the sufficiency or validity of any instrument, document, report, paper or proceeding, the Trustee, in the absence of bad faith on its part, shall be entitled to rely upon a certificate signed on behalf of the Issuer or Borrower, as appropriate, by an authorized officer or representative thereof as sufficient evidence of the facts recited therein. Prior to the occurrence of a default or Event of Default hereunder of which the Responsible Officer has been notified, as provided in paragraph (6) of this Section, or of which by that paragraph the Responsible Officer is deemed to have notice, the Trustee may accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient; provided, that the Trustee in its discretion may require and obtain any further evidence which it deems to be necessary or advisable; and, provided further, that the Trustee shall not be bound to secure any such further evidence.

(6) The Trustee shall not be required to take notice, and shall not be deemed to have notice, of any default or Event of Default hereunder, except Events of Default described in paragraphs (1), (2), (3) and (6) (but only with respect to payments to be paid to the Trustee pursuant to Section 9.1 of the Loan Agreement) of Section 8.1 hereof, unless the Responsible Officer shall be notified specifically of the default or Event of Default in a written instrument or document (containing a reference to this Indenture and the Bonds) delivered to it by the Issuer, the Borrower or by the Holders of at least 10% of the aggregate principal amount of Bonds then outstanding. In the absence of delivery of a notice satisfying those requirements, the Trustee may assume conclusively that there is no default or Event of Default, except as noted above.

(7) The Trustee shall not be required to give any bond or surety with respect to the execution of these trusts and powers or otherwise in respect of the premises.

(8) Notwithstanding anything contained elsewhere in this Indenture, the Trustee may demand any showings, certificates, reports, opinions, appraisals and other information, and any corporate action and evidence thereof, in addition to that required by the terms hereof, as a condition to the authentication of any Bonds or the taking of any action whatsoever within the purview of this Indenture, if the Trustee deems it to be desirable for the purpose of establishing the right of any



Person to the taking of any other action by the Trustee; provided, that the Trustee shall not be required to make that demand.

(9) Before taking action hereunder pursuant to Section 9.4 or Article VIII hereof (with the exception of any action required to be taken under Section 8.2 hereof), the Trustee may require that a satisfactory indemnity bond be furnished to it for the reimbursement of all expenses which it may incur and to protect it against all liability by reason of any action so taken, except liability which is adjudicated to have resulted from its negligence or willful misconduct. The Trustee may take action without that indemnity, and in that case, the Borrower shall reimburse the Trustee for all of the Trustee's expenses pursuant to Section 9.3 hereof.

(10) Unless otherwise provided herein, all money received by the Trustee under this Indenture shall be held in trust for the purposes for which such money was received, until such money is used, applied or invested as provided herein; provided, that such money need not be segregated from other money, except to the extent required by this Indenture or by law. Absent written direction provided to the Trustee pursuant to Section 6.1 hereof, the Trustee shall not be responsible or liable for keeping money held by it hereunder invested in any particular investment, and the Trustee shall not have any liability for interest on any money received hereunder, except to the extent expressly provided herein.

(11) Any resolution by the Issuer, and any opinions, certificates and other instruments and documents for which provision is made in this Indenture, may be accepted by the Trustee, in the absence of bad faith on its part, as conclusive evidence of the facts and conclusions stated therein and shall be full warrant, protection and authority to the Trustee for its actions taken hereunder.

(12) The Trustee shall be entitled to file proofs of claim in bankruptcy at the direction of the Holders of at least 25% in aggregate principal amount of Bonds outstanding. Trustee fees and expenses are intended to constitute administrative expenses in bankruptcy.

(13) The duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture. No implied covenants or obligations shall be read into this Indenture against the Trustee. Notwithstanding any provision herein, the Trustee shall have no duty or obligation to the Borrower except as may be expressly set forth in this Indenture.

(14) The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising or caused, directly or indirectly by circumstances beyond its reasonable control including, without limitation, acts of God; earthquakes; fire; flood; hurricanes or other storms; wars; terrorism; similar military disturbances; sabotage; epidemic; pandemic; riots; interruptions; loss or malfunctions of utilities, communications services; accidents; labor disputes; acts of civil or military authority or governmental action; it being understood that the Trustee shall use commercially reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as reasonably practicable under any such circumstances.

(15) Notwithstanding anything contained herein to the contrary, upon the occurrence and continuance of an Event of Default, before taking any action which may subject the Trustee to liability under any environmental law, statute, regulation or similar requirement relating to the environment, the Trustee may require that a satisfactory indemnity bond, indemnity or

environmental impairment insurance be furnished for the payment or reimbursement of all costs and expenses to which it may be put (including reasonable attorney's fees, costs and expenses) and to protect it against all liability resulting from any claims, judgments, damages, losses, penalties, fines, liabilities (including strict liability) and costs and expenses which may result from such foreclosure or other action (including reasonable attorney's fees, costs and expenses).

(16) The Trustee may consult with counsel (who may be counsel for the Issuer or the Borrower) and the written 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 it hereunder in good faith and in reliance thereon.

Section 9.3 Fees, Charges and Expenses of Trustee, Registrar, Paying Agents and Authenticating Agents.

The Trustee, Registrar, Paying Agents and Authenticating Agents shall be entitled to payment or reimbursement by the Borrower, as provided in the Loan Agreement, for customary fees for their respective Ordinary Services rendered hereunder and for all advances, counsel fees and other Ordinary Expenses reasonably and necessarily paid or incurred by them in connection with the provision of Ordinary Services. For purposes hereof, fees for Ordinary Services provided for by their respective standard fee schedule shall be considered customary. Notwithstanding anything in this Indenture or the other Loan Documents to the contrary, fees of the Trustee, Registrar, Paying Agents and Authenticating Agents for Ordinary Services and any fees for services of the Dissemination Agent under the Continuing Disclosure Agreement shall be paid directly by the Borrower to the Trustee as provided in Section 4.4 of the Loan Agreement. In the event that it should become necessary for any of them to perform Extraordinary Services, they shall be entitled to customary extra compensation therefor and to reimbursement for reasonable and necessary Extraordinary Expenses incurred in connection therewith. Unless and until such time as the Trustee resigns or is replaced, and a successor Trustee is appointed pursuant to Section 9.9 hereunder, the Trustee shall continue to perform its duties hereunder notwithstanding the Borrower's failure to timely pay such fees.

Without creating a default or an Event of Default hereunder, however, the Borrower may contest in good faith the necessity for any Extraordinary Service and Extraordinary Expense and the amount of any fee, charge or expense except Ordinary Expenses.

The Trustee, Registrar, Paying Agents and Authenticating Agents shall not be entitled to compensation or reimbursement for Extraordinary Services or Extraordinary Expenses occasioned by their negligence or willful misconduct. The customary fees for their respective Ordinary Services and charges of the foregoing shall be entitled to payment and reimbursement only from (i) the Additional Payments made by the Borrower pursuant to the Loan Agreement, or (ii) from other money available therefor. Any amounts payable to the Trustee, the Registrar, the Paying Agents or the Authenticating Agents pursuant to this Section 9.3 shall be payable upon receipt of a detailed invoice from the Trustee, Registrar, Paying Agents or Authenticating Agents, as applicable, and shall bear interest beginning 30 days following the provision of the respective invoice to the Borrower at the Interest Rate for Advances.

Section 9.4 Intervention by Trustee.

The Trustee may intervene on behalf of the Holders, and shall intervene if requested to do so in writing by the Holders of a majority in aggregate principal amount of Bonds then outstanding, in any judicial proceeding to which the Issuer or the Borrower is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of Holders of the Bonds. The rights and obligations of the Trustee under this Section are subject to the approval of that intervention by a court of competent

jurisdiction. The Trustee may require that a satisfactory indemnity bond be provided to it in accordance with Sections 9.1 and 9.2 hereof before it takes action hereunder.

Section 9.5 Successor Trustee.

Anything herein to the contrary notwithstanding,

(1) any corporation or association (i) into which the Trustee may be converted or merged, (ii) with which the Trustee or any successor to it may be consolidated, or (iii) to which it may sell or transfer its corporate trust assets and corporate trust business as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, merger, consolidation, sale or transfer, ipso facto, shall be and become successor Trustee hereunder and shall be vested with all of the title to the whole property or Trust Estate hereunder; and

(2) that corporation or association shall be vested further, as was its predecessor, with each and every trust, property, remedy, power, right, duty, obligation, discretion, privilege, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by, vested in or conveyed to the Trustee, without the execution or filing of any instrument or document or any further act on the part of any of the parties hereto.

Any successor Trustee, however, (i) shall be a trust company or a bank having the powers of a trust company, (ii) shall be in good standing within the State, (iii) shall be duly authorized to exercise trust powers within the State, and (iv) shall have a reported capital, surplus and retained earnings of not less than \$100,000,000.

Section 9.6 Appointment of Co-Trustee.

It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including without limitation, the laws of the State) denying or restricting the right of banks or trust companies to transact business as trustees in that jurisdiction. It is recognized that, (a) if there is litigation under this Indenture or other instruments or documents relating to the Bonds and the Project, and in particular, in case of the enforcement hereof or thereof upon a default or an Event of Default, or (b) if the Trustee should deem that, by reason of any present or future law of any jurisdiction, it may not (i) exercise any of the powers, rights or remedies granted herein to the Trustee, (ii) hold title to the properties, in trust, as granted herein, or (iii) take any action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an individual or additional institution as a co-Trustee. The following provisions of this Section are adapted to these ends.

In the event that the Trustee appoints an individual or additional institution as a co-Trustee, each and every trust, property, remedy, power, right, duty, obligation, discretion, privilege, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by, vested in or conveyed to the Trustee shall be exercisable by, vest in and be conveyed to that co-Trustee, but only to the extent necessary for it to be so vested and conveyed and to enable that co-Trustee to exercise it. Every covenant, agreement and obligation necessary to the exercise thereof by that co-Trustee shall run to and be enforceable by it.

Should any instrument or document in writing from the Issuer reasonably be required by the co-Trustee so appointed by the Trustee for vesting and conveying more fully and certainly in and to that co-Trustee those trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens, that instrument or document shall be executed, acknowledged and delivered, but not prepared, by the Issuer (at the sole cost and expense of

the Borrower). In case any co-Trustee or a successor to it shall die, become incapable of acting, resign or be removed, all of the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens of the co-Trustee shall be exercised by, vest in and be conveyed to the Trustee, to the extent permitted by law, until the appointment of a successor to the co-Trustee.

The total compensation of the Trustee and any co-Trustee or separate trustee shall be as, and may not exceed the amounts, provided in Section 9.3 hereof.

Section 9.7     Resignation by the Trustee.

The Trustee may resign at any time from the trusts created hereby by giving written notice of the resignation to the Issuer, the Borrower, the Investor Limited Partner, the Registrar, the Paying Agents and Authenticating Agents, and by mailing written notice of the resignation to the Holders as their names and addresses appear on the Register at the close of business fifteen (15) days prior to the mailing. The resignation shall take effect upon the appointment of a successor Trustee as provided for in Section 9.9 of this Indenture or an order of a court of competent jurisdiction allowing the Trustee to resign.

Section 9.8     Removal of the Trustee.

The Trustee may be removed at any time upon 30 days' written notice by (i) the Majority of the Holders of the Bonds by an instrument or document or concurrent instruments or documents in writing signed by or on behalf of the Majority of the Holders of the Bonds and delivered to the Trustee, with copies thereof mailed to the Issuer, the Registrar, the Paying Agents and Authenticating Agents and the Borrower, or (ii) by the Issuer, by an instrument or document or concurrent instruments or documents in writing signed by or on behalf of the Issuer with the consent of the Majority of the Holders of the Bonds, and delivered to the Trustee, with copies thereof mailed to the the Registrar, the Paying Agents and Authenticating Agents and the Borrower.

The Trustee also may be removed at any time upon 30 days' written notice for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provision of this Indenture with respect to the duties and obligations of the Trustee by any court of competent jurisdiction upon the application of the Issuer or the Holders of not less than a majority in aggregate principal amount of the Bonds then outstanding under this Indenture.

The removal of the Trustee under this Section 9.8 shall take effect upon the appointment of a successor Trustee as provided for in Section 9.9 of this Indenture.

Section 9.9     Appointment of Successor Trustee.

If (i) the Trustee shall resign, shall be removed, shall be dissolved, or shall become otherwise incapable of acting hereunder, (ii) the Trustee shall be taken under the control of any public officer or officers, or (iii) a receiver shall be appointed for the Trustee by a court, then a successor Trustee shall be appointed by the Issuer; provided, that if a successor Trustee is not so appointed within 30 days after (a) a notice of resignation or an instrument or document of removal is received by the Issuer, as provided in Sections 9.7 and 9.8 hereof, respectively, or (b) the Trustee is dissolved, taken under control, becomes otherwise incapable of acting or a receiver is appointed, in each case, as provided above, then, but only so long as the Issuer shall not have appointed a successor Trustee, the Holders of a majority in aggregate principal amount of Bonds then outstanding may designate a successor Trustee by an instrument or document or concurrent instruments or documents in writing signed by or on behalf of those Holders. If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section,

the Holder of any Bond outstanding hereunder or any retiring Trustee may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

Every successor Trustee appointed pursuant to this Section (i) shall be a trust company or a bank having the powers of a trust company (ii) shall be in good standing within the State, (iii) shall be duly authorized to exercise trust powers within the State, (iv) shall have a reported capital, surplus and retained earnings of not less than \$100,000,000, and (v) shall be willing to accept the trusteeship under the terms and conditions of this Indenture.

Every successor Trustee appointed hereunder shall execute and acknowledge, and shall deliver to its predecessor, the Issuer and the Borrower an instrument or document in writing accepting the appointment. Thereupon, without any further act, the successor shall become vested with all of the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens of its predecessor. Upon the written request of its successor, the Issuer or the Borrower, and payment of all fees and expenses owed to it, the predecessor Trustee (i) shall execute and deliver an instrument or document transferring to its successor all of the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens of the predecessor Trustee hereunder, and (ii) shall take any other action necessary to duly assign, transfer and deliver to its successor all property (including without limitation, all securities and money) held by it as Trustee. Should any instrument or document in writing from the Issuer be requested by any successor Trustee for vesting and conveying more fully and certainly in and to that successor the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens vested or conveyed or intended to be vested or conveyed hereby in or to the predecessor Trustee, the Issuer shall execute, acknowledge and deliver that instrument or document (at the sole cost and expense of the Borrower).

In the event of a change in the Trustee, the predecessor Trustee shall cease to be custodian of any money which it may hold pursuant to this Indenture and shall cease to be Registrar, Authenticating Agent and a Paying Agent for any of the Bonds, to the extent it served in any of those capacities.

#### Section 9.10 Adoption of Authentication.

In case any of the Bonds shall have been authenticated, but shall not have been delivered, any successor Trustee, Registrar or Authenticating Agent may adopt the certificate of authentication of any predecessor Trustee, Registrar or Authenticating Agent and may deliver those Bonds so authenticated as provided herein. In case any Bonds shall not have been authenticated, any successor Trustee, Registrar or Authenticating Agent may authenticate those Bonds in its own name as successor Trustee. In all cases, the certificate of authentication shall have the same force and effect as provided in the Bonds or in this Indenture with respect to the certificate of authentication of the predecessor Trustee, Registrar or Authenticating Agent.

#### Section 9.11 Registrars.

(1) Succession. Anything herein to the contrary notwithstanding, any corporation or association (i) into which a Registrar may be converted or merged, (ii) with which a Registrar or any successor to it may be consolidated, or (iii) to which it may sell or transfer its assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, merger, consolidation, sale or transfer, ipso facto, shall be and become successor Registrar to that Registrar hereunder and shall be vested with each and every power, right, duty, obligation, discretion and privilege

expressed or intended by this Indenture to be exercised by or vested in the predecessor Registrar, without the execution or filing of any instrument or document or any further act on the part of any of the parties hereto.

(2) Resignation. A Registrar may resign at any time by giving written notice of its resignation to the Issuer, the Borrower, the Trustee and to each Paying Agent and Authenticating Agent for the Bonds, at least 60 days before the resignation is to take effect. The resignation shall take effect immediately, however, upon the appointment of a successor Registrar, if the successor Registrar is appointed and accepts that appointment before the time stated in the notice.

(3) Removal. The Registrar may be removed at any time upon 30 days' written notice by an instrument or document or concurrent instruments or documents in writing delivered to the Registrar, with copies thereof mailed to the Issuer, the Trustee and the Borrower, and signed by or on behalf of the Holders of not less than a majority in aggregate principal amount of the Bonds then outstanding.

(4) Appointment of Successors. If (i) a Registrar shall resign, shall be removed, shall be dissolved, or shall become otherwise completely incapable of acting hereunder, (ii) a Registrar shall be taken under the control of any public officer or officers, (iii) a receiver shall be appointed for a Registrar by a court, or (iv) a Registrar shall have an order for relief entered in any case commenced by or against it under the federal bankruptcy laws or commence a proceeding under any federal or state bankruptcy, insolvency, reorganization or similar law, or have such a proceeding commenced against it and either have an order of insolvency or reorganization entered against it or have the proceeding remain undismissed and unstayed for 90 days, then a successor Registrar shall be appointed by the Trustee, with the written consent of the Borrower; provided, that if a successor Registrar is not so appointed within 10 days after (a) a notice of resignation or an instrument or document of removal is received by the Trustee, as provided above, or (b) the Registrar is dissolved, taken under control, becomes otherwise incapable of acting or a receiver is appointed, in each case, as provided above, then, if the Trustee shall not have appointed a successor Registrar, the Trustee shall be and become the Registrar.

Every successor Registrar appointed hereunder shall execute and acknowledge, and shall deliver to its predecessor, the Issuer, the Trustee and the Borrower, an instrument or document in writing accepting the appointment. Thereupon, without any further act, the successor shall become vested with all of the properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, titles and interests of its predecessor. Upon the written request of its successor, the Issuer or the Borrower, a predecessor Registrar (i) shall execute and deliver an instrument or document transferring to its successor all of the properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, titles and interests of it as predecessor Registrar hereunder, and (ii) shall take any other action necessary to duly assign, transfer and deliver to its successor all property and records (including without limitation, the Register and any cancelled Bonds) held by it as Registrar. Should any instrument or document in writing from the Issuer be requested by any successor Registrar for vesting and conveying more fully and certainly in and to that successor the properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, titles and interests vested or conveyed or intended to be vested or conveyed hereby in or to a predecessor Registrar, the Issuer shall execute, acknowledge and deliver that instrument or document.

The Trustee shall cause the Borrower to pay pursuant to Section 4.4 of the Loan Agreement, to any Registrar customary compensation for its services from time to time, as authorized, but subject to the limitations set forth, in Section 9.3 hereof. The provisions of Sections 2.6, 2.9, 2.11 and 9.2(4) hereof shall be applicable to the Registrar.

#### Section 9.12 Designation and Succession of Paying Agents.

The Trustee shall be a Paying Agent for the Bonds, and, with the consent of the Issuer, the Trustee may appoint a Paying Agent or Agents with power to act on its behalf and subject to its direction in the payment of Bond Debt Service Charges on the Bonds. It is the responsibility of the Trustee to establish the duties and responsibilities of the Paying Agent for the purposes of this Indenture, to the extent not specified herein.

Any corporation or association with or into which the Paying Agent may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, consolidation or conversion to which the Paying Agent shall be a party, or any corporation or association succeeding to the trust business of the Paying Agent, shall be the successor of that Paying Agent hereunder, if that successor corporation or association is otherwise eligible hereunder, without the execution or filing of any paper or any further act on the part of the parties hereto or the Paying Agent or that successor corporation or association.

The Paying Agent may at any time resign by giving written notice of resignation to the Trustee, to the Registrar and to the Borrower. The Trustee may at any time terminate the agency of the Paying Agent by giving written notice of termination to such Paying Agent, to the Registrar and to the Borrower. Upon receiving such a notice of resignation or upon such a termination, or in case at any time the Paying Agent shall cease to be eligible under this Section, the Trustee may appoint a successor Paying Agent. The Trustee shall give written notice of appointment of a successor Paying Agent to the Borrower, the Issuer and the Registrar and shall mail, within ten (10) days after that appointment, notice thereof to all Holders as their names and addresses appear on the Register on the date of that appointment.

The Trustee shall cause the Borrower to pay pursuant to Section 4.4 of the Loan Agreement, to the Paying Agent from time to time customary compensation as authorized, but subject to the limitations set forth, in Section 9.3 hereof for its services.

The provisions of Section 2.9, 2.11 and Subsection 9.2(4) shall be applicable to the Paying Agent.

#### Section 9.13 Designation and Succession of Authenticating Agents.

The Trustee may appoint an authenticating agent or agents (each referred to herein as an "Authenticating Agent"), in addition to the Registrar, with power to act on its behalf and subject to its direction in the authentication and delivery of Bonds in connection with transfers and exchanges under Sections 2.6 and 3.2 hereof. For all purposes of this Indenture, the authentication and delivery of Bonds by an Authenticating Agent pursuant to this Section shall be deemed to be authentication and delivery of those Bonds "by the Trustee".

Any corporation or association with or into which any Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, consolidation or conversion to which any Authenticating Agent shall be a party, or any corporation or association succeeding to the trust business of any Authenticating Agent, shall be the successor of that Authenticating Agent hereunder, if that successor corporation or association is otherwise eligible hereunder, without the execution or filing of any paper or any further act on the part of the parties hereto or the Authenticating Agent or such successor corporation.

Any Authenticating Agent may at any time resign by giving written notice of resignation to the Trustee, to the Registrar and to the Borrower. The Trustee may at any time terminate the agency of any Authenticating Agent by giving written notice of termination to such Authenticating Agent, to the Registrar

and to the Borrower. Upon receiving such a notice of resignation or upon such a termination, or in case at any time any Authenticating Agent shall cease to be eligible under this Section, the Trustee may appoint a successor Authenticating Agent. The Trustee shall give written notice of appointment of a successor Authenticating Agent to the Borrower, the Issuer and the Registrar and shall mail, within ten (10) days after that appointment, notice thereof to all Holders as their names and addresses appear on the Register on the date of that appointment.

The Trustee shall cause the Borrower to pay pursuant to Section 4.4 of the Loan Agreement, to any Authenticating Agent from time to time customary compensation for its services.

The provisions of Section 2.9 and Subsections 9.2(2), (3), (4), (8) and (9) shall be applicable to any Authenticating Agent.

Section 9.14 Dealing in Bonds.

The Trustee, a Registrar, a Paying Agent and an Authenticating Agent, their Affiliates, and any directors, officers, employees or agents thereof, in good faith, may become the owners of Bonds secured hereby with the same rights which it or they would have hereunder if the Trustee, the Registrar, Paying Agents and Authenticating Agents did not serve in those capacities.

Section 9.15 Representations, Agreement and Covenants of Trustee.

The Trustee hereby represents that it is a national banking association duly organized and validly existing under the laws of the United States of America, in good standing and duly authorized to exercise corporate trust powers in the State, and that it has an unimpaired reported capital, surplus and retained earnings of not less than \$100,000,000. The Trustee covenants that it will take such action, if any, as is necessary to remain in good standing and duly authorized to exercise corporate trust powers in the State, and that it will maintain an unimpaired reported capital, surplus and retained earnings of not less than \$100,000,000. The Trustee accepts and agrees to observe and perform the duties and obligations of the Trustee to which reference is made in any other instrument or document providing security for any of the Bonds.

Section 9.16 Condemnation and Insurance Proceeds.

Proceeds from any condemnation award or from the payment of a claim under any hazard insurance policy relating to the Project will not be payable to the Trustee, but will be payable in accordance with the Funding Loan Agreement and the Project Loan Agreement

Section 9.17 Interpleader.

In the event of a dispute between any of the parties hereto with respect to the disposition of any funds held by the Trustee hereunder, or the Trustee receives conflicting demands made upon the Trustee with respect to the Trustee's duties hereunder or any other document related to the Bonds, the Trustee shall be entitled to file a suit in interpleader in a court of competent jurisdiction seeking to require the parties to interplead and litigate in such court their several claims and rights among themselves. Upon the filing of such a suit and the deposit of the applicable funds to such court, the Trustee will ipso facto be fully released and discharged from all obligations to further perform any and all duties imposed hereunder or any other document related to the Bonds regarding such matter and/or such funds that are the subject of such interpleader suit. In the event that the Trustee remains as Trustee under this Indenture and receives a court order, directive or other request regarding the interpleader suit, the Trustee shall be entitled to rely upon



such instruction without incurring any obligation or liability and the parties hereto release, hold harmless and indemnify the Trustee for any obligation or liability for so relying on such court instruction.

Section 9.18 Survival of Certain Provisions.

The provisions of Sections 9.1 through 9.18 of this Indenture shall survive the release, discharge and satisfaction of this Indenture and the resignation or removal of the Trustee (but only to the extent any event triggering such provision accrues on or prior to the resignation or removal of the Trustee).

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## ARTICLE 10

### SUPPLEMENTAL INDENTURES

Section 10.1 Supplemental Indentures Not Requiring Consent of Bondholders. The Issuer and the Trustee may, from time to time and at any time, without the consent of, or notice to, any of the Holders, and when so required by this Indenture shall, enter into an indenture or indentures supplemental to this Indenture as shall not be inconsistent with the terms and provisions hereof (which supplemental indentures or indentures shall thereafter form a part hereof), so as to thereby (1) cure any ambiguity or formal defect or omission in this Indenture or in any supplemental indentures, (2) grant to or confer upon the Trustee for the benefit of the Holders any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Holders or the Trustee, (3) more precisely identify the Trust Estate, or any other property which may become a part of the Trust Estate, (4) subject to the lien and pledge of this Indenture additional revenues, properties or collateral, (5) evidence the appointment of a separate trustee or a co-trustee or the succession of a new Trustee and/or Paying Agent hereunder, (6) modify, eliminate and/or add to the provisions of this Indenture to such extent as shall be necessary to prevent any interest on the Bonds from becoming taxable under the Federal income tax laws or to effect the qualification of this Indenture under the Trust Indenture Act of 1939, as then amended, or under any similar Federal statute hereafter enacted, and to add to this Indenture such other provisions as may be expressly permitted by said Trust Indenture Act of 1939, excluding however the provisions referred to in Section 316(a)(2) of said Trust Indenture Act of 1939, (7) make any other change which is required by any provision of this Indenture necessary to reconcile the Indenture with the Related Documents, or any amendments thereto, or (8) make any other change which is necessary or desirable and will not materially prejudice any non-consenting Holder of a Bond.

Section 10.2 Supplemental Indentures Requiring Consent of Holders. Exclusive of supplemental indentures covered by Section 10.1 hereof and subject to the terms and provisions contained in this Section, and not otherwise, the Trustee, upon receipt of an instrument evidencing the consent to the below-mentioned supplemental indentures by the Holders of not less than 51% of the aggregate principal amount of the then Outstanding Bonds of the series affected thereby, shall join with the Issuer in the execution of such other indentures supplemental hereto as shall be deemed necessary and desirable for the purpose of modifying, altering, amending, adding to or rescinding, any of the terms or provisions contained in this Indenture or in any supplemental indentures (at the sole cost and expense of the Borrower); provided, however, that nothing herein contained shall permit or be construed as permitting (1) an extension of the maturity of the principal or of the interest on any Bond issued hereunder, or (2) a reduction in the principal amount of any Bond or the rate of interest thereon or any premium thereon, or (3) a privilege or priority of any Bond or Bonds over any other Bond or Bonds except as may be otherwise expressly provided herein, or (4) a reduction in the aggregate principal amount of the Bonds required for consent to such supplemental indentures, or (5) modifying any of the provisions of this Section without the consent of the Holders of 100% of the principal amount of all Bonds adversely affected thereby (“100% Bondholders’ Consent”).

If at any time the Issuer shall request the Trustee to enter into any such supplemental indentures for any of the purposes of this Section which does not require 100% Bondholders’ Consent, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such supplemental indentures to be mailed by first class mail, postage prepaid, to the Holders of the Bonds at the addresses shown on the Bond Register. Such notice shall briefly set forth the nature of the proposed supplemental indentures and shall state that copies thereof are on file at the designated office of the Trustee for inspection by all Bondholders. The Trustee shall not, however, be subject to any liability to any Bondholder by reason of its failure to mail such notice to any particular Bondholder if notice was generally mailed to Bondholders, and any such failure shall not affect the validity of such supplemental indentures

when consented to and approved as provided in this Section. If the Holders of not less than 51% in aggregate principal amount of the then Outstanding Bonds at the time of the execution of any such supplemental indenture shall have consented to and approved the execution thereof as herein provided, no Holder of any Bond shall have any right to object to any of the terms and provisions contained herein or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such supplemental indenture as in this Section permitted and provided, this Indenture shall be and is deemed to be modified and amended in accordance herewith.

Anything herein to the contrary notwithstanding, a supplemental indenture under this Article 10 which adversely affects the right of the Borrower under the Loan Agreement shall not become effective unless and until the Borrower shall have consented in writing to the execution and delivery of such supplemental indenture. In this regard, the Trustee shall cause notice of the proposed execution and delivery of any such supplemental indenture, together with a copy of the proposed supplemental indenture, to be mailed by certified or registered mail to the Borrower and the Investor Limited Partner at least 30 days prior to the proposed date of execution and delivery of any such supplemental indenture.

Anything contained herein to the contrary notwithstanding, a supplemental indenture executed and delivered in accordance with this Article 10 which affects any rights or obligations of the Remarketing Agent shall not become effective unless and until the Remarketing Agent 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 Remarketing Agent (i) at least 30 days (unless waived by the Remarketing Agent) before the date of the proposed execution and delivery in the case of a Supplemental Indenture to which reference is made in Section 10.1, and (ii) at least 30 days (unless waived by the Remarketing Agent) 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 this Section 10.2.

Section 10.3 Rights of Trustee. If, in the opinion of the Trustee, any supplemental indenture provided for in this Article affects the rights, duties or immunities of the Trustee under this Indenture or otherwise, the Trustee may, in its discretion, decline to execute such supplemental indenture, except to the extent that this may be required in the case of a supplemental indenture entered into under Section 10.1. The Trustee shall be entitled to receive, and shall be fully protected in relying upon, an opinion of Independent Counsel as conclusive evidence that any such supplemental indenture conforms to the requirements of this Indenture.

## ARTICLE 11

### AMENDMENTS TO AGREEMENT AND RELATED DOCUMENTS

Section 11.1 Amendments Not Requiring Bondholder Consent. The Issuer and/or the Trustee may, without the consent of or notice to the Bondholders, consent to any amendment, change or modification of the Related Documents:

- (1) which may be required or permitted without Bondholder consent by the provisions of the Related Documents or this Indenture;
- (2) for the purpose of curing any ambiguity or formal defect or omission;
- (3) to reconcile the Related Documents with any amendment or supplement to the Indenture; or
- (4) to effect any other change to the Related Documents which will not materially prejudice any non-consenting Holder of a Bond.

Section 11.2 Amendments Requiring Bondholder Consent. Except for amendments, changes or modifications as provided in Section 11.1, neither the Issuer nor the Trustee shall consent to any other amendment, change or modification of the Related Documents, without the giving of notice and the written approval or consent of the Holders of not less than 51% in aggregate principal amount of the Bonds of the series affected thereby, then Outstanding given and procured as provided in this Section; provided that in no event shall such amendment, change or modification relieve the Borrower of the obligation under the Related Documents to make when and as due any payments required for the payment of principal, interest and any premium due or to become due on the Bonds unless the consent of the Holders of all Bonds adversely affected thereby is first secured. If at any time the Issuer and the Borrower shall request the consent of the Trustee to any such proposed amendment, change or modification of any Related Documents, the Borrower shall request consent of the Trustee to any such proposed amendment, change or modification, and the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of such proposed amendment, change or modification to be given in the same manner as provided in Section 10.2 hereof with respect to supplemental indentures. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the designated office of the Trustee for inspection by all Holders. The Trustee shall not, however, be subject to any liability to any Holder by reason of its failure to mail such notice to any particular Bondholder if notice was generally mailed to Bondholders, and any such failure shall not affect the validity of such amendment, change or modification when consented to and approved as provided in this Section. If the Holders of not less than 51% in aggregate principal amount of the Bonds then Outstanding at the time of the execution of any such amendment shall consent to the execution thereof as herein provided, no Holder of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such amendment, the affected Related Document shall be deemed to be modified and amended in accordance therewith. Nothing in this Section contained shall permit or be construed as permitting any reduction in the payments required to be made (i) by Section 4.2 of the Loan Agreement or (ii) permitting a reduction or change in the Stated Maturities of the Bonds.

## ARTICLE 12

### MISCELLANEOUS PROVISIONS

Section 12.1 Consent of Holders. Any consent, request, direction, approval, objection or other instrument required by this Indenture to be signed and executed by the Holders may be in any number of concurrent writings of similar tenor and must be signed or executed by such Holders in person or by an agent appointed in writing. Proof of the execution of any such consent, request, direction, approval, objection or other instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken by it under such request or other instrument, namely:

(1) The fact and date of the execution by any Person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the Person signing such writing acknowledged before him the execution thereof, or by an affidavit of any witness to such execution.

(2) The fact of the ownership by any Person of Bonds and the amounts and numbers of such Bonds, and the date of the holding of the same, may be proved only by reference to the Bond Register.

Section 12.2 Rights Under Indenture. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give any person or company other than the parties hereto, and the Bondholders, any legal or equitable right, remedy, or claim under or in respect to this Indenture or any covenants, conditions and provisions herein contained; this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the Holders of the Bonds hereby secured as herein provided.

Section 12.3 Meetings of Bondholders.

(1) A meeting of Bondholders may be called at any time and from time to time pursuant to this Section to facilitate any of the following purposes:

(a) to give any notice to the Issuer, the Borrower or the Trustee, or to give any directions to the Trustee, or to consent to the waiving of any default under this Indenture, or to take any other action authorized to be taken by the Bondholders under this Indenture;

(b) to remove the Trustee or to appoint a successor trustee pursuant to Sections 9.7 and 9.8 of this Indenture;

(c) to consent to the execution of a supplemental indenture pursuant to Section 10.2 hereof, or to consent to the execution of an amendment, change or modification of any Related Document pursuant to Section 11.2 hereof; or

(d) to take any other action authorized to be taken by or on behalf of the Holders of any specified aggregate principal amount of the Bonds under any other provision of this Indenture or under applicable law.

(2) Meetings of Bondholders may be held at such place or places as the Trustee or, in case of its failure to act, the Bondholders calling the meeting, shall from time to time determine.

(3) The Trustee may at any time call a meeting of Bondholders to be held at such time and at such place as the Trustee shall determine. Notice of every meeting of Bondholders setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting, shall be mailed by first class mail, postage prepaid, to the Holders of the Bonds at the address shown on the Bond Register. Any failure of the Trustee to mail such notice to a particular Bondholder, or any defect therein shall not, however, in any way impair or affect the validity of any such meeting if notice was generally mailed to Bondholders. In the event that the Holders of at least 10% in aggregate principal amount of the Outstanding series of Bonds affected shall have requested the Trustee to call a meeting of the Bondholders by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have accomplished the mailing of notice of such meeting within 20 days after receipt of such request, then such Bondholders may determine the time and the place for such meeting and may call such meeting to take any action authorized in paragraph (1) of this Section by giving notice of such meeting in accordance with the provisions of this paragraph (3).

(4) To be entitled to vote at any meeting of Bondholders, a person shall be a Holder of one or more Bonds Outstanding, or a person appointed by an instrument in writing as proxy for a Bondholder by such Bondholder. The only persons who shall be entitled to be present or to speak at any meeting of Bondholders shall be the persons entitled to vote at such meeting and their counsel and any representatives of the Trustee, Borrower, and Issuer and their counsel.

(5) Notwithstanding any other provisions of this Indenture, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of Bondholders in regard to proof of the ownership of Bonds and of the appointment of proxies and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidence of the right to vote, and such other matters concerning the conduct of the meeting as it shall deem appropriate. Except as otherwise permitted or required by any such regulations, the ownership of Bonds shall be proved in the manner specified in Section 12.1 of this Indenture and the appointment of any proxy shall be proved in the manner specified in said Section or by having the signature of the person executing the proxy witnessed or guaranteed by any bank, banker or trust company authorized by said Section to certify to the ownership of Bonds:

(a) The Trustee or, if the Bondholders have called the meeting, the Bondholders shall, by an instrument in writing, appoint a temporary chairperson of the meeting. A permanent chairperson and a permanent secretary of the meeting shall be elected by vote of the Holders of a majority of the Bonds represented at the meeting and entitled to vote.

(b) At any meeting such Bondholder or proxy shall be entitled to one vote for each \$5,000 of principal amount of Outstanding Bonds owned or represented by him or her; provided, however, that no vote shall be cast or counted at any meeting in respect of any Bond challenged as not Outstanding and ruled by the chairperson of the meeting to be not Outstanding. The chairperson of the meeting shall have no right to vote, except as a Bondholder or proxy.

(c) At any meeting of Bondholders, the presence of persons owning or representing Bonds in an aggregate principal amount sufficient under the appropriate provision of this Indenture to take action upon the business for the transaction of which such meeting was called shall constitute a quorum. Any meeting of Bondholders duly called pursuant to this Section may be adjourned from time to time by vote of the Holders (or proxies for the Holders) of a majority of the

Bonds represented at the meeting and entitled to vote, whether or not a quorum shall be present; and the meeting may be held as so adjourned without further notice.

(6) The vote upon any resolution submitted to any meeting of Bondholders shall be by written ballots on which shall be subscribed the signatures of the Bondholders or of their proxies and the number or numbers of the Bonds Outstanding held or represented by them. The permanent chairperson of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in triplicate of all votes cast at the meeting. A record, at least in triplicate, of the proceedings of each meeting of Bondholders shall be prepared by the secretary of the meeting. The original reports of the inspectors of votes on any vote by ballot taken at such meeting, and affidavits by one or more persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was published or mailed as provided in this Section shall be attached to such record. Each copy shall be signed and verified by the affidavits of the permanent chairperson and secretary of the meeting and one such copy shall be delivered to the Issuer, another to the Borrower and another to the Trustee to be preserved by the Trustee, which copy shall have attached thereto the ballots voted at the meeting. Any record so signed and verified shall be conclusive evidence of the matters therein stated.

(7) At any time prior to the preparation of the record of the meeting in accordance with the terms of this Section for delivery to the Trustee evidencing the taking of any action by the Holders of the percentage in aggregate principal amount of the Bonds specified in this Indenture in connection with such action, any Holder of a Bond the number of which is included in the Bonds, the Holders of which have consented to such action, may, by filing written notice with the Trustee at its designated corporate trust office and upon proof of holding as provided in Section 12.1 of this Indenture, revoke such consent so far as it concerns such Bond. Except as aforesaid, any such consent given by the Holder of any Bond shall be conclusive and binding upon such Holder and upon all future Holders and owners of such Bond and of any Bond issued in exchange therefor, upon transfer thereof, or in lieu thereof, irrespective of whether or not any notation in regard thereto is made upon such Bond. Any action taken by the Holders of the percentage in aggregate principal amount of the Bonds specified in this Indenture in connection with such action shall be conclusively binding upon the Issuer, the Borrower, the Trustee and the Holders of all the Bonds.

Section 12.4 Severability. If any provision of this Indenture shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions or in all cases because it conflicts with any provisions of any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

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

Section 12.5 Notices. All notices, certificates or other communications hereunder shall be in writing (except as otherwise expressly provided herein) and shall be sufficiently given and shall be deemed given when mailed by first class mail, postage prepaid, with proper address as indicated below. The Issuer, the Borrower, the Bondholders and the Trustee may, by written notice given by each to the others, designate any address or addresses to which notices, certificates or other communications to them shall be sent when required as contemplated by this Indenture. Until otherwise provided by the respective parties, all notices, certificates and communications to each of them shall be addressed as provided in Section 10.2 of the Loan Agreement.

Section 12.6 Required Approvals. Consents and approvals required by this Indenture to be obtained from the Borrower, the Issuer or the Trustee shall be in writing and shall not be unreasonably withheld or delayed.

Section 12.7 Counterparts. This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 12.8 Limitation of Liability of Issuer Indemnified Parties.

(a) ***Reliance by Issuer on Facts or Certificates.*** Anything in this Indenture to the contrary notwithstanding, it is expressly understood and agreed by the parties hereto that the Issuer may rely conclusively on the truth and accuracy of any certificate, opinion, notice, or other instrument furnished to the Issuer by the Guarantor, the Trustee or the Borrower as to the existence of any fact or state of affairs required hereunder to be noticed by the Issuer.

(b) ***Immunity of Issuer Indemnified Parties.*** No recourse shall be had for the enforcement of any obligation, covenant, promise, or agreement of the Issuer contained in this Indenture, any other Issuer Documents, or in any Bond or for any claim based hereon or otherwise in respect hereof or upon any obligation, covenant, promise, or agreement of the Issuer contained in any agreement, instrument, or certificate executed in connection with the Project or the issuance and sale of the Bonds, against any of the Issuer Indemnified Parties, whether by virtue of any Constitutional provision, statute, or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly agreed and understood that no personal liability whatsoever shall attach to, or be incurred by, any of the Issuer Indemnified Parties, either directly or by reason of any of the obligations, covenants, promises, or agreements entered into by the Issuer with the Guarantor, the Borrower or the Trustee, or to be implied therefrom as being supplemental hereto or thereto, and that all personal liability of that character against each and every Issuer Indemnified Party is, by the execution of the Bonds, this Indenture, and the other Issuer Documents, and as a condition of, and as part of the consideration for, the execution of the Bonds, this Indenture, and the other Issuer Documents, is expressly waived and released.

(c) ***No Pecuniary Liability of Issuer.*** No agreements or provisions contained herein, or any agreement, covenant, or undertaking by the Issuer in connection with the Project or the issuance, sale, remarketing, and/or delivery of the Bonds shall give rise to any pecuniary liability of the Issuer or a charge against its general credit, or shall obligate the Issuer financially in any way, except as may be payable from the revenues pledged hereby for the payment of the Bonds and their application as provided in this Indenture. No failure of the Issuer to comply with any term, covenant, or agreement contained in the Bonds, this Indenture or the Loan Agreement, or in any document executed by the Issuer in connection with the Project or the issuance and sale of the Bonds, shall subject the Issuer to liability for any claim for damages, costs, or other financial or pecuniary charge, except to the extent the same can be paid or recovered from the revenues pledged for the payment of the Bonds or other revenues derived under the Loan Agreement. Nothing herein shall preclude a proper party in interest from seeking and obtaining, to the extent permitted by law, specific performance against the Issuer for any failure to comply with any term, condition, covenant, or agreement herein; provided that no costs, expenses, or other monetary relief shall be recoverable from the Issuer, except as may be payable from the revenues pledged under this Indenture for the payment of the Bonds or other revenue derived under the Loan Agreement. No provision, covenant, or agreement contained herein, or any obligations imposed upon the Issuer, or the breach thereof, shall constitute an indebtedness of the Issuer within the meaning of any State constitutional or statutory limitation or shall constitute or give rise to a charge against the Issuer's



general credit. In making the agreements, provisions, and covenants set forth in this Indenture, the Issuer has not obligated itself, except with respect to the application of the revenues pledged in this Indenture for the payment of the Bonds or other revenues derived under the Loan Agreement.

THE BONDS, THE PREMIUM, IF ANY, AND THE INTEREST THEREON ARE SPECIAL LIMITED OBLIGATIONS OF THE ISSUER PAYABLE EXCLUSIVELY FROM THE TRUST ESTATE. THE BONDS DO NOT CONSTITUTE A DEBT OR A LOAN OF CREDIT OR A PLEDGE OF THE FULL FAITH AND CREDIT OR TAXING POWER OF THE ISSUER, THE STATE, 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, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF. THE BONDS SHALL NOT CONSTITUTE, DIRECTLY OR INDIRECTLY, OR CONTINGENTLY OBLIGATE OR OTHERWISE CONSTITUTE A GENERAL OBLIGATION OF OR A CHARGE AGAINST THE GENERAL CREDIT OF THE ISSUER, BUT SHALL BE SPECIAL LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE SOURCES DESCRIBED HEREIN, BUT NOT OTHERWISE. THE ISSUER HAS NO TAXING POWER.

NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR PREMIUM, IF ANY, OR INTEREST ON THE BONDS AGAINST ANY PAST, PRESENT, OR FUTURE OFFICER, MEMBER, DIRECTOR, PROGRAM MANAGER, COUNSEL, ADVISOR, EMPLOYEE, CONTRACTOR, CONSULTANT, EXECUTIVE DIRECTOR 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, MEMBERS, DIRECTORS, PROGRAM MANAGERS, COUNSEL, ADVISORS, EMPLOYEES, CONTRACTORS, CONSULTANTS, EXECUTIVE DIRECTORS OR AGENTS, AS SUCH, IS HEREBY EXPRESSLY WAIVED AND RELEASED AS A CONDITION OF AND CONSIDERATION FOR THE EXECUTION AND ISSUANCE OF THIS BOND.

Section 12.9 Unrelated Bond Issues. The Issuer has, prior to the issuance of the Bonds, issued, and subsequent to the issuance of the Bonds, the Issuer expects to issue various series of bonds in connection with the financing of other projects (said bonds together with any bonds issued by the Issuer between the date hereof and issuance of the Bonds shall be referred to herein as the “Other Bonds”). Any pledge, mortgage, or assignment made in connection with any Other Bonds shall be protected, and any funds pledged or assigned for the payment of principal, premium, if any, or interest on the Other Bonds shall not be used for the payment of principal, premium, if any, or interest on the Bonds. Correspondingly, any pledge, mortgage, or assignment made in connection with the Bonds shall be protected, and any funds pledged or assigned for the payment of the Bonds shall not be used for the payment of principal, premium, if any, or interest on the Other Bonds.

Section 12.10 Undertaking to Provide Ongoing Disclosure. Pursuant to Section 7.10 of the Loan Agreement, the Borrower has undertaken all responsibility for compliance with continuing disclosure requirements, and the Issuer and the Trustee, except with respect to the Trustee’s duties under the Continuing Disclosure Agreement, shall have no liability to the registered owners of the Bonds or any other person with respect to Securities Exchange Commission Rule 15c2-12, as amended. Notwithstanding any other provision of this Indenture, failure of the Borrower to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default hereunder or under the Loan Agreement; however,

a beneficial owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the noncompliant Borrower to comply with its obligations under Section 7.10 of the Loan Agreement.

Section 12.11 Amounts Remaining in Funds. Upon expiration or sooner termination of the Loan Agreement as provided therein and after adequate provision has been made to discharge the Bonds in accordance with Article 7 hereof and make all other payments required hereunder and under the Loan Agreement, the Trustee forthwith shall pay all remaining amounts in the funds established in Article 5 hereof to the Borrower.

Section 12.12 Payments Due on Saturdays, Sundays and Holidays.

If any Interest Payment Date or a date of maturity of the principal of any Bonds is a Saturday, Sunday or a day on which (i) the Trustee is required, or authorized or not prohibited, by law (including without limitation, executive orders) to close and is closed, then payment of interest and principal need not be made by the Trustee or the Paying Agent on that date, but that payment may be made on the next succeeding business day on which the Trustee and the Paying Agent are open for business with the same force and effect as if that payment were made on the Interest Payment Date or date of maturity, and no interest shall accrue for the period after that date, or (ii) a Paying Agent is required, or authorized or not prohibited, by law (including without limitation, executive orders) to close and is closed, then payment of interest and principal need not be made by that Paying Agent on that date, but that payment may be made on the next succeeding business day on which that Paying Agent is open for business with the same force and effect as if that payment were made on the Interest Payment Date or date of maturity and no interest shall accrue for the period after that date; provided, that if the Trustee is open for business on the applicable Interest Payment Date or date of maturity, it shall make any payment required hereunder with respect to payment of interest on Outstanding Bonds and payment of principal of the Bonds presented to it for payment, regardless of whether the Paying Agent shall be open for business or closed on the applicable Interest Payment Date or date of maturity.

Section 12.13 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 12.14 Governing Law.

This Indenture and the Bonds shall be governed by and construed in accordance with the laws and judicial decisions of the State, without reference to any choice of law principles except as such laws may be preempted by any federal rules, regulations and laws applicable to the Issuer. The parties hereto expressly acknowledge and agree that any judicial action to interpret or enforce the terms of this Indenture against the Issuer shall be brought and maintained in the Superior Court of the State, in and for the County of Maricopa, the United States District Court in and for the District of [State], or any United States Bankruptcy Court in any case involving the Borrower, the Guarantor or the Project.

Section 12.15 Security Advice Waiver.

The Issuer acknowledges that regulations of the Comptroller of the Currency grant the Borrower the right to receive brokerage confirmations of the security transactions as they occur. The Borrower specifically waives such notification to the extent permitted by law and will receive periodic cash transaction statements that will detail all investment transactions.

Section 12.16 Patriot Act.

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a trust or other legal entity the Trustee will request documentation to verify its formation and existence as a legal entity. Furthermore, if required by the Patriot Act, Trustee may request financial statements, licenses, identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation.

Section 12.17 Electronic Transactions.

The parties hereto agree that the transactions described herein may be conducted and related documents maybe stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 12.18 Third Party Beneficiaries.

Each of the Issuer Indemnified Parties, other than the Issuer, are intended third party beneficiaries of this Indenture. Nothing in this Indenture shall confer any right upon any person other than the parties hereto and the specifically designated third party beneficiaries of this Indenture.

Section 12.19 Survival.

Notwithstanding the payment in full of the Bonds, the discharge of this Indenture, and the termination or expiration of the Loan Agreement, all provisions in this Indenture concerning (a) the tax-exempt status of the Bonds (including, but not limited to provisions concerning rebate), (b) the interpretation of this Indenture, (c) the governing law, (d) the forum for resolving disputes, (e) the Issuer's right to rely on facts or certificates, (f) the indemnity of the Issuer Indemnified Parties from liability, and (g) the lack of pecuniary liability of the Issuer and the State, shall survive and remain in full force and effect.

Section 12.20 Electronic Signatures. The parties agree that the electronic signature of a party to this Indenture shall be as valid as an original signature of such party and shall be effective to bind such party to this Indenture. For purposes hereof, (i) "electronic signature" means a manually signed original signature that is then transmitted by electronic means and (ii) "transmitted by electronic means" means sent in the form of a facsimile or sent via the internet as a portable document format ("pdf") or other replicating image attached to an electronic mail or internet message.

IN WITNESS WHEREOF, the Issuer has caused this Indenture of Trust to be signed in its name on its behalf by its duly authorized official, and to evidence its acceptance of the trusts hereby created the Trustee has caused these presents to be signed in its name and behalf by its duly authorized officer, all as of the day and year first written above.

**HOUSING FINANCE AUTHORITY OF ST. JOHNS  
COUNTY, FLORIDA, as Issuer**

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

[Issuer Signature Page to Trust Indenture]

**U.S. BANK TRUST COMPANY, NATIONAL  
ASSOCIATION**, as Trustee and Registrar of the Bonds

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

[Trustee Signature Page to Trust Indenture]

**EXHIBIT A**

**FORM OF SERIES 2023B BOND**

**THIS BOND AND THE ISSUE OF WHICH IT FORMS A PART ARE NOT GENERAL OBLIGATIONS OF THE ISSUER BUT ARE REVENUE OBLIGATIONS PAYABLE SOLELY FROM THE MONEYS AND PROPERTIES PLEDGED FOR PAYMENT THEREOF. THE ISSUER HAS NO TAXING POWER. THIS BOND IS A RESTRICTED SECURITY AND MAY ONLY BE TRANSFERRED, IN WHOLE OR IN PART, TO A QUALIFIED INSTITUTIONAL BUYER AS DEFINED IN RULE 144A PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), WHICH HAS DELIVERED TO THE TRUSTEE AN INVESTOR LETTER SUBSTANTIALLY IN THE FORM ATTACHED HERETO AS EXHIBIT B TO THE INDENTURE.**

**UNLESS THIS BOND IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (“DTC”), TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY BOND ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.**

UNITED STATES OF AMERICA  
STATE OF FLORIDA

No. R-1

[\$2023B PAR]

HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLOIRDA  
MULTIFAMILY HOUSING REVENUE BONDS  
(Oaks at St. John), SERIES 2023B

<u>Interest Rate</u>	<u>Stated Maturity</u>	<u>Mandatory Tender Date</u>	<u>Date of Original Issue</u>	<u>CUSIP Number</u>
%	July 1, 2028	July 1, 2023	December _, 2023	

REGISTERED HOLDER: CEDE & CO.

PRINCIPAL AMOUNT: [\$2023B PAR] DOLLARS

FOR VALUE RECEIVED that the Housing Finance Authority of St. Johns County, Florida (the “Issuer”), a public body corporate and politic duly created, organized and existing under the laws of the State of Florida (the “State”), for value received, promises to pay to the registered holder named above, or registered assigns, but only from the Bond Fund (as defined in the Indenture described below), and upon presentation and surrender hereof at the designated corporate trust office of the Trustee named below, the principal sum specified above, on the maturity date specified above, or, if this Series 2023B Bond is prepayable as stated below, or a prior date on which it shall have been duly called for redemption, and to pay interest on said principal sum to the Record Date Holder hereof, as defined below, semiannually on

January 1 and July 1 of each year (each, an “Interest Payment Date”) commencing July 1, 2024, solely from the Bond Fund, until the principal sum is paid or discharged at the rates per annum specified above on the basis of a 360-day year composed of twelve 30-day months.

NONE OF THE ISSUER, THE STATE, ST. JOHNS COUNTY, FLORIDA (THE “COUNTY”) OR ANY POLITICAL SUBDIVISION THEREOF SHALL BE OBLIGATED TO PAY THE BONDS OR THE INTEREST THEREON EXCEPT FROM THE REVENUES AND ASSETS PLEDGED BY THE ISSUER FOR THE PAYMENT THEREOF AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE ISSUER, THE STATE, THE COUNTY OR ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL THEREOF OR THE INTEREST THEREON. THE BONDS SHALL BE SOLELY THE OBLIGATIONS OF THE ISSUER AND NOT OF THE STATE, THE COUNTY OR ANY POLITICAL SUBDIVISION THEREOF. THE BONDS SHALL BE PAYABLE SOLELY OUT OF THE INCOME, REVENUES AND RECEIPTS DERIVED OR TO BE DERIVED FROM THE FUNDS AND ACCOUNTS HELD UNDER AND PURSUANT TO THE INDENTURE AND SUCH OTHER PROPERTY CONSTITUTING THE TRUST ESTATE PLEDGED UNDER THE INDENTURE. THE BONDS SHALL BE REVENUE OBLIGATIONS OF THE ISSUER AND DO NOT CONSTITUTE AN OBLIGATION, EITHER GENERAL OR SPECIAL, OF THE STATE, THE COUNTY OR ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE BONDS DO NOT CONSTITUTE A DEBT OR A LOAN OF CREDIT OR A PLEDGE OF THE FULL FAITH AND CREDIT OR TAXING POWER OF THE ISSUER, THE STATE, THE COUNTY 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, THE STATE, THE COUNTY OR ANY POLITICAL SUBDIVISION THEREOF. THE BONDS SHALL NOT CONSTITUTE, DIRECTLY OR INDIRECTLY, OR CONTINGENTLY OBLIGATE OR OTHERWISE CONSTITUTE A GENERAL OBLIGATION OF OR A CHARGE AGAINST THE GENERAL CREDIT OF THE ISSUER, BUT SHALL BE SPECIAL LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE SOURCES DESCRIBED HEREIN, BUT NOT OTHERWISE. THE ISSUER HAS NO TAXING POWER.

NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR PREMIUM, IF ANY, OR INTEREST ON THE BONDS AGAINST ANY PAST, PRESENT, OR FUTURE OFFICER, MEMBER, DIRECTOR, PROGRAM MANAGER, COUNSEL, ADVISOR, EMPLOYEE, CONTRACTOR, CONSULTANT, EXECUTIVE DIRECTOR 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, MEMBERS, DIRECTORS, PROGRAM MANAGERS, COUNSEL, ADVISORS, EMPLOYEES, CONTRACTORS, CONSULTANTS, EXECUTIVE DIRECTORS 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 the duly authorized bonds of the Issuer designated as the Housing Finance Authority of St. Johns County, Florida Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023B (the “Series 2023B Bonds”), limited in aggregate principal amount to \$[2023B PAR] issued pursuant to the Act and pursuant to a Trust Indenture, dated as of December 1, 2023 (the “Indenture”), by and between the Issuer and U.S. Bank Trust Company, National Association (the “Trustee”) and a resolution duly adopted by the governing body of the Issuer. The Bonds are limited obligations of the Issuer payable from and all equally secured by the lien of the Indenture, and the other security pledged thereby, including

certain funds and accounts created pursuant thereto. The Bonds are issued for the benefit of Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “Borrower”), to finance all or a portion of the costs of acquisition, rehabilitation, improvement, equipping and operation of an approximately 160-unit multifamily housing development located at located at 210 Nettles Lane, Ponte Vedra Beach, Florida 32081 in an unincorporated area of St. Johns County, Florida, to be known as “Oaks at St. John” (the “Project”). Capitalized terms used herein and not otherwise defined shall have the meanings assigned in the Indenture.

This Series 2023B Bond shall bear interest from the date of original issue set forth above, or in the case of transfer or exchange, from the most recent Interest Payment Date (hereinafter defined) to which interest has been paid or provided for. The “Record Date Holder” is the person in whose name this Series 2023B Bond is registered in the Bond Register maintained by the Trustee named below or its successor in trust (the “Registered Holder” or “Holder” hereof) on the fifteenth day of the calendar month next preceding an Interest Payment Date, whether or not such day is a Business Day. Interest shall be payable by check or draft mailed to the Registered Holder at his or her address as it appears on the Bond Register on the Record Date, except as otherwise provided in the Indenture.

The principal of and interest and premium, if any, on this Series 2023B Bond are payable in lawful money of the United States of America. Upon notice to the Trustee accompanied by proper wire instructions, any Holder of Series 2023B Bonds in an aggregate principal amount equal to or greater than \$1,000,000 may elect to be paid the interest on such Series 2023B Bonds payable on any Interest Payment Date by Federal Reserve wire transfer in immediately available funds to any bank in the United States specified by such Holder.

Interest not timely paid or duly provided for will be paid by check mailed to the person in whose name this Series 2023B Bond is registered on the Bond Register at the close of business on a date (the “Special Record Date”) fixed by the Trustee, notice of which is to be mailed to all Bondholders.

The Borrower has agreed under a Loan Agreement, dated as of December 1, 2023 (the “Loan Agreement”), between the Issuer and the Borrower to repay all amounts necessary to repay the Series 2023B Bonds, together with interest thereon, in amounts and at times sufficient to pay the principal of, premium, if any, and interest on the Series 2023B Bonds as the same shall become due and payable (the “Basic Payments”). The Borrower, the Issuer and the Trustee have entered into a Regulatory Agreement and Declaration of Restrictive Covenants, dated as of December 1, 2023, related to the Project (the “Regulatory Agreement”). The Regulatory Agreement requires compliance with certain requirements of federal and state law relating to the operation of the Project as a multifamily rental housing project. Pursuant to the Indenture, the Issuer has assigned and pledged to the Trustee, for the equal and ratable benefit of the Holders of the Series 2023B Bonds, the Basic Payments due under the Loan Agreement. As additional security for the Series 2023B Bonds, the Borrower has delivered a Guaranty Agreement from Dominium Holdings I, LLC and Dominium Holdings II, LLC, each a Minnesota limited liability company, dated as of December 1, 2023, the Pledge and Security Agreement (Borrower), dated as of December 1, 2023, from the Borrower to the Trustee, and the Pledge and Security Agreement (General Partner), dated as of December 1, 2023, from Ponte Vedra Beach Leased Housing Associates I, LLC, a Minnesota limited liability company, to the Trustee (collectively, the “Security Documents”).

Reference is hereby made to the Loan Agreement, the Regulatory Agreement, the Security Documents and the Indenture, including all indentures supplemental thereto, for a description of the property encumbered and assigned, the provisions, among others, with respect to the nature and extent of the security, the rights of the Issuer, and the rights, duties and obligations of the Borrower, the Trustee and the Holders of the Series 2023B Bonds and the terms upon which the Series 2023B Bonds are issued and secured.



The term “Business Day” shall mean any day on which the Trustee or the Federal Reserve Bank of New York are not authorized by law to close. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Series 2023B Bond, is not a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day.

The Series 2023B Bonds are subject to redemption prior to maturity as provided in the Indenture as follows:

(a) Optional Prepayment. The Bonds are subject to redemption and prepayment upon request by the Borrower to the Trustee on any Business Day, on and after January 1, 2026, in whole or in part, in principal increments of \$5,000, so long as no Bond is outstanding in an amount less than \$250,000, and by lot within a Stated Maturity, at a Redemption Price equal to the principal amount thereof, without premium, plus accrued interest thereon to the date fixed for redemption.

(b) Mandatory Redemption from Money Remaining in the Project Fund. The Series 2023B Bonds are subject to mandatory redemption in part, at a Redemption Price equal to the principal amount thereof, without premium, plus accrued interest thereon to the date fixed for redemption, on the earliest practicable date for which notice can be given pursuant to the Indenture, to the extent of money remaining on deposit in the Project Fund that is transferred to the Bond Fund upon completion of the Project and payment of all Costs of the Project as provided in Indenture.

(c) Mandatory Redemption from Certain Money. The Series 2023B Bonds are subject to mandatory redemption in part, at a Redemption Price equal to the principal amount thereof, without premium, plus accrued interest thereon to the date fixed for redemption, on the earliest practicable date for which notice can be given pursuant to the Indenture, from the Assigned Capital Contributions described in the Indenture, redemption of the Series 2023B Bonds to occur upon each receipt by the Borrower or its designee and deposit with the Trustee in accordance with the Loan Agreement.

(d) No Redemption Prior to Placed in Service Date. Notwithstanding anything to the contrary contained herein, the Bonds shall not be redeemed prior to the date upon which the Project has been placed in service for purposes of Section 42 of the Code.

In the case of any partial redemption of the Series 2023B Bonds of the same maturity, the particular Series 2023B Bonds to be redeemed shall be selected by the Trustee by lot and the Series 2023B Bonds shall be redeemed in the principal amounts specified in the Indenture. Any Series 2023B Bond which is to be redeemed only in part shall be surrendered to the Trustee (i) for payment of the Redemption Price (including accrued interest thereon to the Redemption Date) of the portion thereof called for redemption and (ii) for exchange for Series 2023B Bonds in any authorized denomination or denominations in aggregate principal amount equal to the unredeemed portion of such Series 2023B Bond.

Notice of the intended redemption of Series 2023B Bonds shall be given by first class mail, to the registered owner of each Series 2023B Bond to be redeemed, at the address of such owner shown on the Bond Register. Notice by publication shall not be required. All such redemption notices shall be given not less than 20 days nor more than 60 days prior to the date fixed for redemption. Each notice with respect to a partial redemption of Series 2023B A Bonds shall specify the numbers of the Series 2023B Bonds being called, the Redemption Date, and the place or places where amounts due upon such redemption will be payable. Such notice shall further state that payment of the applicable Redemption Price plus accrued interest (if not previously paid) to the date fixed for redemption will be made upon presentation and

surrender of the Series 2023B Bonds. Failure to give notice by mailing to the registered owners of any Series 2023B Bonds designated for redemption or any defect in such notice shall not affect the validity of the proceedings for the redemption of such Series 2023B Bonds.

With respect to optional redemptions, such notice may be conditioned upon money being on deposit with the Trustee on or prior to the Redemption Date in an amount sufficient to pay the Redemption Price on the Redemption Date. If such notice is conditional and either the Trustee receives written notice from the Borrower that money sufficient to pay the Redemption Price will not be on deposit on the Redemption Date, or such money is not received on or prior to the Redemption Date, then such notice shall be of no force and effect, the Trustee shall not redeem such Series 2023B A Bonds and the Trustee shall give notice, in the same manner in which the notice of redemption was given, that such Series 2023B Bonds will not be redeemed.

Notice of redemption having been given in the manner provided above, and money sufficient for the redemption being held by the Trustee for that purpose, thereupon the Series 2023B Bonds so called for redemption shall become due and payable on the Redemption Date, and interest thereon shall cease to accrue; and the owners of the Series 2023B Bonds so called for redemption shall thereafter no longer have any security or benefit under the Indenture except to receive payment of the Redemption Price for such Series 2023B Bonds.

The Bonds are subject to mandatory tender and purchase prior to their stated maturity in whole on the Mandatory Tender Date.

In addition to the foregoing, if under certain circumstances an Event of Default shall occur, the principal of all the Series 2023B Bonds and all interest accrued thereon may, without prior notice to the Bondholders, be declared due and payable in the manner and with the effect provided in the Loan Agreement and Indenture.

This Series 2023B Bond and the series of which it forms a part are issued pursuant to and in full compliance with the Constitution and laws of the State, particularly in accordance with the Act and pursuant to a resolution adopted and approved by the Issuer on November 16, 2023 and by the Board of County Commissioners of the County on December 5, 2023, which resolutions authorized the financing of the Project and the execution and delivery of the Indenture, and the issuance of the Bonds as special, limited obligations payable solely from revenues derived from the Loan Agreement and the Security Documents except that under certain circumstances the Bonds may be payable from Bond proceeds. The loan repayments under the Loan Agreement are scheduled to be sufficient to pay the principal of, premium, if any, and interest on the Bonds as the same become due and payable and are to be paid to the Trustee for the account of the Issuer and credited to the Bond Fund as a special trust fund account created by the Issuer and have been and are hereby pledged for that purpose.

The provisions of this Section are controlling notwithstanding anything herein to the contrary.

The Registered Holder of this Series 2023B Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any Event of Default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. Modifications or alterations of the Indenture, or of any indenture supplemental thereto, may be made only to the extent and in the circumstances permitted by the Indenture.

With the consent of the Issuer, the Borrower and the Trustee, as appropriate, and to the extent permitted by and as provided in the Indenture, the terms and provisions of the Indenture, the Loan

Agreement, or of any instrument supplemental thereto relating to the Series 2023B Bonds, may be modified or altered by the consent of the Registered Holders of at least 51% in aggregate principal amount of the Bonds then outstanding thereunder.

The Indenture also contains provisions permitting Holders of a majority in aggregate principal amount of the Bonds at the time outstanding, on behalf of all the Holders of all the Bonds, to waive compliance by the Issuer with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Registered Holder of this Series 2023B Bond shall be conclusive and binding upon such Registered Holder and on all future Registered Holders of this Series 2023B Bond and of any Series 2023B Bond issued in lieu hereof whether or not notation of such consent or waiver is made upon this Series 2023B Bond.

The Series 2023B Bonds are issued as fully-registered bonds without coupons in the Authorized Denominations. No single Beneficial Owner of Series 2023B Bonds is authorized to own a bond in an amount less than an Authorized Denomination. The Series 2023B Bonds are interchangeable for one or more Series 2023B Bonds in Authorized Denominations and of the same series, aggregate principal amount, interest rate and maturity date, upon surrender thereof by the Holder at the principal office of the Trustee, in the manner and subject to the limitations provided in the Indenture. The Issuer, the Trustee and any additional paying agents may deem and treat the Registered Holder hereof as the absolute owner hereof (whether or not this Series 2023B Bond shall be overdue) for the purpose of receiving payment of or on account of principal hereof and interest (except as otherwise hereinabove provided with respect to the Record Date) due hereon and for all other purposes, and the Issuer, the Trustee and any additional paying agents shall not be affected by any notice to the contrary.

Subject to the limitations provided in the Indenture, this Series 2023B Bond is only transferable by the Registered Holder hereof upon surrender of this Series 2023B Bond for transfer at the designated corporate trust office of the Trustee, duly endorsed or accompanied by a written instrument or instruments of transfer in the form printed on this Series 2023B Bond or in another form satisfactory to the Trustee and executed and with guaranty of signature by the Registered Holder hereof or his attorney duly authorized in writing, containing written instructions as to the details of the transfer of the Series 2023B Bond. Thereupon the Issuer shall execute (if necessary) and the Trustee shall authenticate and deliver, in exchange for this Series 2023B Bond, one or more new Series 2023B Bonds in the name of the transferee (but not registered in blank or to “bearer” or a similar designation), of an authorized denomination, in aggregate principal amount equal to the principal amount of this Series 2023B Bond, of the same maturity, and bearing interest at the same rate.

No service charge shall be made to the Registered Holder for any registration, transfer or exchange hereinbefore referred to, but the Trustee may require payment of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in connection with any transfer or exchange of Series 2023B Bonds, other than exchanges expressly provided in the Indenture to be made without charge to Bondholders.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, to happen and to be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Series 2023B Bond do exist, have happened and have been performed in due time, form and manner, as required by law, and that the issuance of this Series 2023B Bond and the series of which it forms a part, together with all other obligations of the Issuer, does not exceed or violate any constitutional or statutory limitation.

This Series 2023B Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture unless the Certificate of Authentication hereon shall have been executed by the Trustee.

IN WITNESS WHEREOF, the Housing Finance Authority of St. Johns County, Florida has caused this Series 2023B Bond to be signed in its name and on its behalf by the manual or facsimile signature of its President. This Series 2023B Bond shall not be valid or entitled to the benefits of the within mentioned Indenture without authentication by the manual signature of a Responsible Agent of the Trustee.

**HOUSING FINANCE AUTHORITY OF ST. JOHNS  
COUNTY, FLORIDA**

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

**TRUSTEE’S CERTIFICATE OF AUTHENTICATION**

This Series 2023B Bond is one of the Bonds described in the within mentioned Indenture and is one of the Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023B of Housing Finance Authority of St. Johns County, Florida

Date of Authentication: \_\_\_\_\_, 2023

U.S. BANK TRUST COMPANY, NATIONAL  
ASSOCIATION, as Trustee

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

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ the within Series 2023B Bond and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer the Series 2023B Bond on the books kept for the registration thereof, with full power of substitution in the premises.

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

Notice: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within Series 2023B Bond in every particular, without alteration or any change whatever.

Signature Guaranteed:

\_\_\_\_\_

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

The Trustee will not effect transfer of this Series 2023B Bond unless the information concerning the transferee requested below is provided.

Name and Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Include information for all joint owners if the Series 2023B Bond is held by joint account)

Insert social security or other identifying number of Transferee

\_\_\_\_\_  
\_\_\_\_\_

## ABBREVIATIONS

The following abbreviations, when used in the inscription on the face of this Series 2023B Bond, shall be construed as though they were written out in full:

TEN COM - as tenants in common  
TEN ENT - as tenants by entireties  
JT TEN - as joint tenants with right of survivorship  
and not as tenants in common  
UTMA - \_\_\_\_\_ as custodian for \_\_\_\_\_ under the  
(cust) (minor)  
\_\_\_\_\_ Uniform Transfers to Minors Act.  
(state)

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



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

[To be prepared on letterhead of Initial Bond Purchaser or Transferee]

[Date]

Housing Finance Authority of  
St. Johns County, Florida  
St. Augustine, Florida

U.S. Bank Trust Company, National Association,  
as Trustee  
[Jacksonville, Florida]

RBC Capital Markets, LLC  
St. Petersburg, Florida

Re: Housing Finance Authority of St. Johns County, Florida Multifamily Mortgage Revenue Bonds, Series 2023B (Oaks at St. John)

Ladies and Gentlemen:

The undersigned (the “**Purchaser**” or the “**Investor**”) hereby acknowledges receipt of the Housing Finance Authority of St. Johns County, Florida Multifamily Mortgage Revenue Bonds, Series 2023B (Oaks at St. John) (the “**Bonds**”), in fully registered form and in the aggregate principal amount of [\$2023B PAR], constituting [all of the Bonds] currently outstanding and offered under the Limited Offering Memorandum prepared in connection with offering of the Bonds (the “**LOM**”). The Bonds have been approved by the Purchaser.

The undersigned acknowledges that the Bonds were issued for the purpose of making a loan to assist in financing a certain multifamily rental housing development located in St. Johns County, Florida (the “**Development**”), as more particularly described in that certain Loan Agreement, dated as of December 1, 2023 (the “**Loan Agreement**”), by and among the Housing Finance Authority of St. Johns County, Florida (the “**Issuer**”), U.S. Bank Trust Company, National Association, as trustee (the “**Trustee**”) and Ponte Vedra Beach Leased Housing Associates I, LLLP, Minnesota a limited liability limited partnership (the “**Borrower**”). The undersigned further acknowledges that the Bonds are secured by a certain Trust Indenture dated as of December 1, 2023 (the “**Indenture**”), between the Issuer and the Trustee, which creates a security interest in loan repayments made pursuant to the Loan Agreement for the benefit of the holders and owners of the Bonds, and by a first mortgage and assignment of rents with respect to the Development (the “**Mortgage**”), which creates a security interest in the Development, subject to permitted encumbrances, as provided therein and certain other collateral described in the LOM. Terms not otherwise defined herein shall have the meanings assigned thereto in the Indenture.

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

1. The Investor has the authority to purchase the Bonds and to execute this letter in connection with the purchase of the Bonds.
2. The Investor is a “qualified institutional buyer” under Rule 144A of the Securities Act of 1933, as amended (the “Securities Act”) and as such has sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal and other tax-exempt obligations, to be able to evaluate the risks and merits of the investment represented by the Bonds.

3. The Investor is purchasing such Bonds for its own account and not for immediate resale, and has made an independent investment decision as a sophisticated or institutional investor. The Investor has purchased the securities without a present intent to distribute; provided however, that the Investor reserves the right to resell such Bonds in accordance with the Indenture to another “qualified institutional buyer.”

4. The Investor understands that the Bonds are not registered under the Securities Act and that such registration is not legally required as of the date hereof; and further understands that the Bonds (a) are not being registered or otherwise qualified for sale under the “Blue Sky” laws and regulations of any state, (b) will not be listed in any stock or other securities exchange, (c) will not carry a rating from any rating service and (d) will be delivered in a form which may not be readily marketable.

5. The Investor acknowledges (a) that it has either been supplied with or been given access to information, including the LOM, (b) it has had the opportunity to ask questions and receive answers from the Borrower and other knowledgeable individuals concerning the Borrower, the Project and the Bonds and the security therefor, and (c) it has received from the Borrower all information and materials that it requested and which it regards as necessary to evaluate all merits and risks of an investment in the Bonds so that the Investor has been able to make its own decision to purchase the Bonds. The Investor acknowledges that it has not relied upon the Issuer for any information in connection with the Investor’s acquisition of the Bonds except for the information under the captions “THE ISSUER”, the third paragraph under the caption “DISCLOSURE REQUIRED BY SECTION 517.051(1), FLORIDA STATUTES” and “NO LITIGATION - As to the Issuer”.

6. The Investor acknowledges that the obligations of the Issuer to make payments evidenced by the Bonds are limited obligations payable solely from the Trust Estate (as defined in the Indenture) including, subject to the Issuer’s Reserved Rights (as defined in the Indenture), to the Issuer from the Borrower pursuant to the Loan Agreement, dated as of December 1, 2023, among the Issuer, the Trustee and the Borrower (the “**Loan Agreement**”), and the Issuer shall not be directly or indirectly or contingently or morally obligated to use any other moneys or assets of the Issuer for all or any portion of the payments due from the Borrower under the Loan Agreement. The Issuer has no taxing power. The Bonds shall not constitute an obligation, either general or special, of the State of Florida, of any local government or of any other political subdivision of the State, and neither the State nor any other political subdivision of the State will be liable for the payment of the Bonds. Neither the faith and credit nor taxing power of the State, any local government or any other political subdivision of the State are pledged to the payment of the principal of, premium (if any) or interest on the Bonds. The Bonds are payable, as to principal, premium (if any), and interest, solely out of the Trust Estate which is the sole asset of the Issuer pledged therefor, and then only to the extent provided in the Indenture. Neither the members of the Board of Directors of the Issuer nor any persons executing the Bonds shall be liable personally on the Bonds by reason of their issuance.

7. The Investor is aware that the business of the Borrower and real estate in general involves certain economic variables and risks that could adversely affect the security for the Bonds.

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

THE PURCHASER HEREBY HOLDS THE ISSUER HARMLESS AGAINST ANY AND ALL

LIABILITY, COST OR EXPENSE (INCLUDING ATTORNEYS' FEES) THAT RESULT IF THE REPRESENTATIONS CONTAINED IN THE PURCHASER'S INVESTOR LETTER ARE FALSE IN ANY MATERIAL RESPECT.

[PURCHASER]

By:  
Name:  
Title:

**EXHIBIT D**  
**SERIES 2023B LOAN AGREEMENT**  
**(see attached)**

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**LOAN AGREEMENT**

between

**HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA**  
as Issuer

and

**PONTE VEDRA BEACH LEASED HOUSING ASSOCIATES I, LLLP**  
as Borrower

**[\$2023B PAR]**

**Housing Finance Authority St. Johns County, Florida**  
**Multifamily Housing Revenue Bonds**  
**(Oaks at St. John), Series 2023B**

**Dated as of December 1, 2023**

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With the exception of certain reserved rights, the interest of the Housing Finance Authority of St. Johns County, Florida in this Loan Agreement has been assigned to U.S. Bank Trust Company, National Association, as trustee for the above-referenced bonds.

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## LOAN AGREEMENT

**THIS LOAN AGREEMENT** is made and entered into as of December 1, 2023 by and between the **HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA** a public body corporate and politic duly created, organized and existing under the laws of the State of Florida, (together with its successors and assigns, the “Issuer”), and **PONTE VEDRA BEACH LEASED HOUSING ASSOCIATES I, LLLP**, a Minnesota limited liability limited partnership (the “Borrower”).

### RECITALS

**WHEREAS**, the Issuer has been created and organized pursuant to and in accordance with the provisions of the Florida Housing Finance Authority Law, Sections 159.601 through 159.623, Florida Statutes, as amended (the “Act”), for the purpose, among others, of financing costs of residential developments that will provide decent, safe and sanitary housing for persons or families of low, moderate and middle income in the State of Florida; and

**WHEREAS**, the Housing Finance Authority Law authorizes the Issuer: (a) to make loans to sponsors to provide financing for residential developments within the State, and intended to be occupied, to the extent required by applicable federal tax law, by persons or families of low, moderate and middle income, as determined by the Issuer; (b) to authorize the issuance of revenue bonds by the Issuer for the purpose of obtaining moneys to make such loans and to provide such financing and to pay administrative costs and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues and receipts to be received by the Issuer from or in connection with such loans, and to mortgage, pledge or grant security interests in such loans in order to secure the payment of the principal or redemption price of and interest on such bonds; and

**WHEREAS**, the Issuer has determined to issue and sell its Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023B in the original aggregate principal amount of \$[2023BPAR] (the “Series 2023B Bonds”), for the purpose of financing the costs of the acquisition, rehabilitation, installation and equipping of a 160-unit multifamily rental housing facility to be occupied by persons of low, moderate, or middle income and related personal property and equipment located at 210 Nettles Lane, Ponte Vedra Beach, Florida 32081 in an unincorporated area of St. Johns County, Florida (the “Project”), the Indenture dated December 1, 2023, by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”) and this Loan Agreement, providing for the Issuer to finance a portion of the costs of the Project by making a loan (the “Loan”) to the Borrower;

**WHEREAS**, simultaneously with the issuance of the Series 2023B Bonds, the Issuer is issuing its (i) Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023A, in the original aggregate principal amount of \$[2023A PAR] (the “2023A Bonds”), pursuant the Trust Indenture dated as of December 1, 2023 (the “2023A Indenture”), by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee, and its (ii) Multifamily Housing Revenue Bonds (Oaks at St. John), Subordinate Series 2023C, in the original aggregate principal amount of \$[2023C PAR] (the “Subordinate Bonds”), pursuant the Trust Indenture dated as of December 1, 2023 (the “Subordinate Indenture”), by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee;

**WHEREAS**, in connection with the issuance of the Bonds, the Borrower will enter into the Land Use Restriction Agreement, dated as of December 1, 2023 (the “Regulatory Agreement”), with the Issuer and the Trustee relating to compliance with certain federal and state requirements applicable to the Project; and

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

**ARTICLE 1**  
**DEFINITIONS, EXHIBITS AND MISCELLANEOUS**

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

*Bond Purchase Agreement*: the Bond Purchase Agreement, dated as of December 1, 2023, by and among the Issuer, the Borrower and the Underwriter pursuant to which the Underwriter agrees to purchase the Bonds;

*Bonds*: Issuer's Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023B, in the original aggregate principal amount of \$[2023B PAR];

*Borrower Documents*: this Loan Agreement, the Bond Purchase Agreement, the Regulatory Agreement, the Continuing Disclosure Agreement, the Tax Certificate and each of the other agreements, certificates, contracts, or instruments to be executed by the Borrower in connection with the issuance of the Bonds;

*Completion Date*: the date the Borrower certifies that the construction of the Project has been substantially completed;

*Date of this Loan Agreement*: December 1, 2023;

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

*Fannie Mae*: Fannie Mae, a corporation organized and existing under the Federal National Mortgage Association Charter Act, 12 U.S.C., Section 1716 et seq., and its successors.

*Fannie Mae Commitment*: the Commitment issued by Mortgage Lender with respect to the Mortgage Loan, as the same may be amended.

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

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

*Issuance Expenses*: any and all costs and expenses relating to the issuance, sale and delivery of the Bonds incurred or payable by the Borrower, including, but not limited to, Underwriter's discount, all fees and expenses of legal counsel, the Trustee, financial consultants, feasibility consultants and accountants, any fee to be paid to the Issuer, the preparation and printing of this Loan Agreement, the Indenture, the

Regulatory Agreement, the Bond Purchase Agreement, the Security Documents, any preliminary and final official statement or offering memorandum, the Bonds and all other related closing documents, the costs of rating the Bonds, and all other expenses relating to the issuance, sale and delivery of the Bonds and any other costs which are treated as “issuance costs” within the meaning of Section 147(g) of the Code;

*Liabilities:* any causes of action (whether in contract, tort or otherwise), claims, costs, damages, demands, judgments, liabilities, losses, suits and expenses (including, without limitation, reasonable costs of investigation, and attorney’s fees and expenses) of every kind, character and nature whatsoever;

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

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

*Mandatory Tender Date:* July 1, 2026 or such later date as may be determined in connection with a remarketing of the Bonds pursuant to Section 3.8 of the Indenture;

*Mandatory Purchase Price:* has the meaning set forth in Section 3.7 of the Indenture;

*Mortgage:* the Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Leases and Rents dated as of the date hereof, from the Borrower to the Issuer and assigned to the Trustee, securing the Series 2023B Bonds.

*Mortgage Lender:* Colliers Mortgage LLC a Delaware limited liability company, its successors and assigns.

*Mortgage Loan:* the mortgage loan to be made from the Mortgage Lender to the Borrower in the principal amount of \$[\_\_\_\_\_] with respect to the Project, as described and provided for in the Fannie Mae Commitment.

*Mortgage Loan Documents:* the mortgage, the mortgage note, and all other documents required by the Mortgage Lender and/or Fannie Mae in connection with the Mortgage Loan.

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

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

*Ordinary Trustee’s Fees and Expenses:* the upfront and annual administration fee for the Trustee’s Ordinary Services and Ordinary Expenses in rendering its services under the Indenture consisting of (i) an upfront fee payable to the Trustee on the Closing Date and (ii) an annual fee to be paid during each twelve month period;

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

*Single Purpose Entity:* a Person, other than an individual, which is formed or organized solely for the purpose of directly holding an ownership interest in the Project, does not engage in any business unrelated to the Project, does not have any assets other than those related to its interest in such Project, has

its own separate books and records and has its own accounts, in each case which are separate and apart from the books and records and accounts of any other Person, and holds itself out as being a Person, separate and apart from any other Person. In addition to the foregoing, with respect to the Borrower, a Single-Purpose Entity shall also be as follows:

(i) a Person which is and at all times since its formation has been (a) a duly formed and existing Person which is either not treated as a taxpayer under the tax laws of any governmental authority or (I) treated as a taxpayer under any tax law of any governmental authority and (II) has tax liability which is adequately provided for, and, (b) duly qualified as a foreign Person in each jurisdiction in which such qualification was or may be necessary for the conduct of its business;

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

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

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

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

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

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

(viii) a Person which, except with respect to obligations and liabilities set forth in this Loan Agreement and in the Collateral Documents (including without limitation the loan and other documents evidencing the Series 2023B Note and the loan of the proceeds thereof from the Issuer to the Borrower), and except with respect to the Series 2023B Bonds and the Series 2023B Note, has not at any time since its formation incurred, assumed or guaranteed any indebtedness (contingent or otherwise) or the liabilities of any Person or has not at any time since its formation acquired obligations or securities of any Person or has not at any time since its formation made loans or advances to any Person; and

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

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

*Trustee Indemnified Party or Trustee Indemnified Parties:* the Trustee, Authenticating Agent, Paying Agent and Registrar and their past, present, and future directors, officers, employees and agents;

*Title Company:* Commercial Partners Title, LLC, a division of Fidelity National Title Insurance Company;

*State:* the State of Florida.

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

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

- (1) Exhibit A: Legal description of the Project.
- (2) Exhibit B: [Reserved].
- (3) Exhibit C: [Reserved].
- (4) Exhibit D: Form of Disbursement Request

Section 1.3 Borrower's Acts.

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

Section 1.4 Rules of Interpretation.

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

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

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

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

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

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

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

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

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

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

## **ARTICLE 2 REPRESENTATIONS OF ISSUER AND BORROWER**

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

(1) The Issuer is a public body corporate and politic duly created, organized and existing under the laws of the State of Florida.

(2) The Issuer has found and hereby declares that the issuance of the Bonds to assist the financing and/or refinancing of the Project is in furtherance of the public purposes set forth in the Act.

(3) In order to finance and/or refinance the costs of the Project, in an amount estimated by the Borrower, the Issuer has duly authorized the execution, delivery, and performance on its part of the Bond Purchase Agreement, the Indenture, and this Loan Agreement.

(4) To accomplish the foregoing, the Issuer proposes to issue \$\_\_\_\_\_ in aggregate principal amount of its Bonds immediately following the execution and delivery of this Loan Agreement. The date, denomination or denominations, interest rate or rates, maturity schedule, redemption provisions and other pertinent provisions with respect to the Bonds are set forth in the Indenture.

(5) The Issuer makes no representation or warranty that the amount of the Loan will be adequate or sufficient to finance and/or refinance the Project or that the Project will be adequate or sufficient for the purposes of the Borrower.

(6) The Issuer has not pledged, assigned, or granted, and will not pledge, assign, or grant any of its rights or interest in or under this Loan Agreement for any purpose other than as provided for in the Indenture.

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

(1) The Borrower is a limited liability limited partnership duly organized and validly existing under the laws of the Minnesota, is in good standing and duly authorized to conduct its business in the State, is not in violation of any provision of the Borrower's organizational documents, has power to enter into this Loan Agreement, the Bond Purchase Agreement, the Security Documents and the Regulatory Agreement, and to use the Project for the purpose set forth in this Loan Agreement and by proper action has authorized the execution and delivery of this Loan Agreement, the Bond Purchase Agreement, the Regulatory Agreement, the Security Documents and the Bond Purchase Agreement, and has approved the Indenture;

(2) The execution and delivery of this Loan Agreement, the Regulatory Agreement, the Security Documents and the Bond Purchase Agreement, and the consummation of the transactions contemplated thereby, and the fulfillment of the terms and conditions thereof, have been duly authorized and do not and will not conflict with or result in a breach of any of the terms or conditions of the Partnership Agreement of the Borrower, any restriction or any agreement or instrument to which the Borrower is now a party or by which it is bound or to which any property of the Borrower is subject, and do not and will not constitute a default under any of the foregoing, or cause the Borrower to be in violation of any order, decree, statute, rule or regulation of any court, governmental agency, or any state or federal regulatory body having jurisdiction over the Borrower or its properties, including the Project, and do not and will not result in the creation or imposition of any lien, charge or encumbrance of any nature upon any of the property or assets of the Borrower contrary to the terms of any instrument or agreement to which the Borrower is a party or by which it is bound;

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

(4) During the term of this Loan Agreement, the Borrower intends to and will utilize or cause the Project and the facilities and equipment financed and/or refinanced with the proceeds of the Bonds to be utilized as a "project" within the meaning of the Act as in effect on the date hereof;

(5) The Project, as designed and as proposed to be operated or caused to be operated by the Borrower, and when constructed in accordance with such design, will meet all material requirements of law, including requirements of any federal, state, county, city or other governmental entity having jurisdiction over the Project or its use and operation;

(6) There is (or will be after the completion of the construction of the Project) public access to the Project; and, as of the date hereof, the use of the Project, as it is proposed to be operated, complies with all presently applicable zoning, development, pollution control, water conservation, environmental and other laws, regulations, rules and ordinances of the federal government and the State and the respective agencies thereof and the political subdivisions in which the Project is located (or, to the extent the Project does not so comply, correcting such noncompliance is a part of the scope of the rehabilitaiton of the Project); the Borrower has obtained or will obtain all necessary approvals of and licenses, permits, consents and franchises from federal,

state, county, municipal or other governmental authorities having jurisdiction over the Project to acquire, rehabilitate, install, and operate the Project and to enter into, execute and perform its obligations under this Loan Agreement and the other Borrower Documents;

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

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

(9) A major inducement to the Borrower to acquire, construct and equip the Project was the source of financing provided under the Act and availability of financing through Fannie Mae. The Borrower has agreed to use all or a portion of the proceeds of the Series Bonds to finance the acquisition, construction and equipping of the Project, including the reimbursement of Project costs eligible for such reimbursement and incurred in anticipation of such reimbursement;

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

(11) There are no actions, suits, or proceedings pending or, to the knowledge of the Borrower, threatened against the Borrower or any property of the Borrower in any court or before any federal, state, municipal or other governmental agency, which, if decided adversely to the Borrower, would have a material adverse effect upon the Borrower or upon the business or properties of the Borrower or upon the validity or enforceability of the instruments referred to in Section 2.2(1) above or the priority of the lien and security interest of the Mortgage, or the ability of the Borrower to execute or deliver such instruments or perform its obligations thereunder; and the Borrower is not in default with respect to any order of any court or governmental agency;

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

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

(14) To the best of the Borrower’s knowledge, none of the Issuer Indemnified Parties who have not otherwise recused themselves from voting on the authorization of the Bonds) has any significant or conflicting interest, financial, employment, or otherwise, in the Borrower, the Project, or in any of the transactions contemplated under the Borrower Documents;

(15) No other obligations have been or will be issued under Section 103 of the Code which are sold at substantially the same time as the Bonds, pursuant to the same plan of financing, which are reasonably expected to be paid out of substantially the same source of funds as the Bonds;



(16) The Project is expected to be eligible for low income housing tax credits under Section 42 of the Code;

(17) The Borrower's federal employer identification number is 88-2025980;

(18) There has been no materially adverse change in the financial condition, prospects, or business affairs of the Borrower or the feasibility or physical condition of the Project subsequent to the date on which the Issuer granted its resolution (after extension) approving the issuance of the Bonds;

(19) The Borrower (a) understands the nature of the structure of the transactions related to the financing and/or refinancing of the Project; (b) is familiar with all the provisions of the documents and instruments related to such financing to which the Borrower or the Issuer is a party or which the Borrower is a beneficiary; (c) understands the risk inherent in such transactions, including, without limitation, the risk of loss of the Project; and (d) has not relied on the Issuer for any guidance or expertise in analyzing the financial consequences of such financing transactions or otherwise relied on the Issuer in any manner, except to issue the Bonds in order to provide funds for the Loan;

(20) The Borrower hereby acknowledges receipt of the Indenture and agrees to be bound by its terms;

(21) Neither the representations of the Borrower contained in the Borrower Documents nor any oral or written statement, furnished by or on behalf of the Borrower to the Issuer or the Original Purchaser in connection with the transactions contemplated hereby, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained herein or therein not misleading. There are no facts that the Borrower has not disclosed to the Issuer or the Original Purchaser of the Bonds in writing that materially and adversely affect or in the future may (so far as the Borrower can now reasonably foresee) materially and adversely affect the properties, business, prospects, profits, or condition (financial or otherwise) of the Borrower, or the ability of the Borrower to perform its obligations under the Borrower Documents or any documents or transactions contemplated hereby or thereby.

(22) All representations of the Borrower contained herein or in any certificate or other instrument delivered by the Borrower pursuant hereto, to the Indenture, or in connection with the transactions contemplated thereby, shall survive the execution and delivery thereof and the issuance, sale, and delivery of the Bonds as representations of facts existing as of the date of execution and delivery of the instrument containing such representation.

### **ARTICLE 3 COMPLETION OF PROJECT**

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

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

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

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

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

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

(3) all legal (including Bond Counsel and counsel to the Issuer, Borrower, Original Purchaser, and Trustee), abstractors', financial and accounting fees and expenses, administrative and rating agency fees (if any), expenses of any Rebate Consultant (as defined in Section 7.7(12) hereof), printing and engraving costs and other expenses incurred and to be incurred on or before or in connection with the Completion Date with respect to (i) the establishment of title to the Project, (ii) the authorization, sale and issuance of the Bonds, (iii) the preparation of this Loan Agreement, the Indenture, the Security Agreements, the Regulatory Agreement, and all other documents necessary to the Bond Closing or required by this Loan Agreement or the Indenture,

(iv) the establishment of the Completion Date, including compliance with any governmental or administrative rules or regulations on or before such date, or (v) the administrative charges imposed by the Issuer pursuant to Section 4.4(2) in connection with the issuance of the Bonds;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) in the Capitalized Interest Fund, from proceeds of the Bonds, in the amount of [\$\_\_\_\_\_] for the payment of interest on the Bonds through the Mandatory Tender Date;
- (2) in the Project Fund, the sum of [\$\_\_\_\_\_], from the proceeds of the Bonds; and

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

Section 3.5 Disbursements from Project Fund.

(1) The Issuer has in the Indenture authorized and directed the Trustee in writing to disburse money from the Project Fund, upon the order of the Borrower, to the Mortgage Lender, in payment or reimbursement of Project Costs enumerated in Section 3.2 and certified in writing by the Borrower Representative, provided that in no event shall:

- (a) any Net Bond Proceeds be used to pay or reimburse for the payment of the acquisition of any property other than land (or an interest therein) unless the first use of such property is pursuant to such acquisition;
- (b) 25% or more of Net Bond Proceeds to be used to pay or reimburse for the payment of the acquisition of land;
- (c) any Net Bond Proceeds, including earnings thereon, be used to pay or reimburse for the payment of any Working Capital Expenses in excess of 3% of the Net Bond Proceeds.

(2) The cost of acquiring the Project and the Project Costs described in Section 3.2(3), (4), (5), (6) and (8) may be paid or reimbursed in full upon receipt by the Trustee of any statement of the payee covering such expenses endorsed by the payee and approved by the Borrower Representative or, with respect to fees of Bond Counsel, Issuer's Counsel or other fees of the Trustee or Issuer or printing expenses,

by the Issuer. With respect to all other Project Costs, each disbursement request shall be in substantially the form attached hereto as Exhibit D and shall constitute a representation by the Borrower that:

(a) All items for which disbursement is requested thereunder either (i) are presently due and payable, constitute Project Costs properly incurred by the Borrower in connection with the Project being financed with the proceeds of the Loan, or are reimbursable Project Costs properly chargeable against the Loan; or (ii) are to be deposited to an escrow fund to be disbursed therefrom to the Mortgage Lender for disbursement in compliance with the Mortgage Loan Documents solely for Project Costs properly incurred by the Borrower in connection with the Project; and in each case none of the items for which disbursement is requested has formed the basis for any disbursement heretofore made from the Project Fund.

(b) Each such item is or was necessary in connection with the acquisition and rehabilitation of the dwelling units of the Project.

(c) The costs specified in the Disbursement Schedule that are to be paid or reimbursed with Net Bond Proceeds, when added to all previous disbursements under the Loan with respect to the Bonds, will result in at least 95% of the aggregate amount of all disbursements of Net Proceeds having been used to pay or reimburse the Borrower for amounts which are Project Costs that are qualified and eligible to be financed with proceeds of tax-exempt obligations, when applied in the manner set forth in the Tax Certificate.

(d) To the knowledge of the Borrower, there is no current or existing event of default pursuant to the terms of the Loan Agreement or the Regulatory Agreement and no event exists which by notice or passage of time or both would constitute an event of default under any of the foregoing documents.

(e) No representation or warranty of the Borrower contained in the Loan Agreement or the Regulatory Agreement is materially incorrect or inaccurate, except as the Borrower has set forth in writing, and there has been no event of default under the terms of any of those documents and which is continuing and no event shall exist which by notice, passage of time or both would constitute an event of default under any of those documents.

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

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

(h) All payments made from the Project Fund shall be presumed by the Trustee to be made for the purposes certified in said written requests, and the Trustee shall not be required to see

to the application of any payments made from the Project Fund or to inquire into the purposes for which withdrawals are being made from the Project Fund. The Trustee shall not be bound to make an investigation into the facts or matters stated in any written request. The Trustee shall not be responsible for determining whether the funds on hand in the Project Fund are sufficient to complete the Project. The Trustee shall have no responsibility whatsoever to disburse or transfer funds absent written instructions from the Borrower and will only disburse or transfer funds to Mortgage Lender, unless otherwise approved by Mortgage Lender.

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

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

Section 3.8 [Intentionally Omitted].

Section 3.9 Retention. The construction contracts for the rehabilitation of the buildings which are part of the Project will contain provisions requiring the retention of five percent (5%) of each progress payment to the contractor until the rehabilitation of such building has been completed to the satisfaction of the Borrower.

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**ARTICLE 4**  
**THE LOAN, BASIC PAYMENTS,**  
**ADDITIONAL CHARGES AND ADDITIONAL FINANCING**

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

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

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

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

(b) [On \_\_\_\_\_, 20\_\_\_\_,] an amount which is not less than the principal amount due on the Outstanding Bonds on the maturity date of the Bonds.

(c) The Borrower will promptly deposit the proceeds of the Assigned Capital Contributions, when and if received, with the Trustee with written instructions to deposit the amounts in the Bond Fund for application to the mandatory redemption of the Series Bonds pursuant to Section 3.1(3) of the Indenture. The Borrower represents that the aggregate proceeds of the Assigned Capital Contributions are expected to exceed the amount necessary to redeem the Bonds in full, but only the amount necessary to redeem the then Outstanding Bonds in full shall be deposited with the Trustee. The Investor Limited Partner has agreed with the General Partner in the Partnership Agreement to deposit the Assigned Capital Contributions (but only the amount necessary to redeem the Outstanding Bonds in full) directly to the Bond Fund, to be disbursed pursuant to the terms of the Indenture, provided, however, that notwithstanding anything contained herein to the contrary, the obligations of the Investor Limited Partner to make any equity contributions to the Borrower are governed solely by, and subject to the conditions, terms and provisions of, the Partnership Agreement.

(d) On the Mandatory Tender Date, the Borrower shall cause the Outstanding Bonds to be purchased at the Mandatory Purchase Price, in accordance with Section 3.7 of the Indenture.

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

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

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

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

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

(6) So long as the Bonds are Outstanding, the Borrower shall repay the Loan from the Assigned Capital Contributions and funds or amounts received under the Security Documents.

Section 4.3 Compliance Period. The Borrower shall comply with the requirements of the Regulatory Agreement with the Issuer related to the low income housing tax credits for the Project.

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

(1) to or upon the order of the Trustee, when due, the Ordinary Trustee's Fees and Expenses and amounts owed, if any, for Extraordinary Services and Extraordinary Expenses of the Trustee, and all reasonable fees and charges of the Paying Agent, registrars, legal counsel, accountants, engineers, public agencies and others incurred in the performance on request of the Trustee of services required under the Indenture for which the Trustee and such other Persons are entitled to payment or reimbursement, provided that the Borrower may, without creating a default hereunder, contest in good faith the necessity or reasonableness of any such services, fees or expenses;

(2) to the Issuer, the Issuer Fee and the Issuer Fees and Expenses (including Issuer Late Fees, if any);

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



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

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

(6) all sums required under Section 3.8 of the Indenture in order to revise or extend the Mandatory Tender Date or remarket the Bonds, and the Borrower further agrees to execute any and all certificates required by the Issuer, the Trustee or the Remarketing Agent in order to effectuate such revision, extension or remarketing;

(7) to the Remarketing Agent, the Remarketing Agent's Fee and any Remarketing Expenses.

(8) to the Rebate Consultant, the Rebate Consultant's fees, costs, and expenses.

(9) any indemnity payments required under any of the Borrower Documents.

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

Section 4.6 Assignment of Issuer's Rights. As security for the payment of the Bonds, the Issuer will pledge the amounts payable hereunder and assign, without recourse or liability, to the Trustee, the Issuer's rights under this Loan Agreement (except for the Issuer's Unassigned Rights), including the right to receive payments hereunder (except the right to receive payments, if any, under Sections 3.2, 4.4, 7.4, 9.5, 10.8, 10.11, 10.12, 10.13, and 10.14 hereof) and hereby directs the Borrower to make said payments directly to the Trustee. The Borrower herewith assents to such assignment and will make payments under this Loan Agreement directly to the Trustee without defense or set off by reason of any dispute between the Borrower and the Trustee.

Section 4.7 Borrower's Remedies. Nothing contained in this Article shall be construed to release the Issuer from the performance of any of its agreements herein, and if the Issuer should fail to

perform any such agreements, the Borrower may institute such action against the Issuer as the Borrower may deem necessary to compel such performance so long as such action shall not violate the Borrower's agreements in Section 4.4 or diminish or delay the amounts required to be paid by the Borrower pursuant to Section 4.2. The Borrower acknowledges, however, and agrees that any pecuniary obligation of the Issuer created by or arising out of this Loan Agreement shall be payable solely out of the proceeds derived from this Loan Agreement and the sale of the Bonds.

Section 4.8 Borrower's Obligations Upon Tender of Bonds. If any Bond tendered for purchase is not remarketed on any Mandatory Tender Date and a sufficient amount is not available under the Indenture for the purpose of paying the purchase price of such Bond, the Borrower will cause to be paid to the Trustee by the applicable times provided in the Indenture, an amount equal to the amount by which the principal amount of all Bonds tendered and not remarketed, together with interest accrued to the Mandatory Tender Date, exceeds the amount otherwise available pursuant to the Indenture.

Section 4.9 Net Return. The Borrower agrees that the payment under the Loan Agreement shall be a net return to the Issuer over and above any taxes or charges of any nature whatsoever which may currently or hereafter be imposed on the receipts of the Issuer under the Loan Agreement.

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## **ARTICLE 5 PROJECT COVENANTS**

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

Section 5.2 Sale or Lease of Project. So long as any Bonds are Outstanding, the Borrower will not lease the Project (except leases in the normal course of business), in whole or in part, nor sell, mortgage or otherwise encumber its interests in the Project, in whole or part, except as permitted by this Loan Agreement and the Indenture, or as otherwise provided in Sections 7.5 and 8.1 hereof, and in this Section 5.2, provided that in no event shall such lease, assignment or sale be permitted if (1) the effect thereof would be to impair the validity or the exclusion from gross income under Section 103 of the Code of the interest on the Bonds, as applicable, or (2) if any such transaction should release the Borrower of any of its obligations under this Loan Agreement (except as otherwise provided in Section 8.1). Before any such lease, sale or assignment, the Borrower shall deliver to the Trustee an opinion of Bond Counsel, addressed to the Trustee and the Issuer and in form and substance reasonably satisfactory to it, stating in effect that such lease, sale or assignment will not cause interest on the Bonds to be included in gross income for purposes of federal income taxation, and that the lease, sale or assignment complies with the terms of the Regulatory Agreement and the Trustee shall be authorized to conclusively rely on such Bond Opinion. The Borrower shall give at least 30 days written notice to the Trustee and Issuer of any such sale, assignment or lease, unless such 30 day notice is waived by the Trustee and the Issuer in writing. Nothing in this Section 5.2 shall be construed to prohibit transfers of direct or indirect partnership interests in the Borrower.

Section 5.3 Security Documents. In consideration of the Loan, and as security for the Basic Payments to be made by the Borrower for the payment of the Bonds, and as security for the performance of all of the other obligations, agreements and covenants of the Borrower to be performed and observed hereunder, the Borrower shall execute and cause the Security Documents to be delivered and, to the extent applicable, recorded and shall keep, perform and observe each of its obligations thereunder and shall cause the Security Documents and all supplements thereto, to be kept, recorded and filed in such manner and in such places as may be required by law in order to preserve and protect fully the security of the Holders of the Bonds and the rights of the Trustee under the Indenture and under any other instruments aforesaid. The Borrower acknowledges and agrees that the Trustee will not know and is not responsible for the legality, effectiveness or sufficiency of any security document.

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

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

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

(1) Insurance against loss and/or damage to the Project under a policy or policies covering such risks as are ordinarily insured against by similar businesses, including (without limiting the generality of the foregoing) fire and extended coverage in an amount not less than 100% of the full insurable replacement cost of the Project but any such policy may have a deductible amount of not more than \$100,000. No policy of insurance shall be so written that the proceeds thereof will produce less than the minimum coverage required by the preceding sentence, by reason of co-insurance provisions or otherwise, without the prior consent thereto in writing by the Trustee. The term “full insurable replacement cost” shall mean the actual replacement cost of the Project (excluding foundation and excavation costs and costs of underground flues, pipes, drains and other uninsurable items) and equipment. All policies evidencing insurance required by this subparagraph (1) with respect to the Project shall be carried in the names of the Borrower and the Trustee as their respective interests may appear and shall contain standard mortgage clauses which provide for Net Proceeds of insurance resulting from claims per casualty thereunder to the Project which are less than or equal to \$500,000 for loss or damage covered thereby to be made payable directly to the Borrower, and Net Proceeds from such claims which are equal to or in excess of \$500,000 to be made payable directly to the Trustee. The Net Proceeds of such insurance required by this paragraph (1) with respect to the Project shall be applied as provided in Sections 5.7 and 5.8 hereof.

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

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

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

All insurance required in this Section shall be taken out and maintained in responsible insurance companies selected by the Borrower which are authorized under the laws of the State to assume the risks

covered thereby. The Borrower will provide annually to the Trustee a certificate stating that the insurance required by this section is in full force and effect and the Trustee shall be authorized to conclusively rely on such certification. The Trustee has no duty or obligation to determine the sufficiency of such insurance requirements. Each policy shall contain a provision that the insurer shall not cancel nor modify it without giving written notice to the Borrower and the Trustee at least 30 days before the cancellation or modification becomes effective. In lieu of separate policies, the Borrower may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein, in which event the Borrower shall deposit with the Trustee a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Project Facilities.

The provisions of this Article relating to application of insurance proceeds are subject to the requirement of Section 9.16 of the Indenture providing that proceeds from any condemnation award or from the payment of a claim under any hazard insurance policy relating to the Project will not be payable to the Trustee, but will be payable in accordance with the provisions of Mortgage Loan Documents.

Section 5.7 Damage or Destruction. The Borrower agrees to notify the Trustee in writing promptly in the case of damage exceeding \$500,000 in amount to, or destruction of, the Project or any portion thereof resulting from fire or other casualty. In the event that any such damage or destruction does not exceed \$500,000, the Borrower shall forthwith repair, reconstruct and restore the Project to substantially the same or an improved condition or value as existed prior to the event causing such damage and, to the extent necessary to accomplish such repair, reconstruction and restoration, the Borrower will apply the Net Proceeds of any insurance relating to such damage received by the Borrower to the payment or reimbursement of the costs thereof. Net Proceeds of any insurance relating to such damage up to \$500,000 shall be paid directly to the Borrower.

In the event the Project or any portion thereof is destroyed by fire or other casualty and the damage or destruction is estimated to exceed \$500,000, then the Borrower shall within 120 days after such damage or destruction elect one of the following two options by written notice of such election to the Trustee:

(1) Option A - Repair and Restoration. The Borrower may elect to repair, reconstruct and restore the damaged Project. In such event, the Borrower shall proceed forthwith to repair, reconstruct and restore the damaged or destroyed Project to substantially the same condition or value as existed prior to the event causing such damage or destruction and, to the extent necessary to accomplish such repair, reconstruction and restoration, the Borrower will apply the Net Proceeds of any insurance relating to such damage or destruction received by the Borrower from the Trustee to the payment or reimbursement of the costs thereof. So long as no Event of Default exists, any Net Proceeds of insurance relating to such damage or destruction received by the Trustee shall be released from time to time by the Trustee to the Borrower upon the receipt of a Certificate of the Borrower Representative specifying the expenditures made or to be made or the indebtedness incurred in connection with such repair, reconstruction and restoration and stating that such Net Proceeds, together with any other money legally available for such purposes, will be sufficient to complete such repair, reconstruction and restoration.

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

(2) Option B - Redemption of the Bonds. In the event that the Borrower shall determine that it is not practical or desirable to rebuild, repair or restore the Project, or, in case the Borrower is unable to deliver the certificates or reports necessary under Option A of this Section, the Bonds shall be redeemed on the earliest date for which notice may be given for redemption in accordance with Section 3.1(1) of the Indenture. If the Net Proceeds of insurance, together with all amounts then held by the Trustee under the Indenture available to redeem or retire the Bonds, shall be insufficient to so redeem the Bonds (including the expenses of redemption), the Borrower shall pay such deficiency to the Trustee as a Basic Payment and the Net Proceeds of insurance, together with such Basic Payment and amounts held by the Trustee under the Indenture, shall be applied to such redemption of the Bonds in accordance with Section 8.2 hereof and Section 3.1 of the Indenture. If the Bonds have been fully paid and all obligations of the Borrower hereunder have been paid or provided for, all Net Proceeds shall be paid to the Borrower.

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

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

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

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

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

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

(2) Option B - Redemption of the Bonds. In the event that any material part of the Project is condemned, or such use or control thereof is taken by eminent domain, to the extent described above, or, in case the Borrower is unable to deliver the certificates or reports necessary under Option A of this Section, and, in the reasonable judgment of the Borrower the Project cannot

be restored within twelve (12) months following completion of the proceedings by which such title is taken to a condition permitting conduct of the normal operations of the Borrower and at a cost not exceeding the Net Proceeds of the award in such condemnation proceedings the Bonds shall be redeemed on the earliest date for which notice may be given for redemption in accordance with Section 3.1(1) of the Indenture. If the Net Proceeds of condemnation, together with the amount then held by the Trustee under the Indenture available to redeem the Bonds shall be insufficient to redeem the Bonds (including principal, accrued interest, and expenses of redemption), the Borrower shall pay such deficiency to the Trustee as a Basic Payment, and the Net Proceeds of condemnation, together with such Basic Payment and amounts held by the Trustee under the Indenture shall be applied to such redemption of the Bonds in accordance with Section 8.2 hereof and Section 3.1 of the Indenture. If the Bonds have been duly paid and all other obligations of the Borrower hereunder have been paid or provided for, any remaining Net Proceeds shall be paid to the Borrower.

Section 5.9 Issuer Notice. The Borrower shall provide written notice to the Issuer of the choice of any option under this Article, or upon request any other information requested by the Issuer.

Section 5.10 Hazardous Materials. The Borrower shall not use the Project in any manner so as to violate in any material respect any applicable law, rule, regulation or ordinance of any governmental body or in such manner as to vitiate insurance upon the Project. The Borrower shall not commit or permit any waste upon the Project which would materially decrease the value of the Project. The Borrower shall comply in all material respects with all regulations concerning the environment, health and safety relating to the generation, use, handling, production, disposal, discharge and storage of Hazardous Materials, as defined herein, in, on, under, or about the Project. The Borrower shall promptly take any and all necessary action in response to the presence, storage, use, disposal, transportation or discharge of any Hazardous Materials in, on, under or about the Project by the Borrower or Persons acting on behalf of or at the direction of the Borrower as all applicable laws, rules, regulations, or ordinances may require, provided, however, that the Borrower shall not take any remedial action in response to the presence of any Hazardous Materials in, on, under or about the Project, nor enter into any settlement agreement, consent decree, or other compromise in respect to any claims, proceedings, lawsuits or actions, completed or threatened pursuant to any Hazardous Materials laws or in connection with any third party, if such remedial action, settlement, consent or compromise might impair the value of the Project; in the event that the presence of Hazardous Materials in, on, under, or about the Project either (1) poses an immediate threat to the health, safety, welfare or property right of any individual, or (2) is of such a nature that an immediate remedial response is necessary under applicable laws, rules, regulations, or ordinances, the Borrower shall promptly take necessary action. In the event the Borrower undertakes any remedial action with respect to any Hazardous Materials on, under or about the Project, the Borrower shall promptly notify the Trustee and the Issuer in writing of any such remedial action, and shall conduct and complete such remedial action (1) in compliance with all applicable federal, state and local laws, regulations, rules, ordinances and policies, (2) to the reasonable satisfaction of the Trustee and (3) in accordance with the orders and directives of all federal, state and local governmental authorities. As used herein, the term "Hazardous Materials" shall mean (unless, and only to the extent that, being used in compliance with all applicable federal, state and local laws, regulations, rules, ordinances and policies): (1) oil, flammable substances, explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances or any other substances, materials or pollutants which (A) pose a hazard to the Project, to adjacent premises or to Persons on or about the Project or adjacent premises, (B) cause the Project to be in violation of any local, state or federal law, rule, regulation, ordinance, or policy, or (C) are defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," or "toxic substances" or words of similar import under any applicable local, state or federal law or under the regulations, policy guidelines or other publications adopted or promulgated pursuant thereto, including, but not limited to: (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq.; (ii) the Hazardous Materials Transportation Act, as amended, 49 U.S.C. § 1601, et seq.; (iii) the Resource

Conservation and Recovery Act, as amended, 42 U.S.C. § 6901, et seq.; (iv) the Clean Air Act, 42 U.S.C. § 7412; (v) the Toxic Substance Control Act, 15 U.S.C. § 2601 et seq.; (vi) the Clean Water Act, 33 U.S.C. § 1317 and 1321(b)(2)A and (vii) rules, regulations, ordinances and other publications adopted or promulgated pursuant to the aforesaid laws; (2) asbestos in any form which is or could become friable, (3) urea formaldehyde foam insulation, and (4) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any governmental authority or may or could pose a hazard to the health and safety or property interests of the Borrower or its employees, the occupants of the Project or the owners or occupants of property adjacent to or surrounding the Project.

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**ARTICLE 6**  
**[RESERVED]**

**ARTICLE 7**  
**BORROWER'S COVENANTS**

Section 7.1 Covenant for the Benefit of the Trustee and Bondholders. The Borrower recognizes the authority of the Issuer to assign its interest in and pledge money receivable under this Loan Agreement (other than certain payments required to be made to the Issuer under Sections 3.2, 4.4, 7.4, 9.5, 10.8, 10.11, 10.12, 10.13, and 10.14 hereof) to the Trustee as security for the payment of the principal and purchase price of and interest and redemption premiums, if any, on the Bonds, and the payment of all fees and expenses of the Trustee; and hereby agrees to be bound by, and joins with the Issuer in the grant of, a security interest to the Trustee in any right and interest the Borrower may have in sums held in the Funds described in Article 5 of the Indenture, pursuant to the terms and conditions thereof, to secure payment of the Bonds. Each of the terms and provisions of this Loan Agreement is a covenant for the use and benefit of the Trustee and Holders of the Bonds, so long as any thereof shall remain Outstanding; but upon payment in full of the Bonds in accordance with Article 7 of the Indenture and of all fees and charges of the Trustee and Paying Agent, all references in this Loan Agreement to the Bonds, the Holders thereof and the Trustee shall be ineffective, and neither the Trustee nor the Holders of any of the Bonds shall thereafter have any rights hereunder, save and except those that shall have theretofore vested or that arise from provisions hereunder which survive termination of this Loan Agreement.

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

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

(1) Upon request, in the fiscal year following the completion of the Project, the Borrower shall furnish to the Trustee and the Original Purchaser by no later than 120 days after the close of each fiscal year of the Borrower during the term hereof, a copy of annual audited financial statements of the Borrower for the preceding fiscal year, including a balance sheet and operating statements, audited by an Independent Accountant. The Borrower also agrees to furnish to the Trustee, upon request, the Issuer and the Original Purchaser of the Bonds by no later than 30 days after the close of each of its fiscal quarters commencing with the fiscal quarter in which the Project was completed, a report prepared by the Borrower summarizing the status of construction and providing an estimated completion date, as well as physical and economic occupancy statistics for such quarter. The Trustee is authorized to provide, at the Borrower's expense, such information to the Issuer, or any holder upon request.

(2) At the time the Borrower causes to be furnished annual financial statements pursuant to the Continuing Disclosure Agreement, the Borrower shall also furnish to the Issuer a certificate executed by the Borrower Representative stating that during the same fiscal year covered by the statements and continuing to the date of execution of the certificate:

(a) a review of the activities of the Borrower during such fiscal year and of performance hereunder has been made under the Borrower Representative's supervision; and

(b) the Borrower Representative is familiar with the provisions of this Loan Agreement and the Tax Certificate, and to the best of the Borrower Representative's knowledge, based on such review and familiarity, the Borrower has fulfilled all its obligations hereunder and thereunder throughout such fiscal year, and there have been no defaults under this Loan Agreement or the Tax Certificate or, if there has been a default in the fulfillment of any such obligation in such fiscal year,

specifying each such default known to the Borrower Representative and the nature and status thereof and the actions taken or being taken to correct such default.

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

(4) The Borrower will, and at the request of the Issuer or Trustee at the Borrower's expense, furnish to the Trustee and Issuer at such times and in such form as the Issuer and Trustee, may reasonably require (A) a copy of such other reports containing such information as is necessary to comply with any lawful reporting or continuing registration requirements imposed by any agency of the State under the Act or any other applicable state law as it now exists or may hereafter be amended or by any agency of any other state in which the Bonds have been sold, or (B) such information as is necessary to comply with federal securities law.

The Trustee shall have no duty to review or analyze any such financial statements or reports. The Trustee shall not be deemed to have notice of any information contained therein or event or event of default which may be disclosed in any manner therein.

#### Section 7.4 Indemnity by Borrower.

(a) The Borrower agrees to pay, defend, protect, indemnify, and hold each of the Issuer Indemnified Parties and Trustee Indemnified Parties harmless for, from and against any and all Liabilities directly or indirectly arising from or relating to the Bonds, the Loan, this Loan Agreement, the Project, the Regulatory Agreement, the Indenture, or any document related to the issuance and sale and/or remarketing of the Bonds, including, but not limited to, the following:

(i) Any injury to or death of any person or damage to property in or upon the Project or growing out of or connected with the use, non-use, condition, or occupancy of the Project or any part thereof;

(ii) Violation of any agreement, covenant, or condition of any of the Borrower Documents;

(iii) Violation of any agreement, contract, or restriction relating to the Project;

(iv) Violation of any law, ordinance, or regulation affecting the Project or any part thereof or the ownership, occupancy, or use thereof;

(v) The issuance and sale and/or remarketing of the Bonds or any of them; and

(vi) Any statement, information, or certificate furnished by the Borrower to the Issuer or the Trustee, which is misleading, untrue, incomplete, or incorrect in any respect.

(b) The Borrower also agrees to pay, defend, protect, indemnify, and hold each of the Issuer Indemnified Parties harmless for, from, and against any and all Liabilities directly or indirectly arising from or relating to (a) any errors or omissions of any nature whatsoever contained in any legal proceedings or other official representation or inducement made by or to the Issuer pertaining to the Bonds, and (b) any fraud or misrepresentations or omissions contained in the proceedings of the Issuer relating to the issuance of the Bonds or pertaining to the financial condition of the Borrower or the Guarantor which, if known to the Original Purchaser of the Bonds, might be considered a factor in such Person's decision to purchase the Bonds; provided, however, nothing in this subsection shall be deemed to provide the Issuer with

indemnification for the Issuer's omissions or misstatements contained in the Official Statement under the captions "THE ISSUER" or "NO LITIGATION" – The Issuer" as it relates to the Issuer.

(c) Paragraphs (a) and (b) above are intended to provide indemnification to each Issuer Indemnified Party for his or her active negligence or misconduct; provided, however, that nothing in paragraphs (a) and (b) above shall be deemed to provide indemnification to any Issuer Indemnified Party or Trustee Indemnified Party, as the case may be, with respect to any Liabilities arising from the fraud, gross negligence, or willful misconduct of such Issuer Indemnified Party or Trustee Indemnified Party, as the case may be.

(d) Any party entitled to indemnification hereunder shall notify the Borrower of the existence of any claim, demand, or other matter to which the Borrower's indemnification obligation applies, and shall give the Borrower a reasonable opportunity to defend the same at its own expense and with counsel satisfactory to the Issuer Indemnified Party or Trustee Indemnified Party, as the case may be; provided that the Issuer Indemnified Party or Trustee Indemnified Party, as the case may be, shall at all times also have the right to fully participate in the defense. If the Issuer Indemnified Party or Trustee Indemnified Party, as the case may be, is advised in an opinion of counsel that there may be legal defenses available to it which are different from or in addition to those available to the Borrower or if the Borrower shall, after receiving notice of the Borrower's indemnification obligation and within a period of time necessary to preserve any and all defenses to any claim asserted, fails to assume the defense or to employ counsel for that purpose satisfactory to the Issuer Indemnified Party or Trustee Indemnified Party, as the case may be, the Issuer Indemnified Party or Trustee Indemnified Party, as the case may be, shall have the right, but not the obligation, to undertake the defense of, and to compromise or settle the claim or other matter on behalf of, for the account of, and at the risk of, the Borrower. The Borrower shall be responsible for the reasonable counsel fees, costs, and expenses of the Issuer Indemnified Party or Trustee Indemnified Party, as the case may be, in conducting its defense.

The Issuer Indemnified Parties and the Trustee Indemnified Parties' right to indemnification hereunder shall survive payment of the Bonds, termination of the Indenture and this Loan Agreement and resignation or removal of the Trustee.

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

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

The Issuer and Borrower agree that, upon any change in the status of the Borrower, including a change in the identity of its general partner, so long as the requirements, restrictions and conditions of

Section 5.2 hereof, Section 8.1 hereof, and the Regulatory Agreement with respect to such change have been satisfied as provided therein, the general partner involved shall be discharged from liability hereunder. The Trustee by execution of the Indenture shall be deemed to have agreed to execute such documents as may be necessary or desirable to indicate such discharge upon receipt of evidence satisfactory to said parties that the requirements for this Section, Section 5.2 hereof, Section 8.1 hereof and the Regulatory Agreement have been satisfied, and provided that no Event of Default under this Loan Agreement shall have happened and be continuing on the date of the discharge.

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

Notwithstanding anything to the contrary contained herein or in any other loan document, (1) the assignment of the Investor Limited Partner’s interests in the Borrower or in the Investor Limited Partner, respectively (2) the Pledge and Security Agreements, whereby the General Partner and Borrower pledge all of their respective right, title and interest in the Borrower as security for the Bonds, and the Trustee’s foreclosure on such right, title and interest following an Event of Default hereunder, (3) the removal of the general partner pursuant to the terms of the Partnership Agreement, (4) the transfer of direct or indirect interests in the General Partner and/or Class B Limited Partner, or (5) the Limited Guaranty, Pledge of Partnership Interests and Security Agreement, each dated as of December 1, 2023 by the General Partner in favor of Deutsche Bank Securities Inc., and any related documents contemplated therein, shall not be deemed an Event of Default hereunder or under any other loan document and shall not require the consent of the Issuer or the Trustee.

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

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

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

(2) the Borrower will not use (or permit to be used) the Project, any funds provided by the Issuer hereunder, or any other funds of the Borrower, or use or invest (or permit to be used or invested), directly or indirectly, the proceeds of the Bonds or any other sums treated as “bond proceeds” under Section 148 of the Code and applicable federal income tax regulations, including “investment proceeds”, “invested sinking funds” and “replacement proceeds”, in a manner which would, or enter into, or allow any “related person” (as defined in Section 147(a)(2) of the Code) to enter into, any arrangement, formal or informal, for the purchase of the Bonds that would, or take or omit to take any action that would, to the knowledge of the Borrower, cause the Bonds to be an “arbitrage bond” within the meaning of Section 148 of the Code or “federally guaranteed” within the meaning Section 149(b) of the Code and the applicable regulations promulgated from time to time thereunder. The Borrower further covenants to comply with the covenants and procedures set forth in the Tax Certificate and Article 6 of the Indenture and to deposit in the Rebate Fund such

amount as may be necessary to maintain the deposit in the Rebate Fund as the Rebate Requirement. Finally, the Borrower covenants to pay to the Trustee on demand all sums necessary to retain or pay the fees and expenses of the Rebate Consultant;

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

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

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

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

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

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

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

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

(11) no money in the Bond Fund, the Capitalized Interest Fund or the Project Fund shall be invested in investments which cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code. If at any time the money in such funds exceeds, within the meaning of Section 149(b), (i) amounts invested for an initial temporary period until the money is needed for the purpose for which the Bonds were issued, (ii) investments of a bona fide debt service fund, and (iii) investments of a reserve which meet the requirement of Section 148(c) and (d) of the Code,

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

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

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

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

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

(16) Notwithstanding any provisions of this Section 7.7, if the Borrower shall provide to the Issuer and the Trustee an opinion of Bond Counsel that any specified action required under this Section or Article 6 of the Indenture is no longer required or that some further or different action is required to maintain the exclusion from federal income tax of interest on the Bonds, the Issuer, the Trustee and the Borrower may conclusively rely on such opinion in complying with the requirements of this Section and Article 6 of the Indenture and be protected in so doing, and the covenants hereunder shall be deemed to be modified to that extent.

Section 7.8 Determination of Taxability.

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

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

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

Section 7.10 Continuing Disclosure. The Borrower hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. Notwithstanding any other provision of this Loan Agreement or the Indenture, failure of the Borrower to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default hereunder or under the Indenture or a default with respect to the Bonds or the Security Documents.

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## **ARTICLE 8 BORROWER'S OPTIONS**

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

### Section 8.2 Prepayment.

(1) The Borrower shall have the option to direct the Trustee to call for redemption and prepayment of the Outstanding Bonds in whole or in part, pari-passu, pursuant to Section 3.1(1) of the Indenture. The Bonds to be redeemed shall be redeemed at a price equal to their principal amount plus accrued interest set forth in Section 3.1 of the Indenture. In the event the Bonds are called for redemption in whole or in part, the Borrower shall make a Basic Payment as provided in Section 4.2 hereof on such Redemption Date. The Borrower shall give the Trustee written notice at least 20 days prior to the prepayment date to effect a redemption of the Bonds pursuant to Section 3.1 of the Indenture.

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

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

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

The Borrower acknowledges that regulations of the Comptroller of the Currency grant the Borrower the right to receive brokerage confirmations of the security transactions as they occur. The Borrower waives such notification to the extent permitted by law and will receive periodic cash transaction statements from the Trustee that will detail all investment transactions.

Section 8.4 Remarketing of Bonds. The Borrower is hereby granted the right to (a) request a remarketing of the Bonds in the manner and to the extent set forth in Section 3.8 of the Indenture and (ii) in consultation with the Remarketing Agent, designate the length of the Remarketing Period and the related Mandatory Tender Date in the manner and to the extent set forth in Sections 3.7 and 3.8 of the Indenture.

**ARTICLE 9**  
**EVENTS OF DEFAULT AND REMEDIES**

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

(1) if the Borrower shall fail to pay any Basic Payments on the date due under this Loan Agreement;

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

(3) if the Borrower shall fail to observe and perform or shall breach any other covenant, condition or agreement on its part under this Loan Agreement for a period of 90 days after delivery to Borrower of a mailed notice to it by the Issuer or the Trustee, stating that it is a “Notice of Default” hereunder and specifying such default or breach and requesting that it be remedied;

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

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

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

(7) failure of the Borrower to pay or cause to be paid the Mandatory Purchase Price on the Mandatory Tender Date.

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

Section 9.2 Remedies.

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

(2) Upon the occurrence of an Event of Default, the Trustee may also take whatever action at law or in equity may appear necessary or appropriate to collect all sums then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement, covenant, representation or warranty of the Borrower, under this Loan Agreement, or any Collateral Documents; or to otherwise compensate the Issuer, the Trustee or the Bondholders for any damages on account of such Event of Default.

(3) The Issuer (without the prior written consent of the Trustee if the Trustee is not enforcing the Issuer's right in a manner to protect the Issuer or is otherwise taking action that brings adverse consequences to the Issuer) may take whatever action at law or in equity may appear necessary or appropriate to enforce the Issuer's Unassigned Rights and to collect all sums then due and thereafter to become due to the Issuer under Sections 3.2, 4.4, 7.4, 9.5, 10.8, 10.11, 10.12, 10.13, and 10.14 of this Loan Agreement. Notwithstanding the foregoing, the Issuer is not precluded from exercising any of its rights reserved to it as set forth in this Section, even if the Trustee is exercising the rights of the Issuer hereunder.

Section 9.3 Disposition of Funds. Any amounts collected pursuant to action taken under Section 9.2 hereof (other than sums collected for the Issuer on account of the Issuer's Unassigned Rights and certain direct payments to be made to the Issuer under Sections 3.2, 4.4, 7.4, 9.5, 10.8, 10.11, 10.12, 10.13, and 10.14 hereof, which sums shall be paid directly to the Issuer) shall be applied in accordance with the provisions of the Indenture.

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

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

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

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

Section 9.8 Issuer or Trustee May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or

other judicial proceeding relative to the Borrower or the property of the Borrower, the Trustee, or the Issuer with the prior written consent of the Trustee, shall be entitled and empowered, by intervention in such proceeding or otherwise,

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

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

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

Section 9.10 Suits to Protect the Project. If the Borrower shall fail to do so after thirty (30) days prior written notice from the Issuer or the Trustee, the Issuer shall have power to (but shall not be obligated to) institute and to maintain such proceedings as it may deem expedient to prevent any impairment of the Project or any portion thereof, by any acts which may be unlawful or in violation of this Loan Agreement, and such suits and proceedings as the Issuer may deem expedient to protect its interests in the Project or any portion thereof, including power to institute and maintain proceedings to restrain the enforcement of or compliance with any governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of, or compliance with, such enactment, rule or order would impair or adversely affect the Project or be prejudicial to the interests of the Bondholders.

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

Section 9.12 Exercise of the Issuer's Remedies by Trustee. Whenever any Event of Default shall have happened and be continuing the Trustee may, but except as otherwise provided in the Indenture shall not be obligated to, exercise any or all of the rights of the Issuer under this Article 9, upon notice to the Issuer. In addition, the Trustee shall have available to it all of the remedies prescribed by the Indenture.

Section 9.13 Limited Recourse. Notwithstanding any provision or obligation to the contrary set forth in this Loan Agreement, (1) the liability of the Borrower and any partner, trustee, director, officer, employee, or agent thereof (collectively, "Borrower Parties") under this Loan Agreement or the Security Documents shall be limited to the property subject to the Security Documents and the pledges made herein or to such other security as may from time to time be given or have been given for payment of the Borrower's obligations under this Loan Agreement and Bonds, and any judgment rendered against the Borrower Parties under this Loan Agreement, the Security Documents and the Bonds shall be limited to the property subject to the Security Documents and any other security so given for satisfaction thereof; and (2) no deficiency or other personal judgment nor any order or decree of specific performance shall be sought or rendered against the Borrower Parties, their successors, transferees or assigns, in any action or proceeding arising out of the Security Documents, this Loan Agreement, the Bonds, or any judgment, order

or decree rendered pursuant to any such action or proceeding, provided, however, that nothing in this Loan Agreement, the Security Documents or the Bonds shall limit the Issuer's or Trustee's ability to exercise any right or remedy that it may have with respect to any property pledged or granted to the Issuer or the Trustee, or both of them, or to exercise any right against the Borrower Parties or any other person or entity on account of any damage caused by fraud or intentional misrepresentation by the Borrower or any intentional damage of the property subject to the Security Documents. Furthermore, the Borrower shall be fully liable for the misapplication of (1) proceeds paid prior to any foreclosure under any and all insurance policies, under which the Trustee and/or the Issuer is named as insured, by reason of damage, loss or destruction to any portion of the property subject to the Security Documents, to the full extent of such misapplied proceeds and awards, (2) proceeds or awards resulting from the condemnation, or other taking in lieu of condemnation, prior to any foreclosure of the property subject to the Security Documents, to the full extent of such misapplied proceeds and awards (3) rents, issues, profits and revenues received or applicable to a period subsequent to the occurrence of a default under this Loan Agreement, the Security Documents and the Bonds but prior to foreclosure, and (4) proceeds from the sale of all or any part of the property subject to the Security Documents and any other proceeds that, under the terms hereof, should have been paid to the Issuer or the Trustee. Furthermore, the Borrower shall be fully liable for the breach of the Borrower's covenants contained in Sections 3.2, 4.4(1), (2) and (3), 7.4, 9.5, 10.12, and 10.14 this Loan Agreement, provided, however, that in no event shall the Borrower or any Borrower Parties be personally liable for payment of the principal of, premium, if any, or interest on the Bonds. The limit on the Borrower's liability set forth in this paragraph shall not, however, be construed, and is not intended in any way, to constitute a release, in whole or in part, of the Borrower's obligations under this Loan Agreement or a release, in whole or in part, or an impairment of the security interest of the Security Documents, this Loan Agreement and the Bonds upon the properties described therein, or to preclude the Issuer or the Trustee from foreclosing pursuant to the Security Documents in case of any default or enforcing any other right of the Issuer or the Trustee, or to alter, limit or affect the liability of any person or party who may now or hereafter or prior hereto guarantee, or pledge, grant or assign its assets or collateral as security for, the obligations of the Borrower under the Security Documents, this Loan Agreement and the Bonds. Notwithstanding anything contained in this Agreement to the contrary, neither the Issuer nor the Trustee may assert any claim arising hereunder against the Borrower's interest in the Project, any reserve or deposit made with the Mortgage Lender or with any other entity that is required by Fannie Mae in connection with the Mortgage Loan, or in the rents or other income of the Project for the payment of any charge due hereunder.

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**ARTICLE 10**  
**GENERAL PROVISIONS**

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

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

To the Issuer:	Housing Finance Authority of St. Johns County, Florida 200 San Sebastian View, Suite 2300 St. Augustine, Florida 32084 Attention: Executive Director Email: <a href="mailto:plhowardcsg@gmail.com">plhowardcsg@gmail.com</a> Telephone: (904) 209-1289
With a Copy to:	Butler Snow LLP 6022 San Jose Boulevard, Suite 100 Jacksonville, Florida 32217 Attention: Emily Magee Email: <a href="mailto:emily.magee@butlersnow.com">emily.magee@butlersnow.com</a> Telephone: (904) 539-9012
To the Borrower:	Ponte Vedra Beach Leased Housing Associates I, LLP c/o Dominion Development & Acquisition, LLC 2905 Northwest Blvd, Suite 150 Plymouth, Minnesota 55441 Atlanta, GA 30350 Attention: Terry Sween Email: <a href="mailto:tsween@dominiuminc.com">tsween@dominiuminc.com</a> Telephone: (404) 806-5851

With copies to: Winthrop & Weinstine, P.A.  
(which copy shall not constitute notice to Borrower)  
225 South Sixth Street, Suite 3500  
Minneapolis, Minnesota 55402-4629  
Attention: Neil D. Mahoney, Esq.  
Email: nmahoney@winthrop.com  
Telephone: (612) 604-6596

To the Trustee: U.S. Bank Trust Company, National Association  
111 Fillmore Ave E  
EP-MN-WS3C  
St. Paul, MN 55107-2292  
Attention: Martha Earley  
Email:martha.earley@usbank.com  
Telephone: (651) 466-6303

With a copy to: Kutak Rock LLP  
60 South Sixth Street, Suite 3400  
Minneapolis, MN 55402-4513  
Attention: Justin Reppe  
Email: Justin.reppe@kutakrock.com  
Telephone: (612) 334-5018

To the Investor Limited Partner: Alliant Credit Facility IV, LLC  
c/o Dominion Development & Acquisition, LLC  
2905 Northwest Boulevard, Suite 150  
Plymouth, MN 55441  
Attention: Terry Sween  
Telephone: (404) 806-5851  
Email: tsween@dominiuminc.com

with a copy to:

Winthrop & Weinstine, P.A.  
225 South Sixth Street, Suite 3500  
Minneapolis, Minnesota 55402-4629  
Attention: Todd Urness, Esq.  
Email: TUrness@winthrop.com  
Telephone: (612) 604-6657

To the Remarketing Agent: Colliers Securities LLC  
90 South 7th Street, Suite 4300  
Minneapolis, MN 55402-4108

To the Original Purchaser of the Bonds: Colliers Securities LLC  
90 South 7th Street, Suite 4300  
Minneapolis, MN 55402-4108

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

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

Section 10.5 Amendments, Changes, and Modifications. Except as otherwise provided in this Loan Agreement or in the Indenture, subsequent to the issuance of the Bonds and before the lien of the Indenture is satisfied and discharged in accordance with its terms, this Loan Agreement may not be effectively amended, changed, modified, altered or terminated except in accordance with the provisions of Article 11 of the Indenture, as applicable.

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

Section 10.7 Required Approvals. Consents and approvals required by this Loan Agreement to be obtained from the Borrower, the Issuer or the Trustee shall be in writing and shall not be unreasonably withheld or delayed; provided, however, that the Issuer can reasonably withhold its consent or approval with or without cause.

Section 10.8 Limitation on Issuer's Liability.

(a) ***Reliance by Issuer on Facts or Certificates***. Anything in this Loan Agreement to the contrary notwithstanding, it is expressly understood and agreed by the parties hereto that the Issuer may rely conclusively on the truth and accuracy of any certificate, opinion, notice, or other instrument furnished to the Issuer by the Guarantor, the Trustee or the Borrower as to the existence of any fact or state of affairs required hereunder to be noticed by the Issuer.

(b) ***Immunity of Issuer's Directors, Officers, Counsel, Advisors, and Agents***. No recourse shall be had for the enforcement of any obligation, covenant, promise, or agreement of the Issuer contained in this Loan Agreement, any other Issuer Documents, or in any Bond or for any claim based hereon or otherwise in respect hereof or upon any obligation, covenant, promise, or agreement of the Issuer contained in any agreement, instrument, or certificate executed in connection with the Project or the issuance and sale of the Bonds, against any Issuer Indemnified Party, whether by virtue of any Constitutional provision, statute, or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly agreed and understood that no personal liability whatsoever shall attach to, or be incurred by, any Issuer Indemnified Party, either directly or by reason of any of the obligations, covenants, promises, or agreements entered into by the Issuer with the Guarantor, the Borrower or the Trustee to be implied therefrom as being supplemental hereto or thereto, and that all personal liability of that character against each and every Issuer Indemnified Party is, by the execution of the Bonds, this Loan Agreement, and the other Issuer Documents, and as a condition of, and as part of the consideration for, the execution of the Bonds, this Loan Agreement, and the other Issuer Documents, expressly waived and released.

(c) ***No Pecuniary Liability of Issuer***. No agreements or provisions contained herein, nor any agreement, covenant, or undertaking by the Issuer in connection with the Project or the issuance, sale, remarketing, and/or delivery of the Bonds shall give rise to any pecuniary liability of the Issuer or a charge against its general credit, or shall obligate the Issuer financially in any way, except as may be payable from the revenues pledged hereby for the payment of the Bonds and their application as provided in the Indenture. No failure of the Issuer to comply with any term,



covenant, or agreement contained in the Bonds, this Loan Agreement, or the Indenture, or in any document executed by the Issuer in connection with the Project or the issuance and sale of the Bonds, shall subject the Issuer to liability for any claim for damages, costs, or other financial or pecuniary charge, except to the extent that the same can be paid or recovered from the revenues pledged for the payment of the Bonds or other revenues derived under this Loan Agreement. Nothing herein shall preclude a proper party in interest from seeking and obtaining, to the extent permitted by law, specific performance against the Issuer for any failure to comply with any term, condition, covenant, or agreement herein; provided that no costs, expenses, or other monetary relief shall be recoverable from the Issuer, except as may be payable from the revenues pledged in the Indenture for the payment of the Bonds or other revenue derived under this Loan Agreement. No provision, covenant, or agreement contained herein, or any obligations imposed upon the Issuer, or the breach thereof, shall constitute an indebtedness of the Issuer within the meaning of any State constitutional or statutory limitation or shall constitute or give rise to a charge against its general credit. In making the agreements, provisions, and covenants set forth in this Loan Agreement, the Issuer has not obligated itself, except with respect to the application of the revenues pledged in the Indenture for the payment of the Bonds or other revenues derived under this Loan Agreement or the Indenture.

(d) ***No Warranty by Issuer.*** The Borrower recognizes that, because the components of the Project if and when acquired have been and are to be designated and selected by it, THE ISSUER HAS NOT MADE AN INSPECTION OF THE PROJECT, IF AND WHEN ACQUIRED, OR OF ANY FIXTURE OR OTHER ITEM CONSTITUTING A PORTION THEREOF, AND THE ISSUER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED OR OTHERWISE, WITH RESPECT TO THE SAME OR THE LOCATION, USE, DESCRIPTION, DESIGN, MERCHANTABILITY, FITNESS FOR USE FOR ANY PARTICULAR PURPOSE, CONDITION OR DURABILITY THEREOF, OR AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP THEREIN, IT BEING AGREED THAT ALL RISKS INCIDENT THERETO ARE TO BE BORNE BY THE BORROWER. IN THE EVENT OF ANY DEFECT OR DEFICIENCY OF ANY NATURE IN THE PROJECT, ANY ADDITIONAL PROJECT OR ANY FIXTURE OR OTHER ITEM CONSTITUTING A PORTION THEREOF, WHETHER PATENT OR LATENT, THE ISSUER SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO. THE PROVISIONS OF THIS SECTION HAVE BEEN NEGOTIATED AND ARE INTENDED TO BE A COMPLETE EXCLUSION AND NEGATION OF ANY WARRANTIES OR REPRESENTATIONS BY THE ISSUER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROJECT, ANY ADDITIONAL PROJECT OR ANY FIXTURE OR OTHER ITEM CONSTITUTING A PORTION THEREOF, WHETHER ARISING PURSUANT TO THE UNIFORM COMMERCIAL CODE OR ANY OTHER LAW NOW OR HEREAFTER IN EFFECT.

Section 10.9 **Representations of Borrower.** All representations made in this Loan Agreement by the Borrower are based on the best of the Borrower's knowledge of the facts and law, and no such representations are made in reliance upon any representations made or legal advice given by the Issuer, its Bond Counsel, or any of its directors, members, officers, program managers, counsel, advisors, employees, agents, contractors, consultants or executive director.

Section 10.10 **Termination.** At any time when no Bonds remain Outstanding and arrangements satisfactory to the Issuer and Trustee have been made for the discharge of all liabilities under this Loan Agreement (other than those which expressly state that they survive the termination of this Loan Agreement), this Loan Agreement shall terminate. Notwithstanding the payment in full of the Bonds, the discharge of the Indenture, and the termination or expiration of this Loan Agreement, all provisions in this Loan Agreement concerning (1) the tax-exempt status of the Bonds (including, but not limited to, Section

7.7 and 7.8), (2) the interpretation of this Loan Agreement, (3) the governing law, (4) the forum for resolving disputes, (5) the Issuer's right to rely on facts or certificates, (6) the indemnity of the Issuer Indemnified Parties from liability and its rights to receive payment and or reimbursement with respect thereto, (7) the Issuer's right to receive reimbursement for all costs and expenses described in Section 10.12, (8) the release of the Issuer from liability as described in Section 10.13, and (9) the Issuer's lack of pecuniary liability shall survive and remain in full force and effect.

Section 10.11 Issuer's Performance. The Issuer shall have no liability or obligation with respect to the payment of the purchase price of the Bonds. None of the provisions of this Loan Agreement shall require the Issuer to expend or risk its own funds or to otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers hereunder, unless payable from the revenues pledged under the Indenture, or the Issuer shall first have been adequately indemnified to its satisfaction against the cost, expense, and liability which may be incurred thereby. The Issuer shall not be under any obligation hereunder to perform any record keeping or to provide any legal services, it being understood that such services related to the Bonds or the Loan shall be performed or provided by the Trustee or the Borrower. The Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions expressly contained in this Loan Agreement, the Indenture, or in any and every Bond executed, authenticated, and delivered under the Indenture; provided, however, that (i) the Issuer shall not be obligated to take any action or execute any instrument pursuant to any provision hereof until it shall have been requested to do so by the Guarantor, the Borrower or the Trustee, and (ii) the Issuer shall have received the instrument to be executed, the Issuer's costs and expenses shall be covered, and any action taken by the Issuer shall be indemnified as set forth herein.

Section 10.12 Administrative Fees, Attorneys' Fees and Costs. The Borrower shall reimburse the Issuer, upon demand, for all costs and expenses, including without limitation attorneys' fees, paid or incurred by the Issuer in connection with (i) the discussion, negotiation, preparation, approval, execution and delivery of the Bonds, the Indenture, this Loan Agreement, and the documents and instruments related hereto or thereto; (ii) any amendments or modifications to any of the foregoing documents, instruments or agreements and the discussion, negotiation, preparation, approval, execution and delivery of any and all documents necessary or desirable to effect such amendments or modifications; (iii) the servicing and administration of the Loan during the Term of this Loan Agreement or thereafter; and (iv) the enforcement by the Issuer during the term hereof or thereafter of any of the rights or remedies of the Issuer hereunder or under the foregoing documents, or any document, instrument or agreement related hereto or thereto, including, without limitation, costs and expenses of collection in the Event of Default, whether or not suit is filed with respect thereto.

Section 10.13 Release. The Borrower hereby acknowledges and agrees that the Issuer and their respective officers, employees and agents shall not be liable to the Borrower, and hereby releases and discharges the Issuer and their respective officers, employees and agents from any liability, for any and all losses, costs, expenses (including attorneys' fees), damages, judgments, claims and causes of action, paid, incurred or sustained by the Borrower as a result of or relating to any action, or failure or refusal to act, on the part of the Trustee or any other party with respect to the Bonds, the Indenture, this Loan Agreement, or the documents and transactions related hereto or thereto or contemplated hereby or thereby, including, without limitation, the exercise by the Trustee or any third party (other than the Trustee) of any of its rights or remedies pursuant to any of such documents.

Section 10.14 Audit Expenses. The Borrower agrees to pay any costs incurred by the Issuer, including fees of Issuer's counsel, as a result of the Issuer's compliance with an audit or inquiry of any kind, random or otherwise, by the Internal Revenue Service, the [State] Department of Revenue, the [State] Auditor General, or any other governmental agency with respect to the Bonds or the Project, including the sale thereof.

Section 10.15 Patriot Act. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a trust or other legal entity the Trustee will request documentation to verify its formation and existence as a legal entity. Furthermore, if required by the Patriot Act, Trustee may request financial statements, licenses, identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation. The Borrower covenants and agrees to provide documentation as reasonably requested or required by the Trustee to enable the Trustee to comply with the requirements of the Patriot Act.

Section 10.16 Third-Party Beneficiaries. Each of the Issuer Indemnified Parties, other than the Issuer, is an intended third-party beneficiary of this Loan Agreement. Nothing in this Loan Agreement shall confer any right upon any person other than parties hereto, and those specifically designated as third-party beneficiaries of this Loan Agreement.

Section 10.17 Governing Law. This Loan Agreement shall be governed by and construed in accordance with the laws and judicial decisions of the State, without reference to any choice of law principles except as such laws may be preempted by any federal rules, regulations and laws applicable to the Issuer. The parties hereto expressly acknowledge and agree that any judicial action to interpret or enforce the terms of this Loan Agreement against the Issuer shall be brought and maintained in the Superior Court of the State, in and for the County of [County], the United States District Court in and for the District of [State], or any United States Bankruptcy Court in any case involving or having jurisdiction over the Borrower, the Guarantor or the Project.

Section 10.18 Electronic Signatures. The parties agree that the electronic signature of a party to this Loan Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Loan Agreement. For purposes hereof, (i) “electronic signature” means a manually signed original signature that is then transmitted by electronic means; and (ii) “transmitted by electronic means” means sent in the form of a facsimile or sent via the internet as a portable document format (“pdf”) or other replicating image attached to an electronic mail or internet message.

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

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

**HOUSING FINANCE AUTHORITY OF ST.  
JOHNS COUNTY, FLORIDA**

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

*(Loan Agreement – [Project Name] Project, Series [Series])*

**PONTE VEDRA BEACH LEASED HOUSING  
ASSOCIATES I, LLLP**, a Minnesota limited liability limited  
partnership

By: Ponte Vedra Beach Leased Housing Associates I, LLC, a  
Minnesota limited liability company, as sole General  
Partner

By: \_\_\_\_\_  
Terrence Sween  
Vice President

*(Loan Agreement – [Project Name] Project, Series [Series])*

**EXHIBIT A**  
**LEGAL DESCRIPTION**

**EXHIBIT B**

**[RESERVED]**

**EXHIBIT C**  
**[RESERVED]**



**EXHIBIT D**

**FORM OF DISBURSEMENT REQUEST**

**STATEMENT NO. \_\_\_\_\_  
REQUESTING DISBURSEMENT OF FUNDS FROM  
PROJECT FUND PURSUANT TO SECTION 3.5 OF THE LOAN AGREEMENT  
DATED AS OF DECEMBER 1, 2023 BETWEEN THE  
THE HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA AND PONTE  
VEDRA BEACH LEASED HOUSING ASSOCIATES I, LLLP**

Pursuant to Section 3.5 of the Loan Agreement (the “*Agreement*”) between the Housing Finance Authority of St. Johns County, Florida (the “*Issuer*”) and Ponte Vedra Beach Leased Housing Associates I, LLLP a Minnesota limited liability limited partnership (the “*Borrower*”), dated as of December 1, 2023 relating to the Issuer’s Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023B (the “*Bonds*”), in the original aggregate principal amount of \$[2023B PAR], the undersigned Borrower Representative hereby requests and authorizes U.S. Bank National Association, a national banking association, as trustee (the “*Trustee*”), as depository of the Project Fund created by the Indenture, to disburse out of the moneys deposited in the Project Fund in the amount(s) and to the person(s) set forth in this certificate. Capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Indenture referenced in the Agreement.

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

- (a) All items for which disbursement is requested thereunder either (i) are presently due and payable, constitute Project Costs properly incurred by the Borrower in connection with the Project being financed with the proceeds of the Loan, or are reimbursable Project Costs properly chargeable against the Loan; or (ii) are to be deposited to an escrow fund to be disbursed therefrom solely for Project Costs properly incurred by the Borrower in connection with the Project; and in each case none of the items for which disbursement is requested has formed the basis for any disbursement heretofore made from the Project Fund.
- (b) Each such item is or was necessary in connection with the acquisition and construction of the dwelling units of the Project.
- (c) The costs specified in the Disbursement Schedule attached hereto, when added to all previous disbursements under the Loan with respect to the Bonds will result in at least 95% of the aggregate amount of all disbursements of Net Bond Proceeds having been used to pay or reimburse the Borrower for amounts which are Project Costs that are qualified and eligible to be financed with proceeds of tax-exempt obligations.
- (d) To the knowledge of the undersigned, there is no current or existing event of default pursuant to the terms of the Agreement or the Regulatory Agreement and no event exists

which by notice or passage of time or both would constitute an event of default under any of the foregoing documents.

- (e) No representation or warranty of the Borrower contained in the Loan Agreement or the Regulatory Agreement is materially incorrect or inaccurate, except as the Borrower has set forth in writing, and there has been no event of default under the terms of any of those documents and which is continuing and no event shall exist which by notice, passage of time or both would constitute an event of default under any of those documents.
- (f) Each item for which payment or reimbursement is requested is or was necessary in connection with the Project, qualifies as a Project Cost under the Loan Agreement and, if for the construction and equipping of the Project, was made or incurred in accordance with the plans and specifications for the Project and that none of such items has formed the basis for any previous payment from the Project Fund.
- (g) There is no outstanding indebtedness known, after due inquiry, for labor, wages, materials or supplies which, if unpaid, might become the basis of a vendor's lien, or a mechanics' materialmen's, statutory or other similar lien upon the Project or any part thereof, other than indebtedness then certified for payment or diligently being contested in good faith by the Borrower and that each contractor, subcontractor and materialman has filed with the Borrower receipts or waivers of liens for all amounts theretofore certified for payment, or any amount therein certified for reimbursement to the Borrower for payment, for work, materials and equipment furnished by him or that there is on file with the construction manager a cancelled check endorsed by the contractor, subcontractor or materialman evidencing such payment.

(h) Funds shall be disbursed to Colliers Mortgage in the amount of \$ \_\_\_\_\_, in compliance with the requirements of the Mortgager Loan Documents using the following wire instructions:

Bank: \_\_\_\_\_

Acct: \_\_\_\_\_

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

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

**PONTE VEDRA BEACH LEASED HOUSING ASSOCIATES I, LLLP**, a Minnesota limited liability limited partnership

By: Ponte Vedra Beach Leased Housing Associates I, LLC, a Minnesota limited liability company, as sole General Partner

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

Name: \_\_\_\_\_

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

**DISBURSEMENT SCHEDULE NO. \_\_\_\_ TO STATEMENT NO. \_\_\_\_  
REQUESTING AND AUTHORIZING DISBURSEMENT OF FUNDS FROM PROJECT FUND  
PURSUANT TO SECTION 3.4 OF THE LOAN AGREEMENT DATED AS OF [MONTH] 1,  
[YEAR] BETWEEN THE [ISSUER] AND [BORROWER]**

PAYEE	AMOUNT	PURPOSE
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**EXHIBIT E**  
**SERIES 2023C TRUST INDENTURE**  
**(see attached)**

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**SUBORDINATE TRUST INDENTURE**

Dated as of December 1, 2023

between

HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA,  
as Issuer

and

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,  
as Trustee

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Relating to

    \$[2023C PAR]  
Housing Finance Authority of St. Johns County, Florida  
Multifamily Housing Revenue Bonds  
(Oaks at St. John), Subordinate Series 2023C

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Exhibit A – Form of Certificates

Exhibit B – Form of Investor Letter

## SUBORDINATE TRUST INDENTURE

**THIS SUBORDINATE TRUST INDENTURE**, dated as of December 1, 2023 (this “Indenture”), between the **HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA**, a public body corporate and politic duly organized and existing under the laws of the State of Florida (the “Issuer”), and **U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION**, a national banking association, as Trustee (the “Trustee”).

### WITNESSETH THAT:

**WHEREAS**, the Legislature of the State of Florida (the “State”) has enacted the Florida Housing Finance Authority Law, Sections 159.601 et seq., Florida Statutes, as amended (the “Act”), pursuant to which the State has empowered each county in the State to create by ordinance a separate public body corporate and politic, to be known as a housing finance authority of the county for which it was created, for the purpose of alleviating a shortage of housing and creating capital for investment in housing in the area of operation of such housing finance authority; and

**WHEREAS**, pursuant to the Act, the Board of County Commissioners of St. Johns County, Florida (the “County”), enacted Ordinance No. 80-7 on February 26, 1980, as amended, and Ordinance 80-25 on March 11, 1980, as amended, creating the Housing Finance Authority of St. Johns County, Florida to carry out and exercise all powers and public and governmental functions set forth in and contemplated by the Act; and

**WHEREAS**, the Act authorizes the Issuer: (a) to make loans to any person, or to purchase loans, including federally insured mortgage loans, in order to provide financing for residential rental developments located within the Issuer’s area of operation, which are to be occupied by persons of low, moderate or middle income; (b) to issue its revenue bonds pursuant to the Act, for the purpose of obtaining money to make or to purchase such loans and provide such financing, to establish necessary reserve funds and to pay administrative costs and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, and receipts to be received by the Issuer from or in connection with such loans, and to mortgage, pledge or grant security interests in such loans in order to secure the payment of the principal or redemption price of and interest on such bonds; and

**WHEREAS**, Ponte Vedra Beach Leased Housing Associates I, LLLP, a limited liability limited partnership duly organized and existing under the laws of the State of Minnesota (the “Borrower”), has applied to the Issuer for financial assistance for the purpose of providing all or part of the funds with which to pay the cost of the acquisition, rehabilitation and equipping of a multifamily rental housing development known as Oaks at St. John, consisting of approximately 160 units, on an approximately 23.93-acre site located at 210 Nettles Lane, Ponte Vedra Beach, Florida 32081 in an unincorporated area of St. Johns County, Florida (the “Project”) and to pay certain costs of issuance of the Bonds; and

**WHEREAS**, in conjunction with the Borrower’s acquiring and rehabilitating the Project, the Issuer as approved and authorized the issuance of its Multifamily Housing Revenue Bonds (Oaks at St. John), Subordinate Series 2023C, in the original aggregate principal amount of \$[2023C PAR] (the “Subordinate Bonds”), pursuant this Indenture, by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “Subordinate Bond Trustee”), in order to make one or more loans to the Borrower (the “Subordinate Loan”) pursuant to the Subordinate Financing Agreement in the aggregate principal amount of the proceeds of the Subordinate Bonds to the Borrower to provide financing for the Project and, in particular, evidence the Borrower’s obligation with respect to the unpaid consideration for the transfer of the real property interest in the Project to the Borrower by the Original Purchasers (defined herein) of the Subordinate Bonds;



**WHEREAS**, the Subordinate Loan will be evidenced by the Subordinate Financing Agreement and a subordinate surplus cash promissory note (the “Subordinate Note”) delivered by the Borrower to the Trustee for the benefit of the owners of the Subordinate Bonds;

**WHEREAS**, simultaneously with the issuance of the Subordinate Bonds, the Issuer is issuing its (i) Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023A, in the original aggregate principal amount of \$[2023A PAR] (the “2023A Bonds”), pursuant the Trust Indenture dated as of December 1, 2023 (the “2023A Indenture”), by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”), and its (ii) Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023B, in the original aggregate principal amount of \$[2023B PAR] (the “Series 2023B Bonds”), pursuant to the Trust Indenture, dated as of December 1, 2023 (the “Series 2023B Indenture”), by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee (in such capacity, the “Series 2023B Trustee”), the proceeds of which will be used to make a loan to the Borrower to finance in part the cost of the Project (the “Series 2023B Loan”);

**WHEREAS**, also simultaneously with the issuance of the Subordinate Bonds, Colliers Mortgage LLC is making a loan to the Borrower (the “Senior Mortgage Loan”), pursuant to the Multifamily Loan and Security Agreement dated [\_\_\_, 2023] by and between Borrower and Senior Mortgage Lender (hereinafter defined), pursuant to which the Borrower will execute and deliver the Senior Mortgage (hereinafter defined);

**WHEREAS**, also simultaneously with the issuance of the Subordinate Bonds, Polaris Capital, LLC, (the “Taxable Lender”) is making a taxable loan to the Borrower (the “Subordinate Taxable Loan”), pursuant to the [taxable loan agreement] dated as of [December 1, 2023], between the Borrower and the Taxable Lender;

**WHEREAS**, the Subordinate Bonds are subordinate in payment and security to Series 2023B Bonds, the Senior Mortgage Loan and the Subordinate Taxable Loan (collectively, the “Priority Obligations”), as applicable and as further set forth herein;

**WHEREAS**, the Subordinate Bonds are to be issued and delivered on the Closing Date and sold by the Issuer to Gainesville Leased Housing Associates (TIC-I) III, LLC, Gainesville Leased Housing Associates (TIC-II) III, LLC and Gainesville Leased Housing Associates (TIC-III) III, LLC, each a Minnesota limited liability company (collectively, the “Original Purchasers”);

**WHEREAS**, the proceeds of the Subordinate Bonds will be used by the Borrower to finance a portion of the costs of the Project;

**WHEREAS**, the Issuer and the Borrower have executed and delivered the Subordinate Financing Agreement pursuant to which the Borrower agrees (a) to use the proceeds of the Subordinate Bonds for the acquisition and rehabilitation of the Project; (b) to make Loan Repayments in an amount sufficient to pay the principal of and interest due on the Subordinate Bonds; and (c) to pay all required fees associated with the Subordinate Bonds;

**WHEREAS**, the Issuer, the Trustee and the Borrower have executed and delivered a Land Use and Restriction Agreement, dated as of December 1, 2023 (the “Regulatory Agreement”), pursuant to which the Borrower has agreed to use and operate the Project in accordance with the requirements of Sections 142(d) and 145(d) of the Code;

**WHEREAS**, the Subordinate Bonds will be payable from Surplus Revenues (as defined herein) and such other funds and investments proceeds thereof held by the Trustee under this Indenture;

**WHEREAS**, to secure the payment of all of the principal and premium, if any, of and interest on the Subordinate Bonds, the Issuer has assigned (except for the Issuer's Reserved Rights) its rights, title and interests in, and delegated its duties under, the Subordinate Financing Agreement, without recourse, to the Trustee;

**WHEREAS**, it is intended that any obligation of the Borrower with respect to the repayment of the Senior Mortgage Loan be senior to any obligation of the Borrower with respect to the repayment of the Subordinate Loan;

**WHEREAS**, in order to provide for the authentication and delivery of the Subordinate Bonds, to establish and declare the terms and conditions upon which the Subordinate Bonds are to be issued and secured and to secure the payment of the principal thereof and of the interest and premium, if any, thereon, the Issuer has authorized the execution and delivery of this Indenture; and

**WHEREAS**, all acts and proceedings required by law necessary to make the Subordinate Bonds, when executed by the Issuer, authenticated and delivered by the Trustee and duly issued, the valid, binding and legal limited obligations of the Issuer, and to constitute this Indenture a valid and binding agreement for the uses and purposes herein set forth, in accordance with its terms, have been done and taken; and the execution and delivery of this Indenture have been in all respects duly authorized;

NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS:

That the Issuer in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Subordinate Bonds to be issued hereunder by the owners thereof, and in order to secure the payment of the principal of and interest on the Subordinate Bonds according to their tenor and effect and the performance and observance by the Issuer of all the covenants expressed or implied herein and in the Subordinate Bonds, subject to terms and provisions of this Indenture, does hereby grant, bargain, sell, convey, pledge and assign unto, and grant a first security interest in favor of, the Trustee, and unto its respective successors in trust, and to their respective assigns, forever, for the security of the performance of the obligations of the Issuer hereinafter set forth with respect to the Subordinate Bonds, all right, title and interest of the Issuer, now owned or hereafter acquired, in and to the following (collectively referred to as the "Trust Estate"):

I

All right, title and interest of the Issuer in the Subordinate Financing Agreement and the Subordinate Notes, and all amendments, modifications and renewals thereof, including, without limitation, all payments to be made thereunder (except for the Issuer's Reserved Rights);

II

To the trust estate for the Subordinate Bonds, an assignment of the Surplus Revenues (as herein defined) received by the Issuer under or in respect to the Project; and

III

To the trust estate for the Subordinate Bonds, the moneys and securities from time to time held by the Trustee in the subaccounts under the terms of this Indenture and any and all other real or personal property of every type, name and nature from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred as and for additional security hereunder for the Subordinate Bonds 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 pursuant and subject to the terms thereof.

TO HAVE AND TO HOLD all and singular each respective trust estate, whether now owned or hereafter acquired, unto the Trustee and its respective successors in trust and assigns forever to its and their only proper use and behalf; but

IN TRUST NEVERTHELESS, upon the terms and trust herein set forth for the equal and proportionate benefit, security and protection of all present and future owners of the Subordinate Bonds, from time to time, issued and secured by this Indenture without privilege, priority or distinction as to the lien or otherwise of any of the Subordinate Bonds over any of the other Bonds except as otherwise provided in this Indenture.

PROVIDED, HOWEVER, that if the Issuer, its successors or assigns, shall well and truly pay, or cause to be paid, the principal of, and interest on, the Subordinate Bonds due or to become due thereon, at the times and in the manner mentioned in the Subordinate Bonds, according to the true intent and meaning thereof, and shall cause the payments to be made on the Subordinate Bonds as required under Article V hereof, then upon the final payment thereof, this Indenture and the rights hereby granted shall cease, determine and be void with respect to the Subordinate Bonds; otherwise this Indenture is to be and shall remain in full force and effect with respect to the Subordinate Bonds.

THIS SUBORDINATE TRUST INDENTURE FURTHER WITNESSETH, and it is expressly declared that all Subordinate Bonds issued and secured hereunder are to be issued, authenticated and delivered and all said property, rights and interests, including, without limitation, the revenues and other amounts hereby assigned and pledged with respect to the Subordinate Bonds are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Issuer has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with the respective owners of the Subordinate Bonds as follows:

## **ARTICLE I**

### **DEFINITIONS AND INTERPRETATION**

**Section 1.1 Definitions.** In this Indenture, the following words and terms shall, unless the context otherwise requires, have the following meanings:

“**Act**” has the meaning assigned in the Recitals hereto.

“**Authorized Denominations**” means the then entire outstanding principal amount of the Subordinate Bonds.

“**Annual Issuer’s Fee**” means an annual fee with respect to the Subordinate Bonds, payable by the Borrower to the Issuer as follows: \$20,000 due on the Closing Date; and one-eighth of one percent of the then outstanding principal amount of the Subordinate Bonds due on each anniversary of the Closing Date.

“**Arbitrage Certificate**” means the certificate as to tax matters delivered by the Issuer on the Closing Date.

“**Arbitrage Rebate Agreement**” means the agreement as to arbitrage matters among the Issuer, the Trustee and the Borrower dated as of December 1, 2023.

**“Assignment of Subordinate Mortgage”** means the Assignment of Subordinate Mortgage and Loan Documents, dated December 1, 2023, by and between the Issuer and the Trustee, pursuant to which the Issuer will assigned to Subordinate Mortgage to the Trustee.

**“Authorized Officer”** means the chairperson, vice chairperson, any member, executive director, chief financial officer, general counsel, secretary and any other officer or employee of the Issuer designated by resolution or 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

**“Available Moneys”** means, as of any date of determination, any of (i) the proceeds of the Bonds, (ii) the proceeds of draws by the Trustee on any letters of credit provided to the Trustee for the benefit of the Borrower, (iii) any other amounts, including the proceeds of refunding bonds, for which, in each case, the Trustee has received an Opinion of Counsel to the effect that the use of such amounts to make payments on the Bonds would not violate Section 362(a) of the Bankruptcy Code (or that relief from the automatic stay provisions of such Section 362(a) would be available from the bankruptcy court) or be avoidable as preferential payments under Section 544, 547 or 550 of the Bankruptcy Code should the Issuer or the Borrower become a debtor in proceedings commenced under the Bankruptcy Code, (iv) any payments made by the Borrower and held by the Trustee for a period of 366 days, provided that no Act of Bankruptcy with respect to the Borrower has occurred during such period, and (v) investment income derived from the investment of moneys described in clause (i), (ii), (iii), or (iv).

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

**“Bond Counsel”** shall mean Butler Snow LLP or any other attorney or firm of attorneys of nationally recognized standing in the field of law relating to municipal, state and public agency financing, selected by the Issuer.

**“Bond Counsel’s Opinion”** shall mean an opinion signed by Bond Counsel.

**“Bond Dated Date”** shall mean December \_\_, 2023.

**“Bond owner”** or “owner” or words of similar import, when used with reference to a Subordinate Bond, shall mean any person who shall from time to time be the registered owner of any outstanding Subordinate Bond.

**“Business Day”** shall mean a day of the week, other than a Saturday or a Sunday, on which commercial banks located in the city in which the designated corporate trust office of the Trustee is located are not required or authorized to remain closed and on which the United States Government makes payments of principal and interest on its Treasury obligations.

**“Closing Date”** shall mean December \_\_, 2023.

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

**“Compliance Monitoring Agreement”** means the Compliance Monitoring Agreement, dated as of December 1, 2023, among the Issuer, the Issuer Servicer, U.S. Bank Trust Company, National Association its capacity as Trustee, as the trustee for the Series 2023A Bonds and the trustee for the Series 2023B Bonds, and the Borrower, as the same may hereafter be amended or supplemented;

**“Compliance Monitoring Fee”** means the fee payable by the Borrower to the Issuer Servicer pursuant to the Compliance Monitoring Agreement.

**“Eligible Investments”** means any of the following investments which at the time of investment are legal investments for moneys of the Issuer which are then proposed to be invested therein and each of which investments must mature or be guaranteed to be able to be tendered at a price of par at such time or times as to enable timely disbursements to be made from the fund in which such investment is held or allocated in accordance with the terms of this Indenture, shares or units in any money market mutual fund rated “AAAm” by S&P if the Subordinate Bonds are rated by S&P or are not rated (or if S&P is not the Rating Agency or a new rating scale is implemented, the equivalent rating category given by the Rating Agency for that general category of security) (including mutual funds of the Trustee or its affiliates or for which the Trustee or an affiliate thereof serves as investment advisor or provides other services to such mutual fund and receives reasonable compensation therefor) registered under the Investment Company Act of 1940, as amended, whose investment portfolio consist solely of direct obligations of the government of the United States of America.

**“Electronic Means”** or “electronic means” shall mean telecopy, facsimile transmission, email transmission or other similar electronic means of communicating providing evidence of transmission.

**“Event of Default”** shall mean any of the events specified in Section 9.1.

**“Financing Documents”** means this Indenture, the Subordinate Financing Agreement, the Regulatory Agreement, the Subordinate Mortgage and the Tax Certificate.

**“Fee Guaranty & Environmental Indemnity”** means the Fee Guaranty and Environmental Indemnity Agreement (Subordinate Series 2023C), dated as of December 1, 2023, by and among the Issuer, the Trustee and the Issuer Guarantors.

**“Guaranty of Completion”** means the Absolute and Unconditional Guaranty of Completion (Subordinate Series 2023C), dated as of December 1, 2023, from the Issuer Guarantors, jointly and severally, in favor of the Issuer and the Trustee.

**“Guaranty of Recourse Obligations”** means the Absolute and Unconditional Guaranty of Recourse Obligations (Subordinate Series 2023C), dated as of December 1, 2023, from the Issuer Guarantors, jointly and severally, in favor of the Issuer and the Trustee.

**“Indenture”** shall mean this Subordinate Trust Indenture and any amendments or supplements made in accordance with its terms, including each applicable Supplemental Indenture.

**“Interest Payment Date”** means, (i) with respect to the Subordinate Bonds, \_\_\_\_\_ 1, 202\_ and thereafter each \_\_\_\_\_ 1, commencing \_\_\_\_\_ 1, 202\_, and (ii) the date on which the Subordinate Bonds mature or are redeemed in whole or in part.

**“Investor Letter”** means a letter substantially in the form set forth in Exhibit C to this Indenture as required by Sections 2.4 and 3.4 of this Indenture.

**“Issuer”** means the Housing Finance Authority of St. Johns County, Florida, a public body corporate and politic of the State of Florida, duly organized and existing under the laws of the State of Florida, including the Act, or any successor to its rights and obligations under the Subordinate Financing Agreement and this Indenture.

**“Issuer Documents”** means, collectively, the Bonds, the Subordinate Financing Agreement, this Indenture, the Bond Purchase Agreement, the Note, the Regulatory Agreement, the Issuer Servicer Agreement, the Issuer Guaranty Documents, the Compliance Monitoring Agreement, the Tax Certificate, and any other agreement, certificate, contract, or instrument to be executed by the Issuer in connection with the issuance of the Bonds or the financing of a portion of the expense associated with the Project.

**“Issuer Extraordinary 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 the Issuer, Bond Counsel and counsel to the Issuer which are to be paid by the Borrower pursuant to the Subordinate Financing Agreement.

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

**“Issuer’s Fees and Expenses Account”** shall mean the account so designated which is established and created pursuant to Section 5.1.

**“Issuer Guarantors”** means the Borrower, Ponte Vedra Beach Leased Housing Associates I, LLC, Ponte Vedra Beach Leased Housing Associates LP I, LLC, Ponte Vedra Beach Leased Housing Development I, LLC, Dominium Holdings I, LLC and Dominium Holdings II, LLC, each a Minnesota limited liability company, or any other person or entity which may hereafter become a guarantor of any of the Borrower’s obligations under the Issuer Documents.

**“Issuer Guaranty Documents”** means collectively, the Fee Guaranty & Environmental Indemnity, the Guaranty of Completion, the Guaranty of Recourse Obligations, and the Operating Deficit Guaranty.

**“Issuer Ordinary Fees and Expenses”** means collectively, (i) the Issuer’s one (1) time initial issuance fee payable to the Issuer on or before the Closing Date in the amount of [\$\_\_\_\_]; (ii) the annual fee of the Issuer, payable by the Borrower in the amount of 25 basis points (0.25%) of the outstanding principal amount of the Bonds (calculated on the Business Day prior to any reduction on such payment date) payable in semiannual installments in arrears on each [January] 1 and [July] 1, commencing [January 1,] 2024; (iii) the Compliance Monitoring Fee, and (iv) the Issuer Short-Term Prepayment Fee.

**“Issuer Servicer”** means AmeriNat®, a Minnesota limited liability company, or any other servicer appointed by the Issuer to service the Loan on behalf of Issuer and to monitor the Development.

**“Issuer Servicer Agreement”** means the Construction Loan Servicing Agreement, dated as of December 1, 2023, by and among the Issuer, U.S. Bank Trust Company, National Association, in its capacity as Trustee, trustee for the Series 2023A Bonds and trustee for the Series 2023B Bonds, the Borrower and the Issuer Servicer.

**“Issuer Servicer’s Fee”** means “means the following fees and expenses: (a) payable directly by the Borrower to the Issuer Servicer: (i) during construction of the Project, an on-site inspection fee of [\$\_\_\_\_] per hour for services rendered, but not to exceed [\$\_\_\_\_] per disbursement, (ii) during construction of the Project, an in-house review fee of [\$\_\_\_\_] per hour for services rendered, (iii) a fee for extraordinary services rendered of [\$\_\_\_\_]per hour, and (iv) a fee for providing financial monitoring services in the amount of [\$\_\_\_\_] (subject to annual increases of 3%) payable in semiannual installments in advance on each [January] 1 and [July] 1.

**“Issuer Short-Term Prepayment Fee”** means the applicable fee in the following schedule determined based on the original principal amount of the Bonds and the length of time between the date of issuance of the Bonds and the prepayment, in full, or final maturity of all of the Bonds; provided, however, such fee shall not be less than \$20,000, which fee is payable on the prepayment date:

Prepayment Date		
18 months or less	24 months or less but longer than 18 months	36 months or less but longer than 24 months
0.31%	0.24%	0.18%

**“Issuer Indemnified Party or Issuer Indemnified Parties”** means the Issuer, its past, present, and future directors, members, officers, program managers, counsel, advisors, employees, agents, contractors, consultants and executive director, its past, present, and future directors, members, officers, program managers, counsel, advisors, employees, agents, contractors, consultants and executive director, individually and collectively, and the State.

**“Issuer’s Reserved Rights”** shall mean (a) all of the Issuer’s right, title and interest in its reimbursement and indemnification pursuant to the Financing Documents and all enforcement remedies with respect to the foregoing, all of which shall survive any transfer, retirement or payment of the Subordinate Bonds in full or in part and which shall also survive the termination of the Subordinate Financing Agreement and this Indenture, (b) all the rights to receive the Issuer’s Fees and Expenses, (c) the right to receive notices and to make any determination and to grant any approval or consent to anything in this Indenture, the Subordinate Financing Agreement, the Subordinate Note and the Subordinate Bonds requiring the determination, consent or approval of the Issuer, (d) all rights of the Issuer to enforce the representations, warranties, covenants and agreements of the Borrower set forth in the Subordinate Financing Agreement and the Tax Agreement, (e) any and all limitations of liability of the Issuer set forth in the Financing Documents and related rights and remedies regarding (1) the negotiability, registration and transfer of the Bonds, (2) the loss or destruction of the Bonds, (3) the limited liability of the Issuer as provided in the Act and in this Indenture and the Financing Documents, (4) the maintenance of insurance by the Borrower, (5) no liability of the Issuer to third parties, and (6) no warranties of suitability or merchantability by the Issuer, and (f) all rights of the Issuer in connection with any amendment to or modification of this Indenture, the Subordinate Financing Agreement, the Subordinate Note and the Subordinate Bonds.

**“Loan Repayments”** means the loan payments the Borrower is obligated to pay under Section 3.01 of the Subordinate Financing Agreement consisting of an aggregate amount sufficient for the payment in full of the principal of, the redemption premium (if any) and the interest on the Subordinate Bonds when due, subject to the limitations set forth in the Subordinate Note.

**“Maturity Date”** shall mean \_\_\_\_\_ 1, 2063.

**“Opinion of Counsel”** means an opinion from an attorney or firm of attorneys, reasonably acceptable to the Issuer, Bond Counsel and counsel to the Issuer with experience in the matters to be covered in the opinion.

**“Operating Deficit Guaranty”** means the Absolute and Unconditional Guaranty of Operating Deficits (Subordinate Series 2023C), dated as of December 1, 2023, from the Issuer Guarantors, jointly and severally, to the Issuer and the Trustee.

**“Outstanding”** or “outstanding” shall mean, when used with respect to the Subordinate Bonds as of any date, all Subordinate Bonds theretofore authenticated and delivered under this Indenture, except:

- (a) any Subordinate Bond cancelled or delivered to the Trustee for cancellation on or before such date;
- (b) any Subordinate Bond in lieu of or in exchange for which another Subordinate Bond shall have been authenticated and delivered pursuant to this Indenture; and
- (c) any Subordinate Bond or portion of the principal thereof paid as provided in this Indenture.

“**Priority Obligations**” means the Series 2023B Bonds, the Senior Mortgage Loan and the Subordinate Taxable Loan.

“**Priority Obligation Documents**” means, collectively, the Senior Mortgage Loan Documents, the Series 2023B Documents and the Subordinate Taxable Loan Documents.

“**Project**” means the multifamily housing development financed with the proceeds of the Subordinate Bonds.

“**Purchase Price**” shall mean, with respect to the purchase price of the Subordinate Bonds, the aggregate amount of \$[2023C PAR], which consideration may be provided by the Original Purchasers in the form of cash or real property interests in the Project with a fair market value of not less than \$[2023C PAR].

“**Record Date**” shall mean the close of business on the last day of the calendar month prior to the calendar month in which a payment occurs.

“**Regulations**” and all references thereto, shall mean and include applicable final, proposed and temporary United States Treasury Regulations promulgated with respect to Sections 103 and 141 through 150 of the Code, including all amendments thereto made hereafter.

“**Regulatory Agreement**” means the Land Use Restriction Agreement, dated as of even date with this Indenture, among the Issuer, U.S. Bank Trust Company, National Association, in its capacity as Trustee, as trustee for the Series 2023A Bonds and the trustee for the Series 2023B Bonds, and the Borrower, as the same may be amended from time to time.

“**Responsible Officer**” when used with respect to the Trustee, shall mean any officer within the corporate trust department of the Trustee (or any successor group of the Trustee) or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers who at the time shall have direct responsibility for the administration of this Indenture and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of such person’s knowledge of and familiarity with the particular subject.

“**Revenue Account**” shall mean the account so designated which is established and created pursuant to Section 5.1.

“**Senior Loan Agreement**” means the Multifamily Loan and Security Agreement, dated as of [\_\_\_\_\_, 2023], between Borrower and Senior Mortgage Lender.

“**Senior Mortgage**” shall mean the Multifamily Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture filing, dated [\_\_\_\_\_, 2023], from Borrower to Senior Mortgage Lender.



“**Senior Mortgage Lender**” shall mean Colliers Mortgage LLC, a Delaware limited liability company, and its successors and assigns.

“**Senior Mortgage Loan**” shall mean the loan evidenced by the Multifamily Note from Borrower to Senior Mortgage Lender and secured by the Senior Mortgage Loan Documents.

“**Senior Mortgage Loan Documents**” shall mean all documents and agreements executed in connection with the Senior Mortgage Loan, including the Subordination Agreement, as such documents may be amended or supplemented from time to time.

“**Series 2023B Bonds**” means the Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023B, in the original aggregate principal amount of \$[2023B PAR].

“**Series 2023B Indenture**” means the Trust Indenture, dated as of December 1, 2023, by and between the Issuer and U.S. Bank Trust Company, National Association, as Trustee.

“**Series 2023B Loan Agreement**” means the Loan Agreement, dated December 1, 2023, by and between the Issuer and the Borrower.

“**Series 2023B Loan Documents**” means the Series 2023B Indenture and the Series 2023B Loan Agreement.

“**State**” shall mean the State of Florida.

“**Subordinate Bond**” or “**Subordinate Bonds**” shall mean the Issuer’s Multifamily Housing Revenue Bonds, Subordinate Series 2023C (Oaks at St. John) authenticated and delivered pursuant to this Indenture.

“**Subordinate Mortgage**” means the Subordinate Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Rents and Leases dated as of December 1, 2023, by and between the Borrower and Issuer, and assigned to the Trustee pursuant to that certain Assignment of Subordinate Mortgage.

“**Subordinate Note**” means the promissory note delivered by the Borrower to the Subordinate Bond Trustee for the benefit of the owners of the Subordinate Bonds.

“**Subordinate Taxable Loan**” means the loan evidenced by the [promissory note] from Borrower to the Taxable Lender and secured by the Subordinate Taxable Loan Documents.

“**Subordinate Taxable Loan Documents**” means all documents and agreements executed in connection with the Subordinate Taxable Loan, as such documents may be amended or supplemented from time to time.

“**Subordination Agreement**” means the Subordination Agreement, dated as of the Closing Date, between the Issuer, Trustee, Borrower and Senior Mortgage Lender.

“**Supplemental Indenture**” shall mean any indenture supplemental to or amendatory of this Indenture, executed and delivered by the Issuer and effective in accordance with Article VII.

“**Surplus Cash**” means any cash derived from the Project remaining at the end of an annual fiscal period (including the release of escrowed or reserved funds relative to the Project received by the Borrower)

after the payment of all sums due or currently required to be paid under the terms of Senior Mortgage Loan, and all obligations of the Project.

“**Surplus Revenues**” include: (a) Surplus Cash and (b) foreclosure sales proceeds or proceeds received from the Borrower upon a refinancing of the Senior Mortgage Loan following payment to the Senior Mortgage Lender of all amounts due under the Senior Mortgage Loan.

“**Tax Certificate**” shall mean the Non-Arbitrage Certificate and Tax Compliance Agreement dated of even date herewith between the Borrower and the Issuer.

“**Taxable Lender**” means a Polaris Capital, LLC, a [ ] limited liability company, and its successors and assigns.

Capitalized terms not otherwise defined herein shall have the meanings given them in the Issuer Documents.

**Section 1.2 Interpretation.** All references in this Indenture to account or subaccount, Borrower, Project, Subordinate Mortgage, Subordinate Note and Surplus Revenues shall mean the particular account or subaccount, Borrower, Project, Subordinate Mortgage, Subordinate Note, and Surplus Revenues having been created in connection with the issuance of, or having been derived or financed from the proceeds of, or being allocable to, or concerning or relating to, the applicable series of Subordinate Bonds.

**Section 1.3 Rules of Construction.** For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction shall apply:

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

(b) All references in this Indenture to “counsel fees,” “attorney[s]’ fees” or the like mean and include fees and disbursements allocable to in-house or outside counsel, whether or not suit is instituted, and including fees and disbursements preparatory to and during any proceedings of a governmental or regulatory body, judicial or administrative hearing, trial and appeal and in any bankruptcy or arbitration proceedings.

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

(d) All approvals, consents and acceptances required to be given or made by any person or party hereunder shall be at the reasonable discretion of the party whose approval, consent or acceptance is required except to the extent otherwise specified herein.

(e) For purposes hereof, the Issuer shall not be deemed to have knowledge of any fact or the occurrence of any event unless and until its Authorized Officer has written notice thereof or actual knowledge thereof.

(f) Any headings preceding the texts of the several Articles and Sections of this Indenture, and any table of contents appended to copies hereof, shall be solely for convenience of

reference and shall not constitute a part of this Indenture, nor shall they affect its meaning, construction or effect.

(g) Whenever the Issuer is named or referred to, it shall be deemed to include its successors and assigns whether so expressed or not. All of the covenants, stipulations, obligations, and agreements by or on behalf of, and other provisions for the benefit of, the Issuer contained in this Indenture shall bind and inure to the benefit of such successors and assigns and shall bind and inure to the benefit of any officer, board, commission, issuer, agency or instrumentality to whom or to which there shall be transferred by or in accordance with law any right, power or duty of the Issuer, or of its successors or assigns, the possession of which is necessary or appropriate in order to comply with any such covenants, stipulations, obligations, agreements or other provisions hereof.

## **ARTICLE II**

### **AUTHORIZATION AND TERMS OF BONDS**

**Section 2.1 Authorization for Indenture and Bonds.** The Issuer has ascertained and hereby determines and declares that the execution and delivery of this Indenture is necessary to carry out the powers and duties expressly provided by the Act. Subordinate Bonds may be issued hereunder, without limitation as to amount except as may be provided herein or by law, from time to time.

**Section 2.2 Indenture to Constitute Contract.** In consideration of the purchase and acceptance of the Subordinate Bonds by those who shall hold the same from time to time, the provisions of this Indenture shall be a part of the contract of the Issuer with the owners of Subordinate Bonds and shall be deemed to be and shall constitute a contract between the Issuer, the Trustee and the owners from time to time of the Subordinate Bonds.

**Section 2.3 Special Limited Obligation of Bonds.** THE SUBORDINATE BONDS AND THE INTEREST THEREON ARE LIMITED OBLIGATIONS OF THE ISSUER, PAYABLE SOLELY FROM THE TRUST ESTATE PLEDGED THEREFOR UNDER THE INDENTURE. NONE OF THE STATE, THE COUNTY, NOR ANY OTHER POLITICAL SUBDIVISION OR BODY CORPORATE AND POLITIC, OR AGENCY, OF THE STATE, THE COUNTY OR THE ISSUER (EXCEPT TO THE LIMITED EXTENT PROVIDED HEREIN) SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE SUBORDINATE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER OF THE ISSUER, AND NEITHER THE SUBORDINATE BONDS NOR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF THE STATE, THE COUNTY, OR ANY OTHER POLITICAL SUBDIVISION OR BODY CORPORATE AND POLITIC OF THE STATE, THE COUNTY OR THE ISSUER (EXCEPT TO THE LIMITED EXTENT PROVIDED HEREIN), WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER.

NO DIRECTOR, OFFICER, AGENT, EMPLOYEE OR ATTORNEY OF THE ISSUER, INCLUDING ANY PERSON EXECUTING THE INDENTURE OR THE SUBORDINATE BONDS, SHALL BE LIABLE PERSONALLY ON THE SUBORDINATE BONDS OR FOR ANY REASON RELATING TO THE ISSUANCE OF THE SUBORDINATE BONDS. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THE SUBORDINATE BONDS, OR FOR ANY CLAIM BASED ON THE SUBORDINATE BONDS, OR OTHERWISE IN RESPECT OF THE SUBORDINATE BONDS, OR BASED ON OR IN RESPECT OF THE INDENTURE OR ANY SUPPLEMENTAL INDENTURE, AGAINST ANY DIRECTOR, OFFICER, EMPLOYEE OR AGENT, AS SUCH, OF THE ISSUER OR ANY SUCCESSOR, WHETHER BY VIRTUE OF ANY

CONSTITUTION, STATUTE OR RULE OF LAW, OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, ALL SUCH LIABILITY BEING, BY THE ACCEPTANCE OF THE SUBORDINATE BONDS AND AS PART OF THE CONSIDERATION FOR THE ISSUE OF THE SUBORDINATE BONDS, EXPRESSLY WAIVED AND RELEASED.

NEITHER THE DIRECTORS OF THE ISSUER NOR ANY PERSON EXECUTING THE SUBORDINATE BONDS SHALL BE LIABLE PERSONALLY ON THE BONDS BY REASON OF THE ISSUANCE THEREOF. THE SUBORDINATE BONDS AND OTHER OBLIGATIONS OF THE ISSUER SHALL NOT BE A DEBT OF THE COUNTY, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) AND NEITHER THE COUNTY, NOR THE STATE OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) SHALL BE LIABLE THEREON, NOR IN ANY EVENT SHALL SUCH SUBORDINATE BONDS OR OBLIGATIONS BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN THOSE OF THE ISSUER. THE SUBORDINATE BONDS SHALL NOT CONSTITUTE AN INDEBTEDNESS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION.

**Section 2.4 Execution, Authentication and Delivery of Bonds.** From time to time, Subordinate Bonds shall be executed by or on behalf of the Issuer and delivered to the Trustee for proper authentication and the Trustee shall thereupon authenticate and deliver such Subordinate Bonds to, or upon the order of, the Original Purchasers upon confirmation of the transfer of the Project to the Borrower as evidence of the Purchase Price of the Subordinate Bonds. The Trustee shall not authenticate any Subordinate Bond until the Trustee has received an Investor Letter in the form attached as Exhibit C hereto. The Subordinate Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of an Authorized Signatory of the Issuer. In case any authorized representative whose manual or facsimile signature shall appear on the Subordinate Bonds shall cease to be such authorized representative before the delivery of such Subordinate Bonds, such manual or facsimile signatures shall nevertheless be valid and sufficient for all purposes.

**Section 2.5 Form of Bonds.** The Subordinate Bonds, the Trustee's certificate of authentication and the form of assignment shall be in substantially the form set forth in Exhibit A attached hereto with such appropriate variations, omissions, substitutions and insertions as are permitted or required hereby and may have such letters, numbers or other marks of identification and such legends and endorsements placed thereon, as may be required to comply with any applicable laws or rules or regulations, or as may, consistently herewith, be determined by the officers executing such Subordinate Bonds, as evidenced by their execution of the Subordinate Bonds. Any portion of the text of any Subordinate Bond may be set forth on the reverse thereof, with an appropriate reference thereto on the face of such Subordinate Bond. Subordinate Bonds may be typewritten, printed, engraved, lithographed or otherwise produced.

### **ARTICLE III** **GENERAL TERMS AND PROVISIONS OF BONDS**

**Section 3.1 Terms of the Bonds.** The Subordinate Bonds shall be issuable as fully registered Subordinate Bonds in Authorized Denominations. The Subordinate Bonds shall be numbered consecutively within a series from R-1 upwards in order of issuance according to the records of the Trustee. The Subordinate Bonds shall be dated as of their date of issue and every Subordinate Bond issued in exchange for a Subordinate Bond as originally issued shall be dated the date of its authentication. The Subordinate Bonds shall mature, subject to prior redemption as provided in Article V hereof, on the Maturity Date, and shall bear interest (computed on the basis of a 360-day year of twelve 30-day months) at the rate of [4.00]% per annum with respect to the Subordinate Bonds, payable from, and to the extent of, Surplus Revenues on each Interest Payment Date to maturity, in the following order of priority: first, to pay interest on the

Subordinate Bonds; and second, to pay principal on the Subordinate Bonds. Funds provided by the Borrower for payment of the Subordinate Bonds shall be applied on each Interest Payment Date, first, against interest obligations arising from nonpayment of interest in whole or in part on any prior Interest Payment Date, second, against scheduled interest then due and payable, and third, against principal then outstanding in the order set forth above.

(a) The interest to be paid on an Interest Payment Date shall be computed from the date to which interest was last paid on the Subordinate Bonds. The person in whose name a Subordinate Bond is registered at the close of business on any Record Date with respect to any Interest Payment Date shall be entitled to receive the interest payable on such Interest Payment Date notwithstanding the cancellation of such Subordinate Bond upon any transfer or exchange subsequent to such Record Date and prior to such Interest Payment Date; provided, however, that, if and to the extent that the Issuer shall default in the payment of interest due on such Interest Payment Date, such past due interest shall be paid to the holder in whose name outstanding Subordinate Bonds are registered on a subsequent Record Date established by notice given by first class mail by the Trustee or by or on behalf of the Issuer to the holders of the Subordinate Bonds not less than ten (10) days preceding such subsequent Record Date.

(b) The principal of, the redemption premium (if any) and the interest on the Subordinate Bonds shall be payable in lawful money of the United States of America. Interest on the Subordinate Bonds shall be payable by check of the Trustee and mailed by first class mail to the holders in whose names the Subordinate Bonds are registered on the registration books maintained by the Trustee, as Bond Registrar, at the close of business on the Record Date next preceding such Interest Payment Date; provided, however, that interest due to any one holder holding 100% of the Subordinate Bonds will be paid, upon the written request of any such holder received by the Trustee on or before the Record Date, by wire transfer of immediately available funds to an account in the United States designated by such holder. The Trustee shall maintain a record of the amount and date of any payment of principal and/or interest on the Subordinate Bonds (whether at the maturity date or the redemption date prior to maturity or upon the maturity thereof by declaration or otherwise).

In the case of a redemption of any Subordinate Bond or a portion thereof, on the date set for redemption in the written notice to Bondholders required to be given in Section 5.10, the Trustee, as paying agent, shall pay from funds provided hereunder the redemption price upon surrender of such Subordinate Bond to the Trustee in lawful money of the United States of America.

If any Subordinate Bond shall not be presented for payment when the principal of or any portion thereof becomes due, either at the stated maturity, at the date fixed for redemption or purchase prior to stated maturity, or upon maturity by declaration, provided moneys sufficient to pay the Redemption Price of such Subordinate Bond or portion thereof shall have been made available to the Trustee and are held for the benefit of the holder of such Subordinate Bond, all liability of the Issuer to the holder thereof for the payment of such Subordinate Bond or portion thereof, as the case may be, shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such moneys, without liability for interest thereon, for the benefit of the holder of such Subordinate Bond, who shall thereafter be restricted exclusively to such moneys held for any claim of whatever nature on its part hereunder or on, or with respect to, such Subordinate Bond or portion thereof.

**Section 3.2** **Delivery of the Bonds.** The Subordinate Bonds shall be executed substantially in the form and manner herein set forth and shall be deposited with the Trustee for authentication. The Trustee

shall authenticate and deliver the Subordinate Bonds to, or at the written direction of, the purchaser(s) of the Subordinate Bonds, but only after there has been filed or deposited with the Trustee the following:

- (i) a certified copy of the resolution of the Issuer authorizing the issuance and sale of the Subordinate Bonds and the execution and delivery of this Indenture;
- (ii) an Investor Letter from each of the Original Purchasers;
- (iii) an original or executed counterparts of this Indenture, the Subordinate Financing Agreement, and the Subordinate Mortgage; and
- (iv) a Written Order of the Issuer to the Trustee to authenticate and deliver the Subordinate Bonds as directed in such order, upon payment to the Trustee, for the account of the Issuer, of the sum specified therein.

Upon receipt of these documents, the Trustee shall authenticate and deliver the Bonds to or upon the written order of the purchaser(s) but only upon payment to the Trustee of the purchase price of the Bonds, together with accrued interest thereon, if any.

**Section 3.3 Mutilated, Lost, Stolen or Destroyed Bonds.** If any Subordinate Bond is mutilated, lost, stolen or destroyed, the Issuer, at the expense of the holder of said Subordinate Bond may execute and the Trustee may authenticate and deliver a new Subordinate Bond of the same maturity, interest rate, aggregate principal amount in Authorized Denominations and tenor in lieu of and in substitution for the Subordinate Bond mutilated, lost, stolen or destroyed; provided, however, that, in the case of any mutilated Subordinate Bond, such mutilated Subordinate Bond shall first be surrendered to the Trustee, as Bond Registrar, and in the case of any lost, stolen or destroyed Subordinate Bond, there shall be first furnished to the Trustee evidence satisfactory to it of the ownership of such Subordinate Bond and of such loss, theft or destruction, together with indemnity satisfactory to it. If any such Subordinate Bond shall have matured or a redemption date pertaining thereto shall have passed, instead of issuing a new Subordinate Bond the Trustee may pay the same without surrender thereof upon receipt of indemnity satisfactory to the Trustee. The Issuer and the Trustee may charge the holder of such Subordinate Bond with their reasonable fees and expenses in this connection.

In executing a new Subordinate Bond and in furnishing the Trustee with the written authorization to authenticate and deliver a new Subordinate Bond as provided for in this Section, the Issuer may rely conclusively on a written representation of the Trustee that the Trustee is satisfied with the adequacy of the evidence presented concerning the mutilation, loss, theft or destruction of any Subordinate Bond.

**Section 3.4 Exchangeability and Transfer of Bonds; Persons Treated as Bondowners.** The Issuer shall cause books for the registration and for the transfer of the Subordinate Bonds as provided herein to be kept by the Trustee which is hereby constituted and appointed the Bond Registrar of the Issuer.

Subject to the requirements of the following paragraph of this Section, Subordinate Bonds may be transferred on the books of registration kept by the Trustee by the holder in person or by his duly authorized attorney, upon surrender thereof, together with a written instrument of transfer executed by the holder or his duly authorized attorney. Upon surrender for transfer of any Subordinate Bond with all partial redemptions endorsed thereon at the designated corporate trust office of the Trustee, the Issuer shall execute and the Trustee shall authenticate and deliver in the name of the transferee or transferees a new Subordinate Bond or Subordinate Bonds of the same series, maturity, interest rate, aggregate principal amount and tenor and of any Authorized Denomination or Denominations and numbered consecutively in order of issuance

according to the records of the Bond Registrar. The Trustee has no duty or obligation to confirm that the transfer restrictions associated with the Bonds have been complied with.

The following shall apply to all sales and transfers of the Subordinate Bonds after the applicable initial sale and delivery of the Subordinate Bonds:

(a) The Subordinate Bonds, in the form attached hereto as Exhibit A, shall be physical certificated instruments, and shall not be held in a book-entry only system unless approved in advance by the Issuer;

(b) The Subordinate Bonds shall be sold in Authorized Denominations;

(c) The Subordinate Bonds shall only be sold and subsequently transferred to a Qualified Institutional Buyer under Rule 144A of the Securities Act of 1933, as amended (the "Securities Act"), which has executed and delivered an Investor Letter in the form attached as Exhibit B hereto; and

(d) The Trustee shall not authenticate or register a Subordinate Bond unless it has received a certificate from the Issuer stating that the conditions of this Section have been satisfied and there shall have been delivered to the Trustee an Investor Letter executed by the transferee of the Subordinate Bonds;

provided, however, that the Original Purchasers shall not transfer the Subordinate Bonds without (i) written consent of the Issuer, and (ii) an opinion of Bond Counsel that such transfer will not affect the tax-exempt status of the Subordinate Bonds. The Trustee shall have no duty or obligation to determine whether or not the Investor Letter has been delivered to the Issuer and the transferor as required hereunder and the Trustee shall be entitled to rely on the statements set forth therein, including the statements of the purchaser therein that the purchaser qualifies as a purchaser hereunder.

Subordinate Bonds may be exchanged at the Designated Corporate Trust Office for an equal aggregate principal amount of Subordinate Bonds of the same series, maturity, interest rate, aggregate principal amount and tenor and of any Authorized Denomination or Denominations. The Issuer shall execute and the Trustee shall authenticate and deliver Subordinate Bonds which the Bondholder making the exchange is entitled to receive, bearing numbers not contemporaneously then outstanding. Such transfers of registration or exchanges of Subordinate Bonds shall be without charge to the holders of such Subordinate Bonds, but any taxes or other governmental charges required to be paid with respect to the same shall be paid by the holder of the Subordinate Bond requesting such transfer or exchange as a condition precedent to the exercise of such privilege.

The Trustee shall not be required to transfer or exchange any Subordinate Bond (i) during the period following the Record Date next preceding any Interest Payment Date of such Subordinate Bond and such Interest Payment Date, or during the fifteen (15) days preceding the mailing of notice of redemption of any Subordinate Bonds or (ii) after the giving of notice calling such Subordinate Bonds for redemption or partial redemption has been made.

The person in whose name any Subordinate Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of either principal, redemption premium or interest shall be made only to or upon the order of the registered owner thereof or his duly authorized attorney, but such registration may be changed as hereinabove provided.

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

**Section 3.5 Subordination of Bonds.** The indebtedness evidenced by the Subordinate Bonds is and shall be subordinate in right of payment to the prior payment in full of all the indebtedness evidenced by the Priority Obligations. This Indenture is and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Priority Obligation Documents. The rights and remedies of the holder and each subsequent holder of the Subordinate Bonds under this Indenture are subject to the restrictions and limitations set forth herein. Nothing herein shall be construed to prohibit current payment of amounts due with respect to the Subordinate Bonds if all payments then currently due under the Priority Obligations have been made and there are Surplus Revenues for payment of such amounts. The indebtedness evidenced by the Subordinate Bonds is and shall be subordinate in right of payment to the prior payment in full of all the indebtedness evidenced by the Prior Obligations. The terms of subordination with respect to the Senior Mortgage Loan are more specifically described in the Subordination Agreement. The Indenture, the Subordinate Financing Agreement and the Subordinate Note are and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Regulatory Agreement and to the terms and conditions of the Priority Obligation Documents. The parties to this Indenture acknowledge that the terms of this Indenture are in all respects subject to the Priority Obligation Documents.

**Section 3.6 Legends.** The Subordinate Bonds may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of this Indenture as may be necessary or desirable to comply with custom, or otherwise, as may be determined by the Issuer prior to the delivery thereof.

**Section 3.7 Transfer and Registry.** All the Subordinate Bonds issued under this Indenture shall be fully registered and shall be transferable as provided in this Indenture and in the Subordinate Bonds. So long as any of the Subordinate Bonds shall remain Outstanding, the Issuer shall maintain and keep, at the corporate trust office of the Trustee, records for the registration and transfer of Subordinate Bonds, and, upon presentation thereof for such purpose at said office, the Issuer shall register or cause to be registered therein, and permit to be transferred thereon, under such reasonable regulations as it or the Trustee may prescribe, any Subordinate Bond entitled to registration or transfer. So long as any of the Subordinate Bonds remain Outstanding, the Issuer shall make all necessary provisions to permit the exchange of Subordinate Bonds at the corporate trust office of the Trustee.

#### **ARTICLE IV** **APPLICATION OF BOND PURCHASE PRICE**

**Section 4.1 Application of Bond Purchase Price and Other Moneys.** The Purchase Price for the sale of the Subordinate Bonds will not generate any funds being transferred, the consideration for the sale being the remaining amount due from the Borrower to the Original Purchasers of the acquisition cost of the Project. Any other moneys, if any, shall, upon the delivery of such Subordinate Bonds by the Trustee from time to time, be deposited into the Accounts as specified in Article V.

**Section 4.2 Investment of Certain Funds.** Amounts on deposit in the Revenue Account shall not be invested. Amounts on deposit in the Issuer's Fees and Expenses Account shall be invested by the Trustee as directed in writing by an Authorized Officer.

Investment of funds pursuant to this section shall be limited as to amount and yield of investment in such manner that no part of the outstanding bonds shall be deemed "arbitrage bonds" under the Internal



Revenue Code and regulations thereunder; provided that the Trustee has no duty to monitor the yield on any directed investment or any obligation to limit the yield on any investment the Issuer directs the Trustee to make. The Trustee shall have no liability whatsoever for any loss, fee, tax or other charge incurred in connection with any investment, reinvestment, sale or liquidation of an investment hereunder. The Trustee shall be entitled to rely on any written direction of the Authorized Officer as to the suitability and legality of the directed investments. The Trustee shall have no responsibility whatsoever to determine whether any investments made pursuant to this agreement are or continue to be Eligible Investments. Any deposit or investment directed by the Authorized Officer shall constitute a certification by the Authorized Officer to the Trustee that the assets so deposited or to be purchased pursuant to such directions are Eligible Investments. In no event shall the Trustee be deemed an investment manager or adviser in respect of any selection of investments hereunder.

**ARTICLE V**  
**ACCOUNTS; APPLICATION OF FUNDS; REDEMPTION**

**Section 5.1**    **Establishment of Accounts.** The Issuer hereby establishes and creates the following trust accounts:

- (a) Revenue Account, including therein an Interest Subaccount and a Principal Subaccount; and
- (b) Issuer's Fees and Expenses Account.

**Section 5.2**    **Revenue Account.** There shall be deposited into the Principal Subaccount of the Revenue Account, as and when received, all moneys received by the Trustee representing principal payments or repayments, and premium, if any, under the Subordinate Note, together with all other amounts required pursuant to this Indenture to be deposited therein, to be held therein pending distribution in accordance with the terms hereof.

On each principal maturity date for the Subordinate Bonds, the Trustee shall use moneys on deposit in the Principal Subaccount to pay to the Subordinate Bond owners the amount then due with respect to principal of the Subordinate Bonds. There shall be deposited into the Interest Subaccount of the Revenue Account, as and when received, all moneys received by the Trustee representing interest payments under the Subordinate Note. On each interest payment date for the Subordinate Bonds, the Trustee shall use moneys on deposit in the Interest Subaccount to pay the interest on the Subordinate Bonds.

There shall be deposited into the Issuer's Fees and Expenses Account of the Revenue Account, as and when received, all moneys received by the Trustee from the Borrower in accordance with Section 5.02(b) of the Subordinate Financing Agreement, such amounts representing the Annual Issuer's Fee and other amounts constituting the Issuer's Fees and Expenses. The Trustee shall pay to the Issuer the Annual Issuer's Fee, when due, without requirement for an invoice or prior approval by the Borrower.

**Section 5.3**    **Application of Funds on Closing Date.** The Purchaser Price for the Subordinate Bonds shall be delivered by the delivery of a [copy of the assignment of the deed for the Project,] such [deed] shall be made directly to the Borrower and shall, for all purposes of this Indenture constitute the payment of the full Purchase Price for the Subordinate Bonds upon receipt by or on behalf of the Trustee of (a) a copy of the duly executed deed to the Borrower and (b) certification from the Original Purchasers and the Borrower as to the remaining amount due the Original Purchasers.

**Section 5.4**    **Optional Redemption.** The Subordinate Bonds are subject to optional redemption prior to maturity at any time on any Business Day at a redemption price equal to the principal amount thereof plus interest to the date of redemption, without premium, upon not less than 20 days prior written

notice to the Trustee and the Original Purchasers or subsequent Subordinate Bondowner, as applicable, and approval from the Senior Mortgage Lender.

**Section 5.5 Extraordinary Redemption.** The Subordinate Bonds are required to be redeemed in whole or in part, on the earliest practicable Business Day, from Surplus Revenues representing casualty insurance proceeds, condemnation awards, foreclosure sale proceeds, proceeds received from the Borrower upon a refinancing of the Project which includes a prepayment of the Subordinate Note, to the extent such proceeds are not applied to the redemption of Subordinate Bonds pursuant to Section 5.8 below, or from unspent proceeds of the Subordinate Bonds pursuant to Section 5.8 hereof, at a redemption price of 100% of the principal amount thereof plus accrued interest to the redemption date, without premium.

**Section 5.6 Mandatory Redemption.** Subject to the provisions of the granting clauses hereof establishing the priority in payment of the Subordinate Bonds, the Subordinate Bonds are required to be redeemed in part on each Interest Payment Date at a redemption price equal to 100% of the principal amount thereof to be redeemed plus interest accrued to the redemption date from and to the extent of any remaining amounts in the Bond Proceeds Account after payment of interest then due on the Subordinate Bonds.

**Section 5.7 Partial Redemption of Bonds.** Upon redemption of any Subordinate Bond in part, the Trustee shall authenticate and deliver to or upon the written order of the registered owner thereof, at the expense of the Borrower, a new Subordinate Bond or Subordinate Bonds of the same series and maturity and in an aggregate principal amount equal to the unredeemed portion of the Subordinate Bond redeemed in part. Subordinate Bonds redeemed in part shall be redeemed, by lot.

**Section 5.8 Notice of Redemption.** Notice of redemption shall be given by Electronic Means, or mailed, first-class postage prepaid, by the Trustee, to (a) the respective owners of any Subordinate Bonds designated for redemption at their addresses appearing on the registration records of the Trustee as of the applicable Record Date, and (b) the MSRB's Electronic Municipal Market Access system as provided at <http://www.emma.msrb.org> ("EMMA"). Each notice of redemption shall state the date of such notice, the applicable Record Date, the Mandatory Redemption Date, the redemption price, the place or places of redemption (including the name and appropriate address or addresses of the Trustee), the CUSIP number (if any), and the distinctive numbers of the Subordinate Bonds to be redeemed. Any notice of redemption may be conditional. Each such notice shall also state that on said date there will become due and payable on each of said Subordinate Bonds the redemption price thereof or of said specified portion of the principal amount thereof in the case of a Subordinate Bond to be redeemed in part only, together with interest accrued thereon to the Mandatory Redemption Date, and that from and after such Mandatory Redemption Date interest thereon shall cease to accrue, and shall require that such Subordinate Bonds be then surrendered at the address of the Trustee specified in the redemption notice. Notice of redemption of Subordinate Bonds shall be given by the Trustee for and on behalf of, and at the expense of, the Issuer. The Trustee shall mail a second notice to Subordinate Bond owners with respect to any Subordinate Bond called for redemption but not tendered for redemption within sixty (60) days of the Mandatory Redemption Date. Failure by the Trustee to give notice pursuant to this Section 5.8 to EMMA shall not affect the sufficiency of the proceedings for redemption. Failure by the Trustee to mail notice of redemption pursuant to this Section 5.8 to any one or more of the respective owners of any Subordinate Bonds designated for redemption shall not affect the sufficiency of the proceedings for redemption with respect to the Subordinate Bond owner or Subordinate Bond owners to whom such notice was mailed. The Trustee shall not be subject to any liability to any holders of the Subordinate Bonds or any party to the transaction by reason of its failure to mail any such notice.

**ARTICLE VI**  
**PARTICULAR COVENANTS**

The Issuer covenants and agrees with the Trustee and the owners of the Subordinate Bonds as follows:

**Section 6.1      Section 6.1 Payment of Bonds.** The Issuer shall duly and punctually pay or cause to be paid, solely as herein provided, the principal of every Subordinate Bond and the interest thereon, at the dates and places and in the manner and from the sources stated herein and in the Subordinate Bonds.

**Section 6.2      Section 6.2 Covenant as to Subordinate Financing Agreement.** The Issuer covenants and agrees that, if the Subordinate Financing Agreement is executed and delivered: (i) it will not voluntarily take any action or fail to take any action that may result in the termination or cancellation of the Subordinate Financing Agreement except in accordance with the terms of the Subordinate Financing Agreement; (ii) it will fulfill its obligations under the Subordinate Financing Agreement; (iii) it will not execute or agree to any change, amendment or modification of or supplement to the Subordinate Financing Agreement, except as provided in the Subordinate Financing Agreement or in this Indenture; and (iv) it will not agree to any abatement, reduction, abrogation, waiver, diminution or other modification in any manner or to any extent whatsoever of the obligation of the Borrower to pay the Loan Repayments as provided in the Subordinate Financing Agreement.

**Section 6.3      Covenant Against Encumbrances.** The Issuer covenants that it will not voluntarily create any lien, encumbrance or charge upon the Subordinate Financing Agreement when and if executed and the Issuer's right to receive the Loan Repayments thereunder except the pledge, lien and charge for the security of the Senior Mortgage Loan Documents and Subordinate Bonds hereby created.

**Section 6.4      Further Assurance.** At any and all times the Issuer shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, pledging, assigning and confirming all the rights, assets, revenues and other moneys, securities, funds and property hereby pledged or assigned, or intended so to be, or which the Issuer may become bound to pledge or assign hereunder.

**Section 6.5      Compliance with Conditions Precedent.** Upon the date of issuance of any of the Subordinate Bonds, all conditions, acts and things required by law or by this Indenture to exist, to have happened or to have been performed precedent to or in the issuance of such Subordinate Bonds shall exist, have happened and have been performed, or will have happened or been performed, and such Subordinate Bonds, together with all other indebtedness of the Issuer, shall be within every debt and other limit prescribed by law.

**Section 6.6      Tax Covenants and Findings.**

(a) The Issuer shall not use or direct or permit the use of the proceeds of any Subordinate Bonds or any other moneys in its possession or control directly or indirectly in any manner that, if such use reasonably had been expected on the date of initial issuance of Bonds, would cause such Subordinate Bonds to be "arbitrage bonds" within the meaning ascribed to such quoted term in Section 148 of the Code.

(b) The Issuer hereby further covenants to take all steps and actions necessary to assure the successful operation of the Project in a manner consistent with the preservation of the tax-exempt status of the interest payable on the Subordinate Bonds under Sections 103, 142, 145 and 148 of

the Code; to take all steps and actions necessary to preserve the tax-exempt status of the interest payable on the Subordinate Bonds under Sections 103, 142, 145 and 148 of the Code; and to refrain from taking any steps or actions that would impair or call into question the tax- exempt status of the interest payable on the Subordinate Bonds under Sections 103, 142, 145 and 148 of the Code.

## **ARTICLE VII**

### **SUPPLEMENTAL INDENTURES**

**Section 7.1 Supplemental Indentures Effective upon Filing with the Trustee.** For any one or more of the following purposes and at any time or from time to time, a Supplemental Indenture of the Issuer may be executed and delivered which, upon the due execution by and filing with the Trustee, shall be fully effective in accordance with its terms:

(a) to confirm, as further assurance, any pledge under, and the subjection to any lien or pledge created or to be created by, this Indenture, of the Surplus Revenues or of any other revenues or assets; or

(b) to make any other amendment or change that will not materially adversely affect the interest of the owners of the Subordinate Bonds.

**Section 7.2 Supplemental Indentures Effective with Consent of Bond Owners.** At any time or from time to time, a Supplemental Indenture with respect to the Subordinate Bonds may be entered into subject to consent by Subordinate Bond owners in accordance with and subject to the provisions of Article VIII. Any such Supplemental Indenture shall become fully effective in accordance with its terms upon the due execution by and filing with the Trustee of a copy thereof certified by an Authorized Officer and upon compliance with the provisions of Article VIII.

**Section 7.3 General Provisions.**

(a) This Indenture shall not be modified or amended in any respect except as provided in and in accordance with and subject to the provisions of this Article and Article VIII. Nothing contained in this Article or Article VIII shall affect or limit the right or obligation of the Issuer to adopt, make, do, execute, acknowledge or deliver any resolution, act or other instrument or the right or obligation of the Issuer to execute and deliver to the Trustee any instrument which is to be delivered to said Trustee pursuant to this Indenture.

(b) Any Supplemental Indenture permitted or authorized by Section 7.1 may be adopted by the Issuer without the consent of any of the Subordinate Bond owners, but shall become effective only on the conditions, to the extent and at the time provided in said Section.

(c) The Trustee is hereby authorized to accept the delivery of any Supplemental Indenture referred to and permitted or authorized by Section 7.1 or 7.2 and to make all further agreements and stipulations which may be therein contained, and the Trustee, in taking such action, shall be fully protected in relying on a Bond Counsel's Opinion that such Supplemental Indenture is authorized or permitted by the provisions of this Indenture.

(d) No Supplemental Indenture shall change or modify any of the rights or obligations of the Trustee without its written assent thereto.

**ARTICLE VIII**  
**AMENDMENTS**

**Section 8.1**     **Modifications by Unanimous Consent.** The terms and provisions of this Indenture and the rights and obligations of the Issuer and the owners of any Subordinate Bonds Outstanding hereunder may be modified or amended in any respect upon the adoption and filing by the Issuer of a Supplemental Indenture and the written consent of the owners of all affected Bonds then Outstanding.

**ARTICLE IX**  
**DEFAULTS AND REMEDIES**

**Section 9.1**     **Events of Default.** Each of the following events is hereby declared an “Event of Default”:

- (a)     the Issuer shall fail to pay the principal of any Subordinate Bond when and as the same shall become due, whether at maturity or otherwise; or
- (b)     payment of any installment of interest on any of the Subordinate Bonds shall not be made when and as the same shall become due; or
- (c)     the Issuer shall fail or refuse to comply with the other provisions of this Indenture or the Subordinate Bonds, or shall default in the performance or observance of any of the other covenants, agreements or conditions on its part contained herein or in any Supplemental Indenture or the Subordinate Bonds, and such failure, refusal or default shall continue for a period of forty-five (45) days after written notice thereof to the Issuer by the Trustee; or
- (d)     the occurrence of an “Event of Default under the Subordinate Financing Agreement.

Notwithstanding anything herein to the contrary, the Trustee hereby agrees that any cure of any Event of Default hereunder made or tendered by the Investor Limited Partner shall be deemed to be a cure by the Borrower, and shall be accepted or rejected by the Trustee on the same basis as if made or tendered by the Borrower.

**Section 9.2**     **Remedies.**

(a)     Upon the happening and continuance of any Event of Default, the Trustee, if directed by holders of more than a majority in principal amount of the Outstanding Bonds, shall proceed, in its own name, subject to the provisions of Section 10.2, to protect and enforce the rights of the owners of the Subordinate Bonds by such of the following remedies, as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce such rights:

- (i)     by mandamus or other suit, action or proceeding at law or in equity, to enforce all rights of the owners of the Subordinate Bonds hereunder;
- (ii)    by bringing suit to collect unpaid principal or interest on the Subordinate Bonds;
- (iii)   by action or suit in equity, to require the Issuer to account as if it were the trustee of an express trust for the owners of the Subordinate Bonds; or

(iv) by action or suit in equity, to enjoin any acts or things which may be unlawful or in violation of the rights of the owners of the Subordinate Bonds.

(b) In the enforcement of any rights and remedies under this Indenture, the Trustee shall be entitled to sue for, enforce payment of and receive any and all amounts then or during any default becoming, and at any time remaining, due and unpaid from the Issuer for principal, interest or otherwise, under any provisions of this Indenture or a Supplemental Indenture or of the Subordinate Bonds, together with any and all costs and expenses of collection including but not limited to attorney's fees of the Trustee and of all proceedings thereunder and under such Subordinate Bonds, without prejudice to any other right or remedy of the Trustee or of the Bond owners, and to recover and enforce a judgment or decree against the Issuer for any portion of such amounts remaining unpaid, with interest, costs, attorney's fees and expenses, and to collect from any moneys available for such purpose, in any manner provided by law, the moneys adjudged or decreed to be payable.

(c) Upon the occurrence of any Event of Default and upon the filing of a suit or commencement of other judicial proceedings to enforce the rights of the Subordinate Bond owners under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers for the Issuer and any and all of its revenues, issues, income and profits, pending such proceedings, with such powers as the court making such appointment shall confer, but only, in each case, with the consent of the owners of not less than a majority of the Outstanding principal amount of Subordinate Bonds.

(d) Without limiting the general applicability of paragraphs (i) through (iv) of the preceding subsection (a), if, at any time an Event of Default occurs, the Trustee shall forthwith proceed, in its own name to take all such actions as it, being advised by counsel, shall deem most expedient, effectual, and advisable to secure such compliance, but only, in each case, with the consent of the owners of not less than a majority of the Outstanding principal amount of Subordinate Bonds.

**Section 9.3 Termination of Proceedings.** In case any proceeding taken by the Trustee on account of any Event of Default shall have been discontinued or abandoned for any reason, then in every such case the Issuer, the Trustee and the Subordinate Bond owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Trustee shall continue as though no such proceeding had been taken.

**Section 9.4 Bond Owners' Direction of Proceedings.**

(a) Anything in this Indenture to the contrary notwithstanding, the owners of the majority in principal amount of the Subordinate Bonds then Outstanding, shall have the right, by an instrument or concurrent instruments in writing executed and delivered to the Trustee, to direct the method of conducting all remedial proceedings to be taken by the Trustee hereunder, provided that such direction shall not be otherwise than in accordance with law or the provisions of this Indenture and that the Trustee shall have the right to decline to follow any such direction which in the opinion of the Trustee would be unjustly prejudicial to owners of such Subordinate Bonds not parties to such direction.

(b) Whenever an Event of Default shall have occurred and be continuing, the owners of one hundred percent (100%) of the Outstanding principal amount of the Subordinate Bonds shall have the right to initiate any proceeding, judicial or otherwise to enforce this Indenture notwithstanding anything to the contrary contained herein.

**Section 9.5 Possession of Bonds by Trustee Not Required.** All rights of action under this Indenture or under any of the Subordinate Bonds, enforceable by the Trustee, may be enforced by it without the possession of any of the Subordinate Bonds or the production thereof at the trial or other proceeding relative thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in its name for the benefit of all the owners of such Subordinate Bonds, subject to the provisions of this Indenture.

**Section 9.6 Remedies Not Exclusive.** No remedy herein conferred upon or reserved to the Trustee or to the owners of the Subordinate Bonds is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

**Section 9.7 No Waiver of Default.** No delay or omission of the Trustee or of any owner of the Subordinate Bonds to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein, and every power and remedy given by this Indenture to the Trustee and the owners of the Subordinate Bonds, respectively, may be exercised from time to time and as often as may be deemed expedient.

**Section 9.8 Notice of Event of Default.** The Trustee shall give notice via Electronic Means to the owners of Bonds of each Event of Default hereunder known to a Responsible Officer of the Trustee as soon as it obtains actual knowledge of the occurrence thereof. Each such notice shall be given by the Trustee by mailing written notice thereof to all registered owners of the Subordinate Bonds, as the names and addresses of such owners appear upon the records for registration and transfer of Bonds as kept by the Trustee. The Trustee shall not be deemed to have notice of any default or event of default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by the Trustee at the corporate trust office of the Trustee, and such notice references the Subordinate Bonds and this Indenture.

## **ARTICLE X CONCERNING THE TRUSTEE**

**Section 10.1 Trustee.** U.S. Bank Trust Company, National Association, is hereby appointed as Trustee. The Trustee shall signify its acceptance of the duties and obligations imposed upon it by this Indenture by executing this Indenture.

**Section 10.2 Responsibility of the Trustee.** The Trustee accepts the trusts imposed upon it by this Indenture, and agrees to observe and perform those trusts, but only upon and subject to the terms and conditions set forth in this Article, to all of which the parties hereto and the Holders agree.

(a) Prior to the occurrence of a default or an Event of Default of which a Responsible Officer of the Trustee has been notified in writing, as provided in paragraph (f) of Section 10.3 hereof, or of which by that paragraph the Trustee is deemed to have actual notice, and after the cure or waiver of all defaults or Events of Default which may have occurred;

- (i) the Trustee undertakes to perform only those duties and obligations which are set forth specifically in this Indenture, and no duties or obligations shall be implied to the Trustee; and
- (ii) in the absence of bad faith on its part, the Trustee may rely conclusively, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture.

(b) In case a default or an Event of Default has occurred and is continuing hereunder (of which the Trustee has been notified, or is deemed to have notice), the Trustee shall exercise those rights and powers vested in it by this Indenture and shall use the same degree of care and skill in their exercise, as a prudent person would exercise or use under this circumstances in the conduct of their own affairs.

(c) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

- (i) this Subsection shall not be construed to affect the limitation of the Trustee's duties and obligations provided in subparagraph (a)(i) of this Section or the Trustee's right to rely on the truth of statements and the correctness of opinions as provided in subparagraph (a)(ii) of this Section;
- (ii) the Trustee shall not be liable for any error of judgement made in good faith by any one of its officers, unless it shall be established that the Trustee was grossly negligent in ascertaining the pertinent facts;
- (iii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a majority in principal amount of the Bonds then Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture; and
- (iv) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(d) The recitals of fact herein and in the Subordinate Bonds contained shall be taken as the statements of the Issuer and the Trustee assumes no responsibility for the correctness of the same. The Trustee shall not be deemed to make any representations as to the validity or sufficiency of this Indenture or of any Subordinate Bonds issued hereunder or in respect of the security afforded by this Indenture and the Trustee shall incur no responsibility in respect thereof. The Trustee shall, however, be responsible for its representations contained in its certificate on the Subordinate Bonds. The Trustee shall not be under any responsibility or duty with respect to the issuance of the Subordinate Bonds for value or the application of any moneys paid to the Issuer. The Trustee shall be under no obligation or duty to perform any act which would require it to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it. The Trustee shall not be liable in connection with the performance of its duties hereunder except for its own negligence or willful misconduct.

(e) Whether or not therein expressly so provided, every provision of this Indenture or any other financing documents relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Article X.

**Section 10.3 Certain Rights and Obligations of the Trustee.** Except as otherwise provided in Section 5.01 hereof:

(a) The Trustee (i) may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees (but shall be answerable therefore only in



accordance with the standard specified above), (ii) shall be entitled to the advice of counsel concerning all matters of trusts hereof and duties hereunder, and (iii) may pay reasonable compensation in all cases to all of those attorneys, agents, receivers and employees reasonably employed by it in connection with the trust hereof. The Trustee may act upon the opinion of advice of any attorney (who may be the attorney or attorneys for the Issuer or the Borrower) approved by the Trustee in the exercise of reasonable care. The Trustee shall not be responsible for any loss, fee, tax or damage resulting from any action taken or omitted to be taken in good faith in reliance upon that opinion or advice.

(b) The Trustee shall not be bound to ascertain or inquire as to the observance or performance of any covenants, agreements or obligations on the part of the Issuer or the Borrower under the Financing Agreement; but the Trustee may require of the Issuer or the Borrower full information and advise as to the observance or performance of those covenants, agreements and obligations. Except as otherwise provided in Section 6.04 hereof, the Trustee shall have no obligation to observe or perform any of the duties of the Issuer under this Subordinate Financing Agreement.

(c) The Trustee shall not be accountable for the application by the Borrower or any other Person of the proceeds of any Bonds authenticated or delivered hereunder.

(d) The Trustee shall be protected, in the absence of bad faith on its part, in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document reasonably believed by it to be genuine and correct and to have been signed or sent by the proper Person or Person. Any action taken by the Trustee pursuant to this Indenture upon the request, authority or consent of any Person who is the Holder of any Bonds at the time of making the request or giving the authority or consent, shall be conclusive and binding upon all future Holders of the same Bond and of Bond issued in exchange therefor or in place thereof.

(e) As to the existence or nonexistence of any fact for which the Issuer or the Borrower may be responsible or as to the sufficiency or validity of any instrument, document, report, paper or proceeding, the Trustee, in the absence of bad faith on its part, shall be entitled to conclusively rely upon a certificate signed on behalf of the Issuer or Borrower, as appropriate, by an authorized officer or representative thereof as sufficient evidence of the facts recited therein. Prior to the occurrence of a default or Event of Default hereunder of which the Trustee has been notified in writing, as provided in paragraph (f) of this Section, or of which by that paragraph the Trustee is deemed to have actual notice, the Trustee may accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient; provided, that the Trustee in its discretion may require and obtain any further evidence which it deems to be necessary or advisable; and, provided further, that the Trustee shall not be bound to secure any future evidence. The Trustee may accept a certificate of the officer, or an assistant thereto, having charge of the appropriate records, to the effect that legislation has been enacted by the Issuer in the form recited in that certificate, as conclusive evidence that the legislation has been duly enacted and is in full force and effect.

(f) The Trustee shall not be required to take notice, and shall not be deemed to have notice, of any default or Event of Default hereunder, except Events of Default described in paragraphs (a) or (b) of Section 9.1 hereof, unless a Responsible Officer of the Trustee shall be notified specifically of the default of Event of Default in a written instrument or document delivered to it by the Issuer or by the Holders of at least 10% of the aggregate principal amount of Bonds then Outstanding. In the absence of delivery of a notice satisfying those requirements, the Trustee may assume conclusively that there is no default of Event of Default, except as noted above.

(g) At any reasonable time, the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representative (i) may inspect and copy fully all books, papers and records of the Issuer pertaining to the Project and the Bonds, and (ii) may make any memoranda from and in regard thereto as the Trustee may desire.

(h) The Trustee shall not be required to give any bond or surety with respect to the execution of these trusts and powers or otherwise in respect of the premises.

(i) Notwithstanding anything contained elsewhere in this Indenture, the Trustee may demand any showings, certificates, reports, opinions, appraisals and other information, and any corporate action and evidence thereof, in addition to that required by the terms hereof, as a condition to the authentication of any Bonds or the taking of any action whatsoever within the purview of this Indenture, if the Trustee deems to be desirable for the purpose of establishing the right of the Issuer to the authentication of any Bonds or the right of any Person to the taking of any other action by the Trustee; provided, that the Trustee shall not be required to make that demand.

(j) Before taking action hereunder, the Trustee may require that a satisfactory indemnity bond be furnished to it for the reimbursement of all expenses which it may incur and to protect it against all liability by reason of any action so taken, except liability which is adjudicated to have resulted from its negligence or willful misconduct. The Trustee may take action without that indemnity, and in that case, the Borrower shall reimburse the Trustee for all of the Trustee's expenses, provided that the Trustee has acted in good faith and with the care that an ordinarily prudent person in a like position would have acted.

(k) Unless otherwise provided herein, all moneys received by the Trustee under this Indenture shall be held in trust for the purposes for which those moneys were received, until those moneys are used, applied or invested as provided herein; provided, that those moneys need not be segregated from other moneys, except to the extent required by this Indenture or by law. The Trustee shall not have any liability for interest on any moneys received hereunder, except to the extent expressly provided herein.

(l) Any legislation by the Issuer, and any opinions, certificates and other instruments and documents for which provision is made in this Indenture, may be accepted by the Trustee, in the absence of bad faith on its part, as conclusive evidence of the facts and conclusions stated therein and shall be full warrant, protection and authority to the Trustee for its actions taken hereunder.

(m) The Trustee shall be entitled to file proofs of claim in bankruptcy. Trustee fees and expenses are intended to constitute administrative expenses in bankruptcy.

(n) The Trustee agrees to accept and act upon written instructions or directions pursuant to this Indenture and the other Financing Documents sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that the Issuer, the Borrower and such other Person providing notice to the Trustee shall provide to the Trustee an incumbency certificate listing such designated persons, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the Issuer, the Borrower or such other Person providing notice to the Trustee 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 Trustee has offered the Issuer and the Borrower commercially reasonable security procedures with respect to such instructions and the Issuer and the Borrower have chosen not avail itself of such procedures. Each of the Issuer, the Borrower and such other Person providing notice to the Trustee 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.

(o) The permissive right of the Trustee to do things enumerated in this Indenture and the other Financing Documents shall not be construed as a duty and the Trustee shall not be answerable for other than its negligence or willful default. 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, and shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds. The Trustee shall have no duty to review or analyze any financial statements or other financial information delivered to the Trustee under this Indenture and the other Financing Documents and shall hold such financial statements and other financial information solely as a repository for the benefit of the Holder; 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. The Trustee shall not be responsible or liable for the environmental condition or any contamination of any property which secures the Bonds or for any diminution in value of any such property as a result of any contamination of the property by any hazardous substance, hazardous material, pollutant or contaminant. The Trustee shall not be liable for any claims by or on behalf of the Holders or any other person or entity arising from contamination of the property by any hazardous substance, hazardous material, pollutant or contaminant, and shall have no duty or obligation to assess the environmental condition of any such property or with respect to compliance of any such property under state or federal laws pertaining to the transport, storage, treatment or disposal of, hazardous substances, hazardous materials, pollutants, or contaminants or regulations, permits or licenses issued under such laws. The Trustee in performing its duties and exercises its rights under any of the other Financing Documents shall be entitled to all rights, protections and limitations of liability set forth in this Indenture, and the provision of this Indenture relating to the rights, protections and limitations of liability of the Trustee shall be deemed to be set forth and included in the Financing Documents, mutatis mutandis, as if references to “hereof”, “herein”, “this Indenture” and the like set forth in this Indenture referred to the applicable Financing Document.

(p) In no event shall the Trustee be liable for incidental, indirect, special, consequential or punitive damages or penalties (including, but not limited to lost profits), even if the Trustee has been advised of the likelihood of such damages or penalty and regardless of the form of action.

(q) In executing any amendment or supplemental indenture, the Trustee shall receive and will be fully protected in conclusively relying upon an officers’ certificate and an opinion of counsel stating that the executing of such amendment or supplemental indenture is authorized and permitted by this Indenture and is the legal, valid and binding obligation of the Issuer enforceable against it in accordance with its terms. The Trustee may, but shall not be obligated to, enter into any such supplemental indenture which affects the Trustee’s own rights, duties or immunities under this indenture or otherwise.

**Section 10.4 Evidence on Which the Trustee May Act.** The Trustee shall be protected in acting upon any notice, resolution, request, consent, order, certificate, report, opinion, certificate or other paper or document believed by it to be genuine, and to have been signed or presented by the proper party or parties. The Trustee may consult with counsel, who may be counsel to the Issuer, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or not taken, or suffered by it hereunder in good faith and in accordance therewith. Whenever the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a certificate signed by an Authorized Officer, and such certificate shall be full warrant for any action taken or suffered in good faith under the provisions of this Indenture upon the faith thereof, but in its discretion the Trustee may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as to it may seem reasonable. Except as otherwise expressly provided herein, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision hereof by the Issuer to the Trustee shall be sufficiently executed if executed in the name of the Issuer by an Authorized Officer. The Trustee shall comply with any oral directions of the Issuer respecting the investment or reinvestment of any moneys held by the Trustee. The Issuer shall promptly confirm any such oral directions in writing.

**Section 10.5 Compensation.** The Issuer shall pay to the Trustee from time to time, but solely from moneys provided by the Borrower, reasonable compensation for all services rendered under this Indenture, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of its attorneys, agents and employees, incurred in and about the performance of its power and duties under this Indenture. The Trustee shall be paid from funds provided by the Issuer and received by the Issuer from the Borrower and not from any amounts held hereunder, and the Trustee shall not have any lien on any amounts held hereunder for payment of amounts due from the Issuer on behalf of the Borrower.

**Section 10.6 Permitted Acts and Functions.** The Trustee may buy, own, hold and sell (including acting as an underwriter in respect of) any Subordinate Bonds, coupons or notes of the Issuer, whether heretofore or hereafter issued or created; and may engage or be interested in any financial or other transaction with the Issuer, with like effect and with the same rights it would have if it were not the Trustee. The Trustee may act as depositary for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bond owners or to effect or aid in any reorganization growing out of the enforcement of the Subordinate Bonds or this Indenture, whether or not any such committee shall represent the owners of a majority in principal amount of the Subordinate Bonds then outstanding.

**Section 10.7 Resignation of Trustee.** The Trustee may at any time resign and be discharged of the duties and obligations created by this Indenture by giving not less than thirty days' written notice to the Issuer and the owners of Subordinate Bonds, specifying the date when such resignation shall take effect and such resignation shall only take effect upon the day specified in such notice unless previously a successor shall have been appointed, as provided in Section 10.8, in which event such resignation shall take effect immediately on the appointment of such successor. In no event, however, may such resignation take effect until a successor Trustee shall have been appointed pursuant to Section 10.8 hereof.

**Section 10.8 Removal of Trustee.** The Trustee shall be removed (i) by the Issuer (a) upon receipt of the written request of the owners of a majority in principal amount of the Subordinate Bonds then Outstanding or (b) if at any time the Trustee shall cease to satisfy the eligibility requirements of a Successor Trustee in accordance with the provisions of Section 10.8 hereof. The Issuer may remove the Trustee at any time upon thirty days' written notice, except during the existence of an Event of Default, for such cause as shall be determined in the sole discretion of the Issuer, or for no cause whatsoever, by filing with the Trustee an instrument signed by an Authorized Officer. Such removal shall then discharge the Trustee of future duties and obligations under this Indenture other than as provided in Section 10.10 hereof. In no event, however, may such removal take effect until a successor Trustee shall have been appointed pursuant to Section 10.8 hereof.

**Section 10.9 Appointment of Successor Trustee.**

(a) In case at any time the Trustee shall resign or shall be removed or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee, or of its property, shall be appointed, or if any public officer shall take charge or control of the Trustee, or of its property or affairs, the Issuer covenants and agrees that it will thereupon appoint a successor Trustee. The Issuer shall mail notice of any such appointment to registered owners of Subordinate Bonds, such mailing to be made within twenty days after such appointment. The Issuer shall use its best efforts to appoint a successor Trustee before any resignation or removal of the Trustee is scheduled to become effective.

(b) If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section within forty-five days after the Trustee shall have given to the Issuer written notice, as provided in Section 10.7, or after a vacancy in the office of a Trustee shall have

occurred by reason of its inability to act, the Trustee or the owner of any Subordinate Bond may apply to any court of competent jurisdiction to appoint a successor Trustee. Said court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

(c) Any Trustee appointed under the provisions of this Section in succession to the Trustee shall be a trust company or bank having the powers of a trust company within or outside the State, having a capital and surplus aggregating at least Fifty Million Dollars (\$50,000,000) and have a long-term debt rating from a Rating Agency of at least “BBB” or the equivalent.

**Section 10.10 Transfer of Rights and Property to Successor Trustee.** Any successor Trustee appointed under this Indenture shall execute, acknowledge and deliver to its predecessor Trustee, and also to the Issuer, an instrument accepting such appointment, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become fully vested with all moneys, estates, properties, rights, powers, duties and obligations of such predecessor Trustee, with like effect as if originally named as Trustee, but the Trustee ceasing to act shall nevertheless, on the request of the Issuer or of its successor Trustee, execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor Trustee all the right, title and interest of the predecessor Trustee in and to any property held by it under this Indenture, and shall pay over, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Should any deed, conveyance or instrument in writing from the Issuer be required by such successor Trustee for more fully and certainly vesting in and confirming to such successor Trustee any such estates, rights, powers and duties, any and all such deeds, conveyances and instruments in writing shall, on request, and so far as may be authorized by law, be executed, acknowledged and delivered by the Issuer.

**Section 10.11 Merger or Consolidation.** Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which the Trustee shall be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided in all such cases that such company shall be a trust company or bank which is qualified to be a successor to the Trustee under Section 10.8 and shall be authorized by law to perform all the duties imposed upon it by this Indenture, shall be the successor to the Trustee without the execution or filing of any paper or the performance of any further action.

**Section 10.12 Adoption of Authentication.** In case any of the Subordinate Bonds contemplated to be issued under this Indenture shall have been authenticated but not delivered, any successor Trustee may adopt the certificate of authentication of any predecessor Trustee so authenticating such Subordinate Bonds and deliver such Subordinate Bonds so authenticated, and in case any of the said Bonds shall not have been authenticated, any successor Trustee may authenticate such Subordinate Bonds in the name of the predecessor Trustee or in the name of the successor Trustee, and in all such cases such Certificate shall have the full force which it is anywhere in said Bonds or in this Indenture provided that the certificate of authentication of the Trustee shall have.

**Section 10.13 Evidence of Signature of Bond Owners and Ownership of Bonds.**

(a) Any request, consent or other instrument which this Indenture may require or permit to be signed and executed by the Subordinate Bond owner may be in one or more instruments of similar tenor, and shall be signed or executed by such Subordinate Bond owners in person or by their attorneys appointed in writing. Proof of the execution of any such instrument, or of an instrument appointing any such attorney, shall be sufficient for any purpose of this Indenture (except as otherwise herein expressly provided) if made in the following manner, but the

Trustee may nevertheless in its discretion require further or other proof in cases where it deems the same desirable. The fact and date of the execution by any Subordinate Bond owner or his attorney of such instrument may be proved by the certificate, which need not be acknowledged or verified, of an officer of a bank or trust company satisfactory to the Trustee or of any notary public or other officer authorized to take acknowledgements of deeds to be recorded in the state in which he purports to act, that the person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. The authority of the person or persons executing any such instrument on behalf of a corporate Subordinate Bond owner may be established without further proof if such instrument is signed by a person purporting to be the president or a vice president of such corporation with a corporate seal affixed and attested by a person purporting to be its secretary or an assistant secretary.

(b) The ownership of Subordinate Bonds and the amount, numbers and other identification shall be proved by the registry records. Any request, consent or vote of the owner of any Subordinate Bond shall bind all future owners of such Subordinate Bond in respect of anything done or suffered to be done by the Issuer or the Trustee in accordance therewith.

**Section 10.14 Preservation and Inspection of Documents.** All documents received by the Trustee under the provisions of this Indenture or any Supplemental Indenture shall be retained in its possession and shall be subject at all reasonable times to the inspection of the Issuer, and any Subordinate Bond owner and their agents and their representatives, any of whom may make copies thereof.

## **ARTICLE XI** **DEFEASANCE**

**Section 11.1 Release of Indenture.** If, when all Subordinate Bonds Outstanding shall have become due and payable in accordance with their terms or otherwise as provided in this Indenture and the whole amount of the principal and the interest and premium, if any, so due and payable upon the Subordinate Bonds shall be paid or if the Trustee or the Paying Agent shall hold sufficient moneys, or Government Obligations the principal of and the interest on which, when due and payable of either the principal amount thereof or any interest earnings thereon, will, in the opinion of an independent certified public accountant, provide sufficient moneys (without further reinvestment of either the principal amount thereof or any interest earnings thereon) to pay the principal of, the interest and the redemption premium (if any) on all Subordinate Bonds then Outstanding to the maturity date of such Subordinate Bonds or to the date or dates specified for the redemption thereof and, if in the event any of the Subordinate Bonds are to be called for redemption, irrevocable instructions to call the Subordinate Bonds for redemption shall have been given by the Issuer to the Trustee, and sufficient funds shall also have been provided or provisions made for paying all other obligations payable hereunder by the Issuer, then and in that case, the right, title and interest of the Trustee in the Loan Repayments and all Funds hereunder shall thereupon cease, determine and become discharged and, upon being furnished with an opinion of counsel to the effect that all conditions precedent to the release of this Indenture have been satisfied, the Trustee shall release this Indenture and shall execute such documents to evidence such release as may be reasonably required by the Issuer, and shall turn over to the Issuer, for the benefit of and remittance (a) first, to the person or persons entitled to be paid, all other unpaid amounts required to be paid under this Indenture or the Subordinate Financing Agreement, and (b) second, to the Borrower, any surplus in the Funds hereunder, except moneys held for the redemption or payment of the Subordinate Bonds and all other obligations payable hereunder by the Issuer. Otherwise, this Indenture shall be, continue and remain in full force and effect.

All moneys and Government Obligations held by the Trustee (or any Paying Agent) pursuant to this Section shall be held in trust and applied to the payment, when due, of the obligations payable therewith.

**ARTICLE XII**  
**MISCELLANEOUS PROVISIONS**

**Section 12.1 Authorization of Officers.** Any Authorized Officer of the Issuer hereby is authorized and directed to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Indenture.

**Section 12.2 Authorization of Trustee.** The Issuer authorizes and directs the Trustee to perform any and all acts contemplated to be performed by the Trustee pursuant to the terms and provisions of this Indenture.

**Section 12.3 No Recourse under Indenture or on Bonds.** All covenants, stipulations, promises, agreements and obligations of the Issuer contained in this Indenture shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Issuer and not of any member, officer or employee of the Issuer in his individual capacity, and no recourse shall be had for the payment of the principal of or interest on the Subordinate Bonds or for any claim based thereon or on this Indenture against any member, officer or employee of the Issuer or any person executing the Subordinate Bonds.

**Section 12.4 Limited Liability of the Issuer.**

(a) Notwithstanding anything to the contrary contained herein or in any of the Subordinate Bonds, the Financing Documents, or in any other instrument or document executed by or on behalf of the Issuer in connection herewith, (i) the Issuer shall have no obligation to take action under the Subordinate Financing Agreement, this Indenture, the Subordinate Bonds or such other instruments or documents, unless the Issuer is reasonably requested in writing by an appropriate person to take such action and is provided with indemnity and assurances satisfactory to it of payment of or reimbursement for any indemnity to persons identified by the Issuer, and expenses (including attorneys' fees) in such action, (ii) neither the Issuer nor any director of the Issuer or any officer, employee, attorney or agent of the Issuer shall be personally liable to the Borrower, the Trustee, the holders of the Subordinate Bonds or any other person for any action taken by the Issuer or by its officers, agents or employees or for any failure to take action under this Indenture, the Subordinate Financing Agreement, the Subordinate Bonds or such other instruments or documents, except that the Issuer agrees to take, or to refrain from taking, any action if so required by an injunction or if required to comply with any final judgment for specific performance, and (iii) any judgment rendered against the Issuer for breach of its obligations under this Indenture, the Subordinate Financing Agreement, the Subordinate Bonds or such other instruments or documents, shall be payable solely from the revenues derived by the Issuer under the Subordinate Financing Agreement and this Indenture, and no personal liability or charge payable directly or indirectly from the general funds of the Issuer shall arise therefrom.

(b) No agreements or provisions contained in this Indenture nor any agreement, covenant or undertaking by the Issuer contained in any document executed by the Issuer in connection with the Project or the issuance, sale and delivery of the Subordinate Bonds shall give rise to any pecuniary liability of the Issuer or a charge against its general credit, or shall obligate the Issuer financially in any way except with respect to the application of revenues therefrom and the proceeds of the Subordinate Bonds. No failure of the Issuer to comply with any term, condition, covenant or agreement herein shall subject the Issuer, its incorporators, members, directors, officers, employees, agents and counsel to liability for any claim for damages, costs or other financial or pecuniary charge except to the extent that the same can be paid or recovered from the Subordinate Financing Agreement or revenues therefrom that have been pledged to payment of the

Subordinate Bonds or proceeds of the Subordinate Bonds. Nothing herein shall preclude a proper party in interest from seeking and obtaining, to the extent permitted by law, specific performance against the Issuer for any failure to comply with any term, condition, covenant or agreement herein; *provided*, that (i) prior to the official filing of any petition or complaint against the Issuer, provision shall have been made in a manner satisfactory to the Issuer, for payment of its costs and expenses relating to any such petition or complaint and (ii) no costs, expenses, damages or other monetary relief shall be recoverable from the Issuer or its officers, directors, employees, agent and counsel except as may be payable from the Subordinate Financing Agreement or revenues therefrom that have been pledged to payment of the Subordinate Bonds or the proceeds of the Subordinate Bonds.

(c) The Issuer shall be under no obligation to institute any suit or to take any remedial proceeding in the Event of a Default under this Indenture or to enter any appearance or in any way defend in any suit in which it may be made defendant, or to take any steps in the execution of any of the trusts hereby created or in the enforcement of any rights and powers hereunder, including, without limitation, its acceptance or possession of the Project or any component thereof, until it shall be indemnified to its satisfaction against any and all reasonable costs, expenses, outlays and reasonable counsel fees and other reasonable disbursements, and against all liability. The Issuer nevertheless may, in its sole discretion, but is not required to, begin suit, or appear in and defend suit, or do anything else in its judgment proper to be done by it as such Issuer, without indemnity, and in such case the Issuer shall be entitled to reimbursement from any money under this Indenture and, subject to the prior rights of the Trustee, shall be entitled to a preference therefor over any Subordinate Bonds Outstanding hereunder.

(d) The Issuer shall be entitled to advice of counsel concerning all matters under this Indenture and its duties under this Indenture, the other Financing Documents or Subordinate Mortgage. The Issuer may in all cases pay such reasonable compensation to such attorneys, agents and receivers and shall be entitled to reimbursement from the Borrower for all such compensation paid. The Issuer may act upon the opinion or advice of counsel, accountants, or such other professionals as the Issuer deems necessary and selected by it in the exercise of reasonable care. The Issuer shall not be responsible for any loss or damage resulting from any action or nonaction based on its good faith reliance upon such opinion or advice.

(e) The permissive right of the Issuer to do things enumerated in this Indenture or in the other Financing Documents or Subordinate Mortgage to which the Issuer is a party shall not be construed as duties until specifically undertaken by the Issuer. The Issuer shall only be responsible for the performance of the duties expressly set forth in this Indenture and in the other Financing Documents and Subordinate Mortgage to which it is a party and shall not be answerable for other than its willful misconduct in the performance of those express duties.

(f) The Issuer shall be protected in acting upon any Opinion of Counsel, notice, request, consent, direction, requisition, certificate, order, affidavit, letter, or other paper or document believed by it to be genuine and correct and to have been signed or sent by the proper person or persons and which is not contrary to the express terms of this Indenture, or the other Financing Documents or Subordinate Mortgage. Any action taken by the Issuer pursuant thereto upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the owner of any Subordinate Bond as shown on the Bond Register will be conclusive and binding upon all future owners or holders of the same Subordinate Bonds and upon Subordinate Bonds issued in exchange therefor or in place of such Subordinate Bonds.

**Section 12.5 Effective Date.** This Indenture shall take effect immediately upon its execution by the Issuer and the Trustee.



**Section 12.6 Notices, Demands and Requests.** All notices, demands and requests to be given **or** made under this Indenture to or by the Issuer, or the Trustee shall be in writing and shall be properly made if sent by Electronic Means, United States mail, postage prepaid, and addressed as follows:

Issuer: Housing Finance Authority of St. Johns County, Florida  
200 San Sebastian View, Suite 2300  
St. Augustine, FL 32084  
Attention: Executive Director

With a copy to: Bradley, Garrison & Komando, P.A.  
1845 East West Parkway, Suite 6  
Fleming Island, Florida 32003  
Attention: Rich Komando, Esq.  
Telephone: (904) 269-1111  
Email: rich@claylawyers.com

Trustee: U.S. Bank Trust Company, National Association  
500 West Cypress Creek Road, Suite 460  
Fort Lauderdale, FL 33309  
Attention: Scott A. Schuhle, Vice President  
Telephone: (954) 938-2476  
Email: [scott.schuhle@usbank.com](mailto:scott.schuhle@usbank.com)

To the Borrower Ponte Vedra Beach Leased Housing Associates I,  
LLLP  
c/o Dominion Development & Acquisition, LLC  
2905 Northwest Boulevard, Suite 150  
Plymouth, MN 55441  
Attention: Terry Sween  
Telephone: (404) 806-5851  
Email: tsween@dominiuminc.com

To the Investor Limited Partner: Alliant Credit Facility IV, LLC  
c/o Dominion Development & Acquisition, LLC  
2905 Northwest Boulevard, Suite 150  
Plymouth, MN 55441  
Attention: Terry Sween  
Telephone: (404) 806-5851  
Email: tsween@dominiuminc.com

The Issuer or the Trustee may change the address listed for it above at any time upon written notice of such change given by Electronic Means or sent by United States mail, postage prepaid, to the Issuer or the Trustee, as the case may be.

**Section 12.7 Counterparts.** This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 12.8 Senior Mortgage Loan Documents 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 and the provisions of the Senior Mortgage Loan Documents, the Senior 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 Senior Mortgage Loan Documents, as applicable.

(b) The Trustee and the Issuer agree that enforcement of the covenants in this Indenture will not result in, and neither the Issuer nor the Trustee has or shall be entitled to assert, any claim against the Borrower, the Project, any reserves or deposits required by Senior Mortgage Lender in connection with the Senior Mortgage Loan transaction, or the rents or deposits or other income of the Project other than “Surplus Cash.”

(c) In the event of an assignment or conveyance of the Senior Mortgage to the Senior Mortgage Lender or its designee, subsequent to the issuance of the Subordinate Bonds, all money remaining in all funds and accounts other than the Rebate Fund, and any other funds remaining under this Indenture after payment or provision for payment of debt service on the Subordinate Bonds and the fees and expenses of the Issuer, Trustee, and other such parties unrelated to the Borrower (other than funds originally deposited by the Borrower or related parties on or before the date of issuance of the Bonds) shall be returned to the Senior Mortgage Lender.

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

(e) The Issuer shall have no responsibility or liability for non-compliance with any provision of any document resulting from the controlling status of the Senior Mortgage Loan Documents.

[Remainder of page intentionally left blank; signature page follows]

**IN WITNESS WHEREOF**, the parties hereto have caused this Subordinate Trust Indenture to be executed in their respective names by duly authorized officers all as of the date first written above.

**HOUSING FINANCE AUTHORITY OF ST.  
JOHNS COUNTY, FLORIDA**

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

[SEAL]

Attest: \_\_\_\_\_

**U.S. BANK TRUST COMPANY,  
NATIONAL ASSOCIATION**, as trustee

By: \_\_\_\_\_  
Authorized Officer

**EXHIBIT A**

**FORM OF BOND**

No. RC-1

[\$2023C PAR]

THIS BOND IS SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND UNLESS THE ISSUER HAS GIVEN ITS WRITTEN CONSENT, MAY NOT BE REOFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT TO A PERSON WHO IS A QUALIFIED INSTITUTIONAL BUYER AS DEFINED IN RULE 144A PROMULGATED PURSUANT TO THE SECURITIES ACT OF 1933, AS AMENDED, WHICH HAS DELIVERED TO THE TRUSTEE AN INVESTOR LETTER SUBSTANTIALLY IN THE FORM ATTACHED HERETO AS EXHIBIT B TO THE INDENTURE. EACH PURCHASER HEREOF AGREES TO PROVIDE ADVANCE WRITTEN NOTICE OF THE RESTRICTION ON TRANSFERS TO ANY PROPOSED TRANSFEREE OF A BENEFICIAL OWNERSHIP INTEREST IN THE PURCHASED BOND.

**HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA  
SUBORDINATE HOUSING REVENUE BONDS  
(OAKS AT ST. JOHN), SUBORDINATE SERIES 2023C**

Interest Rate  
[4.00]%

Maturity Date  
\_\_\_\_\_, 20\_\_

Dated Date  
December \_\_, 2023

REGISTERED OWNER: [\_\_\_\_\_]

ORIGINAL PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS AND NO CENTS  
([\$2023C PAR])

**Payments of principal of this Bond may be made without presentation and surrender hereof. Therefore, the principal amount owing on this Bond may be less than the principal amount stated above. The Registered Owner should contact the Trustee, named herein, as registrar of this Bond regarding the principal amount owing on this Bond, which shall, in all cases, be determined in accordance with the books and records maintained by the Trustee for the Issuer.**

Reference is made to the hereinafter defined Indenture. Undefined capitalized terms used herein shall have the meanings assigned to such terms in the Indenture (as defined herein).

The **HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA** (the "Issuer"), a public body corporate and politic duly created, organized and existing under the laws of the State of Florida, for value received, hereby promises to pay in lawful money of the United States of America (but only out of the sources hereinafter described), to the registered owner identified above or registered assigns, on the Maturity Date identified above (subject to any right of prior redemption hereinafter mentioned), the Principal Amount identified above in lawful money of the United States of America; and to pay interest thereon (computed on the basis of a 360-day year of twelve 30-day months) in like money on each Interest Payment Date (as defined in the Indenture described below) thereafter until the Maturity Date specified above or upon earlier redemption or acceleration. Payments shall be made hereunder only to the extent of Surplus Revenues (as defined in the hereinafter defined Indenture) available for such payments. Failure to make any such payment shall not constitute a default hereunder unless Surplus Revenues are then available to make such payment. Except as set forth in the Indenture, principal of and interest on this Bond

are payable on behalf of the Issuer by U.S. Bank Trust Company, National Association (the "Trustee") by the transfer of immediately available funds to the account specified by the Registered Owner to the Trustee.

THE SUBORDINATE BONDS (HEREINAFTER DEFINED) AND THE INTEREST THEREON ARE LIMITED OBLIGATIONS OF THE ISSUER, PAYABLE SOLELY FROM THE TRUST ESTATE PLEDGED THEREFOR UNDER THE INDENTURE. NONE OF THE STATE, THE COUNTY, NOR ANY OTHER POLITICAL SUBDIVISION OR BODY CORPORATE AND POLITIC, OR AGENCY, OF THE STATE, THE COUNTY OR THE ISSUER (EXCEPT TO THE LIMITED EXTENT PROVIDED HEREIN) SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE SUBORDINATE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER OF THE ISSUER, AND NEITHER THIS BOND NOR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF THE STATE, THE COUNTY, OR ANY OTHER POLITICAL SUBDIVISION OR BODY CORPORATE AND POLITIC OF THE STATE, THE COUNTY OR THE ISSUER (EXCEPT TO THE LIMITED EXTENT PROVIDED HEREIN), WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER.

NO DIRECTOR, OFFICER, AGENT, EMPLOYEE OR ATTORNEY OF THE ISSUER, INCLUDING ANY PERSON EXECUTING THE INDENTURE OR THE SUBORDINATE BONDS, SHALL BE LIABLE PERSONALLY ON THE SUBORDINATE BONDS OR FOR ANY REASON RELATING TO THE ISSUANCE OF THE SUBORDINATE BONDS. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THE SUBORDINATE BONDS, OR FOR ANY CLAIM BASED ON THE SUBORDINATE BONDS, OR OTHERWISE IN RESPECT OF THE SUBORDINATE BONDS, OR BASED ON OR IN RESPECT OF THE INDENTURE OR ANY SUPPLEMENTAL INDENTURE, AGAINST ANY DIRECTOR, OFFICER, EMPLOYEE OR AGENT, AS SUCH, OF THE ISSUER OR ANY SUCCESSOR, WHETHER BY VIRTUE OF ANY CONSTITUTION, STATUTE OR RULE OF LAW, OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, ALL SUCH LIABILITY BEING, BY THE ACCEPTANCE OF THIS BOND AND AS PART OF THE CONSIDERATION FOR THE ISSUE OF THE SUBORDINATE BONDS, EXPRESSLY WAIVED AND RELEASED.

NEITHER THE DIRECTORS OF THE ISSUER NOR ANY PERSON EXECUTING THE SUBORDINATE BONDS SHALL BE LIABLE PERSONALLY ON THE SUBORDINATE BONDS BY REASON OF THE ISSUANCE THEREOF. THE SUBORDINATE BONDS AND OTHER OBLIGATIONS OF THE ISSUER SHALL NOT BE A DEBT OF THE COUNTY, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) AND NEITHER THE COUNTY, NOR THE STATE OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) SHALL BE LIABLE THEREON, NOR IN ANY EVENT SHALL SUCH BONDS OR OBLIGATIONS BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN THOSE OF THE ISSUER. THE SUBORDINATE BONDS SHALL NOT CONSTITUTE AN INDEBTEDNESS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION.

No recourse under or upon any obligation, covenant or agreement contained in the Financing Documents or the Subordinate Mortgage, or under any judgment obtained against the Issuer, or the enforcement of any assessment, or any legal or equitable proceedings by virtue of any constitution or statute or otherwise, or under any circumstances under or independent of the Indenture, shall be had against any director, officer, employee, agent or attorney, past, present or future of the Issuer, either directly or through the Issuer or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to the Owner of any Bond issued under the Indenture, or otherwise, of any sum that may be due and unpaid by the Issuer

upon any such Bond. Any and all personal liability of every nature whether at common law or in equity or by statute or by constitution or otherwise of any such director, officer, employee, agent or attorney, as such, to respond by reason of any act or omission on his part or otherwise, for the payment for or to the Owner of any Bond issued under the Indenture or otherwise of any sum that may remain due and unpaid upon the Subordinate Bonds thereby secured or any of them is, by the acceptance hereof, expressly waived and released as a condition of and in consideration for the execution of the Indenture and the issuance of the Subordinate Bonds.

The principal or redemption price hereof is payable only upon presentation and surrender hereof at the designated office of the Trustee, as defined and designated in the Indenture, and interest shall be paid by check mailed by first class mail by the Trustee on each Interest Payment Date to the person in whose name this Bond is registered on the applicable Record Date (as hereinafter defined), at the address of such registered owner shown on the books of the Trustee, except that such interest payment may be made to any holder holding 100% of the Subordinate Bonds, upon the written request of any such holder, by wire transfer of immediately available funds to an account designated by such holder at least 15 days before the Record Date therefor.

The principal of, the redemption premium (if any), and the interest on this Bond shall be payable in lawful money of the United States of America. The first payment of interest on this Bond shall be due on the initial Interest Payment Date. The interest to be paid on an Interest Payment Date shall be computed from the date through which interest was last paid on this Bond or, if interest has not previously been paid on this Bond, from the Dated Date specified above.

This Bond is one of the duly authorized bonds of the Issuer designated as the Housing Finance Authority of St. Johns County, Florida Multifamily Housing Revenue Bonds (Oaks at St. John), Subordinate Series 2023C (the "Subordinate Bonds"), limited in aggregate principal amount to \$[2023C PAR] issued pursuant to the Subordinate Trust Indenture, dated as of December 1, 2023 (the "Indenture"), by and between the Issuer and the Trustee and a resolution duly adopted by the governing body of the Issuer. This Bond is issued in accordance with the Constitution and laws of the State of Florida. The Subordinate Bonds are issuable as fully registered Bonds without coupons. Reference is hereby made to the Indenture for a description of the Trust Estate under the Indenture, the nature and extent of the security, the terms and conditions upon which the Subordinate Bonds are issued and secured and the rights of the holders thereof, to all of which the holder of this Bond, by acceptance hereof, accepts and agrees. The terms and provisions contained in the Indenture are hereby incorporated herein by reference, and the owner of this Bond, by purchase hereof, assents to all of such terms and provisions. All capitalized, undefined terms used herein will have the meanings ascribed to them in the Indenture.

The Subordinate Bonds will be used to finance a portion of the cost of the acquisition, rehabilitation and development of a certain multifamily housing Project (the "Project") more particularly described in the Subordinate Financing Agreement (herein defined).

The Subordinate Bonds are secured by a pledge of the Trust Estate, which will consist of the Issuer's right, title and interest in the Subordinate Financing Agreement, dated as of December 1, 2023 (the "Subordinate Financing Agreement"), to be entered into between the Issuer and Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the "Borrower"), and the Subordinate Note, except for the Issuer's Reserved Rights, together with all moneys and securities held from time to time in any of the funds and accounts established under the Indenture. This Bond, the interest hereon and the redemption premium (if any) are payable solely from moneys constituting a part of the Trust Estate and not from any other fund or source.

Pursuant to the Subordinate Financing Agreement, the Issuer will loan the proceeds of the sale of the Subordinate Bonds to the Borrower upon the terms, conditions and payments therein provided. The Borrower will be obligated under the Subordinate Financing Agreement to make loan payments (the “Loan Repayments”) consisting of an aggregate amount sufficient for the payment in full of the principal of, the redemption premium (if any) and the interest on the Subordinate Bonds when due, but only to the extent of Surplus Revenues. The Subordinate Financing Agreement will provide that the Borrower’s obligation to pay the Loan Repayments shall be a general obligation of the Borrower, payable only from Surplus Revenues, and shall not be abated, rebated, set-off, reduced, abrogated, waived, diminished or otherwise modified in any manner or to any extent whatsoever.

[Subordination language re: mortgage]

It is a condition of this Bond that the Borrower may pay any amount or all of the Loan Repayment at any Interest Payment Date, but no such prepayment of principal in any amount or any payment of interest shall be made except from Surplus Revenues as such term is defined, and in accordance with the conditions prescribed, in the Indenture.

Surplus Revenues (as defined in the Indenture, subject to the condition above) from the Project will be applied in the following order of priority: first, to pay interest on the Subordinate Bonds; second, to pay principal on the Subordinate Bonds all as set forth in the Indenture.

Reference is hereby made to the Indenture for the provisions, among others, with respect to the nature and extent of the rights, duties and obligations of the Issuer, the Trustee and the Registered Owner; the terms upon which the Bond is issued and secured; the collection and disposition of Revenues; the modification or amendment of the Indenture; and other matters, to all of which the Registered Owner of this Bond assents by the acceptance of this Bond.

Except as otherwise provided in the Indenture, the provisions of this Bond and the Indenture may not be modified without the consent of the Registered Owner.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been manually signed by the Trustee.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts and conditions required to be performed precedent to and in the issuance of this Bond have been performed in due time, form and manner as required by law, and that the issuance of this Bond does not exceed or violate any statutory debt limitation.

[Remainder of page intentionally left blank; signature page follows]

**IN WITNESS WHEREOF**, the Issuer has caused this Bond to be executed with the manual or facsimile signature of its Chair and its corporate seal or a facsimile thereof to be hereunto affixed and to be signed and attested manually or by facsimile by its \_\_\_\_\_, all as of December \_\_, 2023.

**HOUSING FINANCE AUTHORITY OF ST. JOHNS  
COUNTY, FLORIDA**

(SEAL)

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

Attested:

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

Its: \_\_\_\_\_



[Form of]

CERTIFICATE OF AUTHENTICATION

This is one of the HOUSING FINANCE AUTHORITY OF St. Johns COUNTY, FLORIDA's Subordinate Housing Revenue Bonds, Subordinate (Oaks at St. John) described in the within-mentioned Indenture and has been registered on this date: \_\_\_\_\_

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

By: \_\_\_\_\_  
Authorized Signatory

ASSIGNMENT

FOR VALUE RECEIVED, \_\_\_\_\_, the undersigned sells, assigns and transfers unto:

---

(Social Security or Other Identifying Number of Assignee)

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(Please Print or Typewrite Name and Address of Assignee)

the within Bond of the HOUSING FINANCE AUTHORITY OF St. Johns COUNTY, FLORIDA and hereby irrevocably constitutes and appoints

\_\_\_\_\_, attorney to transfer the said Bond on the books kept for registration thereof, with full power of substitution in the premises.

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

SIGNATURE GUARANTEED:

Signature: \_\_\_\_\_

NOTICE: The signature on this assignment must correspond with the name(s) of the Registered owner as it appears upon the face of the within Bond in every particular without alteration or enlargement or any change whatsoever.

\_\_\_\_\_

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

## EXHIBIT B

### FORM OF INVESTOR LETTER

[Date]

Re: [\$Amount] Housing Finance Authority of St. Johns County, Florida Subordinate Housing Revenue Bonds (Oaks at St. John), Subordinate Series 2023C

Ladies and Gentlemen:

The undersigned (the “Investor”) hereby acknowledges receipt of the above-referenced bonds (the “Subordinate Bonds”), dated [December \_\_, 2023] and bearing interest from the date thereof, in fully registered form and in the aggregate principal amount of \$[2023C PAR].

The undersigned acknowledges that the Subordinate Bonds were issued pursuant to and are secured by the Subordinate Trust Indenture dated as of December 1, 2023 (the “Indenture”), between the Housing Finance Authority of St. Johns County, Florida (the “Issuer”) and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”), which creates a security interest in the Trust Estate for the benefit of the holders and owners of the Subordinate Bonds, for the purpose of making a loan to assist in the financing of the acquisition and rehabilitation of a certain multifamily residential rental apartment project known as Oaks at St. John Apartments (the “Project”), as more particularly described in that certain Subordinate Financing Agreement, dated as of December 1, 2023 (the “Subordinate Financing Agreement”), between the Issuer and Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “Borrower”).

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

1. The undersigned is purchasing \$[2023C PAR] aggregate principal amount of the Subordinate Bonds, which have been issued and delivered on the date of this Letter.

2. The undersigned is a “qualified institutional buyer” as defined under Rule 144A promulgated by the Securities and Exchange Commission pursuant to the Securities Act of 1933 (the “Securities Act”).

3. The undersigned is purchasing the Subordinate Bonds for investment, with no present intention of reselling the Subordinate Bonds. Notwithstanding such present intention, the undersigned is not prohibited from reselling the Subordinate Bonds in the future; provided, however, that the undersigned acknowledges that the Subordinate Bonds may only be resold or transferred to other purchasers who are qualified institutional buyers, and only in authorized denominations of [\$250,000 and integral multiples of \$5,000] in excess thereof. The undersigned further acknowledges that any transfer of its interest in the Subordinate Bonds will be made only in compliance with the requirements of any applicable securities laws, state and federal.

4. The undersigned acknowledges and accepts the following:

THE SUBORDINATE BONDS AND THE INTEREST THEREON ARE LIMITED OBLIGATIONS OF THE ISSUER, PAYABLE SOLELY FROM THE TRUST ESTATE PLEDGED THEREFOR UNDER THE INDENTURE. NONE OF THE STATE, THE COUNTY, NOR ANY OTHER POLITICAL SUBDIVISION OR BODY CORPORATE AND POLITIC, OR AGENCY, OF THE STATE, THE COUNTY OR THE ISSUER (EXCEPT TO THE LIMITED EXTENT PROVIDED HEREIN) SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE SUBORDINATE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER OF THE ISSUER, AND NEITHER THE SUBORDINATE BONDS NOR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF THE STATE, THE COUNTY, OR ANY OTHER POLITICAL SUBDIVISION OR BODY CORPORATE AND POLITIC OF THE STATE, THE COUNTY OR THE ISSUER (EXCEPT TO THE LIMITED EXTENT PROVIDED HEREIN), WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER.

NO DIRECTOR, OFFICER, AGENT, EMPLOYEE OR ATTORNEY OF THE ISSUER, INCLUDING ANY PERSON EXECUTING THE INDENTURE OR THE SUBORDINATE BONDS, SHALL BE LIABLE PERSONALLY ON THE SUBORDINATE BONDS OR FOR ANY REASON RELATING TO THE ISSUANCE OF THE SUBORDINATE BONDS. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THE SUBORDINATE BONDS, OR FOR ANY CLAIM BASED ON THE SUBORDINATE BONDS, OR OTHERWISE IN RESPECT OF THE SUBORDINATE BONDS, OR BASED ON OR IN RESPECT OF THE INDENTURE OR ANY SUPPLEMENTAL INDENTURE, AGAINST ANY DIRECTOR, OFFICER, EMPLOYEE OR AGENT, AS SUCH, OF THE ISSUER OR ANY SUCCESSOR, WHETHER BY VIRTUE OF ANY CONSTITUTION, STATUTE OR RULE OF LAW, OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, ALL SUCH LIABILITY BEING, BY THE ACCEPTANCE OF THE SUBORDINATE BONDS AND AS PART OF THE CONSIDERATION FOR THE ISSUE OF THE SUBORDINATE BONDS, EXPRESSLY WAIVED AND RELEASED.

NEITHER THE DIRECTORS OF THE ISSUER NOR ANY PERSON EXECUTING THE SUBORDINATE BONDS SHALL BE LIABLE PERSONALLY ON THE BONDS BY REASON OF THE ISSUANCE THEREOF. THE SUBORDINATE BONDS AND OTHER OBLIGATIONS OF THE ISSUER SHALL NOT BE A DEBT OF THE COUNTY, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) AND NEITHER THE COUNTY, NOR THE STATE OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) SHALL BE LIABLE THEREON, NOR IN ANY EVENT SHALL SUCH SUBORDINATE BONDS OR OBLIGATIONS BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN THOSE OF THE ISSUER. THE SUBORDINATE BONDS SHALL NOT CONSTITUTE AN INDEBTEDNESS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION.

5. The undersigned acknowledges and accepts that it has reviewed and has made its decision to invest in the Subordinate Bonds based solely on its review of the information provided by the parties that supplied such information. The undersigned represents that it can bear the economic risk associated with a purchase of Subordinate Bonds and it has such

knowledge and experience in business and financial matters, including the analysis of a participation in the purchase of similar investments, so as to be capable of evaluating the merits and risks of an investment in the Subordinate Bonds on the basis of the information and review described herein.

6. The undersigned acknowledges that the Subordinate Bonds have not been registered with the Securities and Exchange Commission (in reliance upon an exemption from the Securities Act of 1933, as amended), have not been registered under the “blue sky” laws of any State, and will not be listed on any stock or securities exchange. The undersigned further acknowledges that the Subordinate Financing Agreement and the Indenture have not been qualified under the Trust Indenture Act of 1933, as amended, in reliance upon exemptions contained in such Act.

7. The undersigned is duly and legally authorized to purchase obligations such as the Subordinate Bonds.

This letter and the statements contained herein are made for your benefit.

Capitalized terms used herein and not otherwise defined have the meanings given such terms in the Indenture.

IN WITNESS WHEREOF, the undersigned has executed this letter effective as of the \_\_\_ day of December, 2023.

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

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

**EXHIBIT F**  
**SERIES 2023C FINANCING AGREEMENT**  
**(see attached)**



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**SUBORDINATE FINANCING AGREEMENT**

**BY AND BETWEEN**

**HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA**

**as Issuer**

**and**

**PONTE VEDRA BEACH LEASED HOUSING ASSOCIATES I, LLLP,**

**as Borrower**

**Relating to the Issuer's:**

**§[2023C PAR]**

**Multifamily Housing Revenue Bonds, Subordinate Series 2023C**

**(Oaks at St. John)**

**Dated as of December 1, 2023**

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Except for certain of the Issuer's Reserved Rights (herein defined), the interest of the Housing Finance Authority of St. Johns County, Florida (the "Issuer") in this Subordinate Financing Agreement has been pledged and assigned to U.S. Bank Trust Company, National Association, as subordinate trustee (the "Subordinate Trustee"), pursuant to a Subordinate Trust Indenture, dated as of December 1, 2023, between the Issuer and the Trustee.

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## **SUBORDINATE FINANCING AGREEMENT**

**THIS SUBORDINATE FINANCING AGREEMENT** (this “Subordinate Financing Agreement”) is made and entered into as of the 1st day of December, 2023, between the **HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA**, a public body corporate and politic duly organized and existing under the laws of the State of Florida (the “State”) (together with its successors and assigns, the “Issuer”), and **PONTE VEDRA BEACH LEASED HOUSING ASSOCIATES I, LLLP**, a Minnesota limited liability limited partnership (together with its successors and assigns, the “Borrower”).

### **RECITALS:**

**WHEREAS**, the Legislature of the State of Florida (the “State”) has enacted the Florida Housing Finance Authority Law, Sections 159.601 et seq., Florida Statutes, as amended (the “Act”), pursuant to which the State has empowered each county in the State to create by ordinance a separate public body corporate and politic, to be known as a housing finance authority of the county for which it was created, for the purpose of alleviating a shortage of housing and creating capital for investment in housing in the area of operation of such housing finance authority; and

**WHEREAS**, pursuant to the Act, the Board of County Commissioners of St. Johns County, Florida (the “County”), enacted Ordinance No. 80-7 on February 26, 1980, as amended, and Ordinance 80-25 on March 11, 1980, as amended, creating the Housing Finance Authority of St. Johns County, Florida to carry out and exercise all powers and public and governmental functions set forth in and contemplated by the Act; and

**WHEREAS**, the Act authorizes the Issuer: (a) to make loans to any person, or to purchase loans, including federally insured mortgage loans, in order to provide financing for residential rental developments located within the Issuer’s area of operation, which are to be occupied by persons of low, moderate or middle income; (b) to issue its revenue bonds pursuant to the Act, for the purpose of obtaining money to make or to purchase such loans and provide such financing, to establish necessary reserve funds and to pay administrative costs and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, and receipts to be received by the Issuer from or in connection with such loans, and to mortgage, pledge or grant security interests in such loans in order to secure the payment of the principal or redemption price of and interest on such bonds

**WHEREAS**, Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership duly organized and existing under the laws of the State of Minnesota (the “Borrower”), has applied to the Issuer for financial assistance for the purpose of providing all or part of the funds with which to pay the cost of the acquisition, rehabilitation and equipping of a multifamily rental housing development known as Oaks at St. John, consisting of approximately 160 units, on an approximately 23.93-acre site located at 210 Nettles Lane, Ponte Vedra Beach, Florida 32081 in an unincorporated area of St. Johns County, Florida (the “Project”) and to pay certain costs of issuance related to the Bonds;

**WHEREAS**, in conjunction with the Borrower’s acquiring and rehabilitating the Project, the Issuer as approved and authorized the issuance of its Multifamily Housing Revenue Bonds

(Oaks at St. John), Series 2023C, in the original aggregate principal amount of \$[2023C PAR] (the “Subordinate Bonds”), pursuant the Trust Indenture dated as of December 1, 2023 (the “Subordinate Indenture”), by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “Subordinate Bond Trustee”), in order to make one or more loans to the Borrower (the “Subordinate Loan”) pursuant to this Subordinate Financing Agreement in the aggregate principal amount of the proceeds of the Subordinate Bonds to the Borrower to provide financing for the Project and, in particular, evidence the Borrower’s obligation with respect to the unpaid consideration for the transfer of the real property interest in the Project to the Borrower by the Original Purchasers (defined herein) of the Subordinate Bonds;

**WHEREAS**, the Subordinate Loan will be evidenced by this Subordinate Financing Agreement and a subordinate surplus cash promissory note (the “Subordinate Note”) delivered by the Borrower to the Subordinate Bond Trustee for the benefit of the owners of the Subordinate Bonds;

**WHEREAS**, simultaneously with the issuance of the Subordinate Bonds, the Issuer is issuing its (i) Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023A, in the original aggregate principal amount of \$[2023A PAR] (the “Series 2023A Bonds”), pursuant the Trust Indenture dated as of December 1, 2023 (the “Series 2023A Indenture”), by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”), and its (ii) Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023B, in the original aggregate principal amount of \$[2023B PAR] (the “Series 2023B Bonds”), pursuant to the Trust Indenture, dated as of December 1, 2023 (the “Series 2023B Indenture”), by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee (in such capacity, the “Senior Trustee”), the proceeds of which will be used to make a loan to the Borrower to finance in part the cost of the Project (the “Series 2023B Loan”);

**WHEREAS**, also simultaneously with the issuance of the Subordinate Bonds, Colliers Mortgage LLC is making a loan to the Borrower (the “Senior Mortgage Loan”), pursuant to the Multifamily Loan and Security Agreement dated [\_\_\_], 2023] by and between Borrower and Senior Mortgage Lender (hereinafter defined), pursuant to which the Borrower will execute and deliver the Senior Mortgage (hereinafter defined);

**WHEREAS**, the Subordinate Bonds are to be issued and delivered on the Closing Date and sold by the Issuer to Gainesville Leased Housing Associates (TIC-I) III, LLC, Gainesville Leased Housing Associates (TIC-II) III, LLC and Gainesville Leased Housing Associates (TIC-III) III, LLC, each a Minnesota limited liability company authorized to conduct business in the State (collectively, the “Original Purchasers”);

**WHEREAS**, the proceeds of the Subordinate Bonds will be used by the Borrower to finance a portion of the costs of the Project;

**WHEREAS**, the Issuer and the Borrower have executed and delivered the Subordinate Financing Agreement pursuant to which the Borrower agrees (a) to use the proceeds of the Subordinate Bonds for the acquisition and rehabilitation of the Project; (b) to make Loan Repayments in an amount sufficient to pay the principal of and interest due on the Subordinate Bonds; and (c) to pay all required fees associated with the Subordinate Bonds;

**WHEREAS**, the Issuer, U.S. Bank Trust Company, National Association (in its capacities as Subordinate Trustee and Senior Trustee) and the Borrower have executed and delivered a Land Use Restriction Agreement, dated as of December 1, 2023 (the “Regulatory Agreement”), pursuant to which the Borrower has agreed to use and operate the Project in accordance with the requirements of Sections 142(d) and 145(d) of the Code;

**WHEREAS**, the Subordinate Bonds will be payable from Surplus Revenues (as defined in the Subordinate Indenture) and such other funds and investments proceeds thereof held by the Subordinate Trustee under the Subordinate Indenture;

**WHEREAS**, to secure the payment of all of the principal and premium, if any, of and interest on the Subordinate Bonds, the Issuer has assigned (except for the Issuer’s Reserved Rights) its rights, title and interests in, and delegated its duties under, the Subordinate Financing Agreement, without recourse, to the Subordinate Trustee;

**WHEREAS**, it is intended that any obligation of the Borrower with respect to the repayment of the Senior Loan be senior to any obligation of the Borrower with respect to the repayment of the Subordinate Loan;

**WHEREAS**, in order to provide for the authentication and delivery of the Subordinate Bonds, to establish and declare the terms and conditions upon which the Subordinate Bonds are to be issued and secured and to secure the payment of the principal thereof and of the interest and premium, if any, thereon, the Issuer has authorized the execution and delivery of the Subordinate Indenture and this Subordinate Financing Agreement; and

**WHEREAS**, all acts and proceedings required by law necessary to make the Subordinate Bonds, when executed by the Issuer, authenticated and delivered by the Subordinate Trustee and duly issued, the valid, binding and legal limited obligations of the Issuer, and to constitute the Subordinate Indenture and this Subordinate Financing Agreement valid and binding agreements for the uses and purposes therein and herein set forth, in accordance with their respective terms, have been done and taken, and the execution and delivery of the Subordinate Indenture and this Subordinate Financing Agreement have been in all respects duly authorized; and

**WHEREAS**, the Borrower will execute and deliver to the Issuer a Subordinate Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Rents and Leases dated as of December 1, 2023 (the “Subordinate Mortgage”) by and between the Borrower and Issuer, as assigned to the Trustee pursuant to that certain Assignment of Subordinate Mortgage and Subordinate Loan Documents, dated as of December 1, 2023 (the “Assignment”) to secure the Subordinate Note;

**NOW, THEREFORE**, in consideration of the mutual agreements hereinafter contained, the parties agree as follows:

**ARTICLE I.  
DEFINITIONS AND INTERPRETATION**

Section 1.01 Definitions. Unless the context otherwise requires, defined terms in the Recitals and elsewhere herein, and in any agreement supplemental hereto, shall have the meanings

herein specified below, or in the Subordinate Indenture, as applicable, such definitions to be equally applicable to both the singular and plural forms of any of the terms defined:

“Additional Payments” means the payments made or to be made by the Borrower pursuant to Section 5.02.

“Annual Issuer’s Fee” shall have the meaning set forth in the Subordinate Indenture.

“Assignment of Subordinate Mortgage” means the Assignment of Subordinate Mortgage and Loan Documents, dated December 1, 2023, by and between the Issuer and the Trustee, pursuant to which the Issuer will assigned to Subordinate Mortgage to the Trustee.

“Authorized Officer” shall have the meaning set forth in the Subordinate Indenture.

“Authorizing Resolution” means the resolution adopted by the Board of the Issuer on November 16, 2023 authorizing the issuance and sale of the Subordinate Bonds and the Senior Bonds, as the same may be amended, modified or supplemented by any amendments or modifications thereof.

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

“Bond Counsel” means Butler Snow LLP.

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

“Borrower” means Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership, and its successors and assigns.

“Borrower Documents” means this Subordinate Financing Agreement, the Subordinate Note, the Subordinate Mortgage, the Subordination Agreement and the Regulatory Agreement.

“Business Day” shall mean any day (a) on which banks in the State of New York or in the cities in which the applicable corporate trust offices of the Subordinate Trustee are located are not required or authorized by law to be closed and (b) on which the New York Stock Exchange is open.

“Certificate” means a certification in writing required or permitted of Borrower by the provisions of this Subordinate Financing Agreement or the other Subordinate Financing Documents, signed and delivered to the Subordinate Trustee or other proper person or persons. If and to the extent required by the provisions hereof, each Certificate shall include the statements provided for in Section 1.02.

“Closing Date” means December \_\_, 2023, the date of issuance and initial delivery of the Subordinate Bonds to the Subordinate Trustee as provided in Section 3.01 hereof.

“Code” shall mean the Internal Revenue Code of 1986, as amended.

“Computation Date” means the end of the fifth Bonds Year, every fifth anniversary thereafter, and the date on which all principal of and interest on the Subordinate Bonds are finally paid.

“Default” means default in the performance or observance of any of the covenants, agreements or conditions on the part of the Borrower contained in the Subordinate Bonds, this Subordinate Financing Agreement or any of the other Subordinate Financing Documents, exclusive of any notice or period of grace required for a default to constitute an “Event of Default” as hereinafter provided.

“Event of Default” means an Event of Default described in Section 8.01 hereof, which has not been cured after the expiration of any applicable grace period.

“General Partner” means Ponte Vedra Leased Housing Associates I, LLC, a Minnesota limited liability company, and its permitted successors and assigns.

“Holder” or “Bondholder” or “Owner” means the person or persons in whose name the Subordinate Bonds shall be registered.

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

“Independent Counsel” means an Independent attorney duly admitted to practice law before the highest court of any state.

“Issuer Documents” means , collectively, the Bonds, this Subordinate Financing Agreement, the Indenture, the Bond Purchase Agreement, the Note, the Regulatory Agreement, the Issuer Servicer Agreement, the Issuer Guaranty Documents, the Compliance Monitoring Agreement, the Tax Certificate, and any other agreement, certificate, contract, or instrument to be executed by the Issuer in connection with the issuance of the Bonds or the financing of a portion of the expense associated with the Project.

“Issuer Indemnified Party” or “Issuer Indemnified Parties” shall have the meaning set forth in the Subordinate Indenture.

“Issuer’s Fees and Expenses” shall have the meaning set forth in the Subordinate Indenture.

“Issuer Reserved Rights” shall have the meaning set forth in the Subordinate Indenture.

“Land” means the Land described in Exhibit B attached hereto, constituting the site on which the Project Buildings are located.



“Loan Repayments” means the payments made or to be made by the Borrower pursuant to Section 5.01.

“Mortgaged Property” shall have the meaning ascribed thereto in the Subordinate Mortgage.

“Opinion of Counsel” means a written opinion of counsel (who need not be Independent counsel unless so specified) appointed by the Borrower and the Issuer. If and to the extent required by the provisions of Section 1.02 hereof, each Opinion of Counsel shall include the statements provided for in said Section 1.02.

“Original Purchasers” means Gainesville Leased Housing Associates (TIC-I) III, LLC, Gainesville Leased Housing Associates (TIC-II) III, LLC and Gainesville Leased Housing Associates (TIC-III) III, LLC, each a Minnesota limited liability company.

“Outstanding” when used as of any particular time with reference to the Subordinate Bonds, means the then outstanding principal balance of the Subordinate Bonds theretofore executed and delivered under the Authorizing Resolution, but excepting any Subordinate Bonds in lieu of or in substitution for which another Subordinate Bonds shall have been executed and delivered pursuant to the terms of the Authorizing Resolution.

“Person” means any natural person, corporation, joint venture, cooperative, partnership, trust or unincorporated organization, government or governmental body or agency, political subdivision or other legal entity, as in the context may be appropriate.

“Project” means the Project described in Section 1.03 hereof

“Project Buildings” means the buildings, the real property interest in which will be acquired and owned by the Borrower.

“Project Facilities” means the Project Buildings and the Land.

“Rebate Amount” means, with respect to a Rebate Payment Date, the amount which would be required to be paid as rebate with respect to the Subordinate Bonds under Section 148(f) on the Code if the Subordinate Bonds were finally paid on the related Computation Date.

“Rebate Payment Date” means each date on which any Rebate Amount then due is paid to the United States of America pursuant to Section 148(f) of the Code.

“Redeem” or “redemption” means and includes “prepay” or “prepayment” as the case may be.

“Regulatory Agreement” shall have the meaning set forth in the Subordinate Indenture.

“Regulations” and all references thereto, shall mean and include applicable final, proposed and temporary United States Treasury Regulations promulgated with respect to Sections 103 and 141 through 150 of the Code, including all amendments thereto made hereafter.

“Senior Loan Agreement” means the Multifamily Loan and Security Agreement dated [\_\_\_\_\_, 2023] by and between Borrower and Senior Mortgage Lender.

“Senior Mortgage” shall mean the Multifamily Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated [\_\_\_\_\_, 2023] from Borrower to Senior Mortgage Lender.

“Senior Mortgage Lender” shall mean Colliers Mortgage LLC, a Delaware limited liability company, and its successors and assigns.

“Senior Mortgage Loan” shall mean the loan evidenced by the Multifamily Note from Borrower to Senior Mortgage Lender and secured by the Senior Mortgage Loan Documents.

“Senior Mortgage Loan Documents” shall mean all documents and agreements executed in connection with the Senior Mortgage Loan, as such documents may be amended or supplemented from time to time.

“Subordinate Financing Agreement” means this Subordinate Financing Agreement, dated as of December 1, 2023, between the Issuer and the Borrower, as amended or supplemented from time to time.

“Subordinate Financing Documents” means the Issuer Documents and the Borrower Documents.

“Subordinate Loan” means the loan from the Issuer to the Borrower made pursuant to this Financing Agreement.

“Subordinate Mortgage” means the Subordinate Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Rents and Leases dated as of December 1, 2023, by and between the Borrower and Issuer, and assigned to the Trustee pursuant to that certain Assignment of Subordinate Mortgage.

“Subordinate Note” means the promissory note delivered by the Borrower to the Subordinate Bond Trustee for the benefit of the owners of the Subordinate Bonds.

“Subordination Agreement” means the Subordination Agreement, dated as of the Closing Date, between the Issuer, Trustee, Borrower and Senior Mortgage Lender.

“Surplus Revenues” shall have the meaning ascribed to them in the Subordinate Indenture.

“Tax Certificate” means the Non-Arbitrage Certificate and Tax Compliance Agreement entered into between the Borrower and the Issuer on the Closing Date concerning the Senior Bonds and the Subordinate Bonds.

Capitalized terms not otherwise defined herein shall have the meanings given them in the Issuer Documents.

Section 1.02 Characteristics of Certificate or Opinion. Every Certificate or opinion with respect to compliance with a condition or covenant provided for in this Subordinate Financing Agreement or the other Subordinate Financing Documents shall include: (a) a statement that the person or persons making such Certificate or opinion have read such covenant or condition and the definitions herein relating thereto; (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such Certificate or opinion are based; (c) a statement that, in the opinion of the signers, they have made or caused to be made such examination or investigation as is necessary to enable them to express an informed opinion as to whether or not such covenant or condition has been complied with; and (d) a statement as to whether, in the opinion of the signers, such condition or covenant has been complied with.

Any such Certificate made or given by an officer of the Borrower or the Issuer may be based, insofar as it relates to legal matters, upon an opinion of counsel, unless such officer knows that the opinion with respect to the matters upon which his certificate or opinion may be based as aforesaid are erroneous, or, in the exercise of reasonable care, should have known that the same were erroneous. Any such opinion made or given by counsel may be based (insofar as it relates to factual matters or information which is in the possession of the Issuer or the Borrower) upon the certificate or opinion of or representations by an officer of the Borrower or the Issuer, unless such counsel knows that the Certificate or opinion or representations with respect to the matters upon which the opinion may be based as aforesaid are erroneous, or, in the exercise of reasonable care, should have known that the same were erroneous.

Section 1.03 Description of Project. The term “Project” refers to the acquisition and rehabilitation of an existing multifamily housing facility located in St. Johns County, Florida which will be owned by the Borrower.

Section 1.04 Additional Provisions as to Interpretation. All references herein to “Articles”, “Sections” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Subordinate Financing Agreement; and the words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Subordinate Financing Agreement as a whole and not any particular Article, Section or subdivision hereof.

Any terms defined in any other Subordinate Financing Document but not defined herein shall have the same meaning herein unless the context hereof clearly requires otherwise.

Section 1.05 Additional Rules of Construction. For all purposes of this Subordinate Financing Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following additional rules of construction shall apply:

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

(b) All references in this Subordinate Financing Agreement to “counsel fees,” “attorneys’ fees” or the like mean and include fees and disbursements allocable to in-house or

outside counsel, whether or not suit is instituted, and including fees and disbursements preparatory to and during any proceedings of a governmental or regulatory body, judicial or administrative hearing, trial and appeal and in any bankruptcy or arbitration proceedings.

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

(d) All approvals, consents and acceptances required to be given or made by any person or party hereunder shall be at the reasonable discretion of the party whose approval, consent or acceptance is required except to the extent otherwise specified herein.

(e) For purposes hereof, the Issuer shall not be deemed to have knowledge of any fact or the occurrence of any event unless and until its Authorized Officer has written notice thereof or actual knowledge thereof.

(f) Whenever the Issuer is named or referred to, it shall be deemed to include its successors and assigns whether so expressed or not. All of the covenants, stipulations, obligations, and agreements by or on behalf of, and other provisions for the benefit of, the Issuer contained in this Subordinate Financing Agreement shall bind and inure to the benefit of such successors and assigns and shall bind and inure to the benefit of any officer, board, commission, issuer, agency or instrumentality to whom or to which there shall be transferred by or in accordance with law any right, power or duty of the Issuer, or of its successors or assigns, the possession of which is necessary or appropriate in order to comply with any such covenants, stipulations, obligations, agreements or other provisions hereof.

## **ARTICLE II. REPRESENTATIONS**

Section 2.01 Representations by the Issuer. The Issuer makes the following representations as the basis for its undertakings herein:

(a) It is a public body corporate and a political subdivision of the State and has full legal right, power and authority (i) to enter into this Subordinate Financing Agreement; (ii) to adopt the Authorizing Resolution and cause the delivery of the Subordinate Bonds pursuant to the Act, the Subordinate Indenture and this Subordinate Financing Agreement as provided herein; (iii) to loan the proceeds of the Subordinate Bonds to the Borrower for the purpose set forth in this Subordinate Financing Agreement; and (iv) to carry out and consummate the transactions contemplated by the Issuer Documents.

(b) The Issuer, with respect to the Subordinate Bonds, as advised by Bond Counsel, has complied, and will at the Closing Date be in compliance in all material respects with the Issuer Documents and the relevant laws of the State;

(c) (i) At or prior to the Closing Date, the Issuer will have taken all action required to be taken by it to authorize the issuance and sale of the Subordinate Bonds and the performance of its obligations under the Issuer Documents; (ii) the Issuer has full legal right, power and authority to enter into the Issuer Documents, will have full legal right, power and authority to deliver the Subordinate Bonds to the Holder and to perform its obligations hereunder as provided

in this Subordinate Financing Agreement, the Subordinate Bonds and the other Issuer Documents, and all other documents to be executed by the Issuer in accordance with the issuance of the Subordinate Bonds, and to carry out and effectuate the transactions contemplated by this Subordinate Financing Agreement and the other Issuer Documents; (iii) on or prior to the Closing Date, the execution and delivery of, and the performance by the Issuer of the obligations contained in the Subordinate Bonds, this Subordinate Financing Agreement and the other Issuer Documents shall have been duly authorized, and when executed this Subordinate Financing Agreement, and the other Issuer Documents will constitute valid and legally binding limited obligations of the Issuer enforceable against the Issuer in accordance with their respective terms, subject to any applicable bankruptcy, insolvency, reorganization or similar laws affecting the enforcement of creditors' rights generally and the application of equitable principles where equitable remedies are sought and limitations on the enforcement of judgments against public bodies; (iv) the Issuer has duly authorized the consummation by it of all transactions contemplated by this Subordinate Financing Agreement; and (v) the Issuer Documents have been duly and validly adopted by the Issuer and are at the time of acceptance hereof in full force and effect;

(d) The Issuer, with respect to the Subordinate Bonds, has not received notice that it is in material breach of or default under any applicable law or administrative regulation of the State, any department, division, agency or instrumentality thereof, or the United States or any applicable judgment or decree or any loan agreement, note, resolution, certificate, agreement or other instrument to which the Issuer is a party or is otherwise subject; and the adoption of the Authorizing Resolution and the execution and delivery of this Subordinate Financing Agreement, the Subordinate Bonds, the other Issuer Documents and all other documents to be executed by the Issuer in connection with the issuance of the Subordinate Bonds, and compliance with the provisions of each thereof do not, to the Issuer's knowledge, conflict with or constitute a material breach of or default under any applicable law or administrative regulation of the State, any department, division, agency or instrumentality thereof, or the United States or any applicable judgment or decree, or any loan agreement, note, resolution, certificate, agreement or other instrument to which the Issuer is a party or is otherwise subject;

(e) All approvals, consents, and orders of any governmental authority, board, agency or commission having jurisdiction which would constitute a condition precedent to the performance by the Issuer, of its obligations hereunder and under the Act, the Issuer Documents and the Subordinate Bonds and all other documents to be executed by the Issuer in connection with the issuance of the Subordinate Bonds have been obtained;

(f) The Issuer will not take or omit to take any action, which action or omission will adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Subordinate Bonds under the Code.

(g) The Subordinate Bonds, when delivered and sold to the Holder as provided herein, will have been duly authorized and executed and will constitute validly issued and binding limited obligations of the Issuer in conformity with, and entitled to the benefit and security of, the Act and the Issuer Documents; and

(h) The Issuer agrees that all representations, warranties and covenants made by it herein, and in certificates, agreements or other instruments delivered pursuant hereto or in

connection herewith, shall be deemed to have been relied upon by the Holders, and that all representations, warranties and covenants made by the Issuer herein and therein and all the Holders' rights hereunder and thereunder shall survive the delivery of the Subordinate Bonds.

Section 2.02 Representations, Warranties and Covenants of the Borrower. The Borrower represents, warrants and covenants as follows:

(a) The Borrower is a Minnesota limited liability limited partnership, is in good standing and duly authorized to conduct its business in the State and all other states where its activities require such authorization, has power to enter into the Borrower Documents and to use the Project for the purpose set forth in this Subordinate Financing Agreement and by proper action has authorized the execution and delivery of the Borrower Documents.

(b) The execution and delivery of the Borrower Documents, the consummation of the transactions contemplated thereby, and the fulfillment of the terms and conditions thereof do not and will not conflict with or result in a breach of any of the terms or conditions of the Borrower's articles of organization, operating agreement and other organizational documents, any restriction or any agreement or instrument to which the Borrower is now a party or by which it is bound or to which any property of the Borrower is subject, and do not and will not constitute a default under any of the foregoing or a violation of any order, decree, statute, rule or regulation of any court or of any state or federal regulatory body having jurisdiction over the Borrower or its properties, including the Project, and do not and will not result in the creation or imposition of any lien, charge or encumbrance of any nature upon any of the property or assets of the Borrower contrary to the terms of any instrument or agreement to which the Borrower is a party or by which it is bound.

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

(d) There is public access to the Project; and, as of the date hereof, and to the Borrower's knowledge, the use of the Project as designed and proposed to be operated complies, in all material respects, with all presently applicable development, pollution control, water conservation and other laws, regulations, rules and ordinances of the federal government and the State and the respective agencies thereof and the political subdivisions in which the Project is located. All necessary and material approvals of and licenses, permits, consents and franchises from federal, state, county, municipal or other governmental authorities having jurisdiction over the Project have been, or will be, obtained to acquire, rehabilitate, construct, install, and operate the Project and the Borrower has obtained all necessary approvals to enter into, execute and perform its obligations under the Borrower Documents.

(e) The proceeds of the Subordinate Bonds and the Senior Bonds, together with any other funds to be contributed to the Project by the Borrower, loaned to the Borrower or otherwise in accordance with this Subordinate Financing Agreement and the Senior Bonds, will be sufficient to pay the cost of acquiring and renovating the Project, and all costs and expenses

incidental thereto, and the proceeds of the Subordinate Bonds will be used only for the purposes contemplated hereby and allowable under the Act.

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

(g) There are no actions, suits, or proceedings pending or, to the knowledge of the Borrower, threatened against or affecting the Borrower or any property of the Borrower in any court or before any federal, state, municipal or other governmental agency, which, if decided adversely to the Borrower would have a material adverse effect upon the Borrower or upon the business or properties of the Borrower; and the Borrower is not in default with respect to any order of any court or governmental agency.

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

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

### **ARTICLE III. ISSUANCE OF SUBORDINATE BONDS; LOAN OF PROCEEDS**

Section 3.01 Agreement to Issue Subordinate Bonds and Application of Subordinate Bonds Proceeds. In order to provide financing for the Subordinate Loan, the purchase price for the sale of the Subordinate Bonds will not generate any funds being transferred, the consideration for the sale being the remaining amount due from the Borrower to the Original Purchasers of the acquisition cost of the Project. Any other moneys, if any, shall, upon the delivery of such Subordinate Bonds by the Subordinate Trustee from time to time, be deposited into the Accounts as specified in Article V of the Subordinate Indenture. The Borrower covenants to make payments required by the Subordinate Note as and when the same become due. The Borrower further covenants to remit to the Subordinate Trustee, as soon as practicable, the Surplus Revenues received by the Borrower for application as provided herein.

The Borrower hereby approves the terms and provisions of the Subordinate Indenture and, to the extent applicable, agrees to be bound by such terms.

### **ARTICLE IV. ACQUISITION OF THE PROJECT**

Section 4.01 Agreement to Acquire and Renovate the Project. On the Closing Date the Borrower will acquire title to the Project. The Subordinate Bonds will be delivered to the Original Purchasers to evidence the obligation to pay a portion of the purchase price of the Project.

**ARTICLE V.**  
**LOAN REPAYMENTS; ADDITIONAL PAYMENT AND OTHER PAYMENTS**

Section 5.01 Repayment of Loan.

(a) The Borrower covenants and agrees to repay the Subordinate Loan, together with interest, in Loan Repayments which shall be made at times and in amounts sufficient to pay, in full and when due, all principal of and interest on the Subordinate Bonds (whether due upon maturity, redemption, mandatory prepayment or acceleration), subject in all respects to the Subordination Agreement. Such payments by the Borrower under this Section shall be made by the Borrower to the Subordinate Trustee in such coin or currency of the United States of America as may be legal tender for the payment of public and private debts. The Borrower shall furnish to the Issuer, if the Issuer so requests, the advice of transmittal of such payments at the time of transmittal of payment. All payments under this Section 5.01 shall be Loan Repayments.

(b) The Borrower covenants and agrees to pay the Loan Repayments due hereunder solely from Surplus Revenues.

Section 5.02 Additional Payments. In addition to the Loan Repayments, but also subject to the terms of the Subordination Agreement, the Borrower shall pay:

(a) The administrative fees and expenses of the Subordinate Trustee as and when the same become due and payable and shall be paid by the Borrower within thirty (30) days after the date of receipt of an invoice from the Subordinate Trustee (excluding amounts deposited into the Rebate Fund and held for such purpose on the date of delivery of the Subordinate Bonds pursuant to the Subordinate Indenture); and

(b) (1) An amount equal to the Annual Issuer's Fee payable (without the need for an invoice from the Issuer and without prior approval required by the Borrower); and

(2) Any remaining Issuer's Fees and Expenses incurred with respect to the Subordinate Bonds (without prior approval required by the Borrower), as and when the same become due and shall be paid by the Borrower within thirty (30) days after the date of the Subordinate Trustee's receipt of an invoice (excluding amounts deposited into the Rebate Fund and held for such purpose on the date of delivery of the Subordinate Bonds pursuant to the Subordinate Indenture), such Issuer's Fees and Expenses may include, in addition to the fees and expenses described in subsection (c) below, payment to any agent or attorney selected by the Issuer to act on its behalf in connection with this Subordinate Financing Agreement or the other Subordinate Financing Documents or the Subordinate Bonds, including, without limitation, any and all reasonable expenses incurred in connection with the authorization, issuance, sale and delivery of the Subordinate Bonds or in connection with any litigation, investigation, audit, inquiry or other proceeding which may at any time be instituted involving this Subordinate Financing Agreement or the other Subordinate Financing Documents or the Subordinate Bonds or any of the other documents contemplated thereby, or in connection with the reasonable supervision or inspection of the Borrower, its properties, assets or operations or otherwise in connection with the administration of this Subordinate Financing Agreement and the other Borrower Documents.



(c) The fees and other costs incurred for services of such engineers, architects, attorneys, management consultants, accountants, and other consultants as are employed by the Issuer or the Subordinate Trustee to make examinations or reports, provide services, or render opinions required or permitted by this Subordinate Financing Agreement;

(d) All costs reasonably incurred by the Issuer or the Subordinate Trustee in the enforcement of the Subordinate Bonds, the Subordinate Note or this Subordinate Financing Agreement;

(e) All costs of issuing the Subordinate Bonds; and

(f) All Rebate Amounts.

Section 5.03 No Set-Off; Borrower's Obligations Unconditional. The obligation of the Borrower to make the payments and to perform and observe the other agreements on its part contained herein, in the other Subordinate Financing Documents and in the Subordinate Note shall be absolute and unconditional. So long as any principal of the Subordinate Bonds or the Subordinate Note is outstanding, the Borrower will pay without abatement, diminution or deduction (whether for taxes or otherwise) all Loan Repayments, Additional Payments and any other payments required to be paid hereunder, regardless of any cause or circumstance whatsoever including, without limiting the generality of the foregoing: any defense, setoff, recoupment or counterclaim which the Borrower may have or assert against the Issuer, the Subordinate Trustee or any holder of the Subordinate Bonds or any other person; any failure of the Issuer to perform any covenant or agreement contained herein or in any other agreement between the Issuer or any Subordinate Bondholder and the Borrower; any indebtedness or liability at any time owing to the Borrower by the Issuer, the Subordinate Trustee or any other Subordinate Bondholder or any other person; any acts or circumstances that may constitute failure of consideration; damage to or condemnation of the Project Facilities; eviction by paramount title; commercial frustration of purpose; insolvency of the Issuer, or bankruptcy or insolvency of the Subordinate Trustee; enforcement of any of the other Subordinate Financing Documents; any change in the tax or other laws of the United States of America or of any state or any political subdivision of either, or any failure of the Issuer or the Subordinate Trustee to perform and observe any agreement, whether express or implied, or any duty, liability or obligation, arising out of or connected with this Subordinate Financing Agreement, the other Subordinate Financing Documents or the Authorizing Resolution.

Section 5.04 Option to Prepay Loan. The Borrower shall have the option to prepay in all or in any portion of the Subordinate Loan and cause to be redeemed the Subordinate Bonds, in whole or in part, upon the terms set forth in the Subordinate Indenture. In the event the Borrower elects to prepay the Subordinate Loan, the Borrower shall give at least twenty (20) days written notice to the Subordinate Trustee and receive prior approval from the Senior Mortgage Lender.

## **ARTICLE VI. USE OF FACILITIES**

Section 6.01 Use of Project Facilities. The Borrower will use the Project Facilities only in furtherance of its lawful purposes and will use and operate the Project Facilities, to the extent financed by the proceeds of the Subordinate Bonds, only as permitted under the Act and the Code.

The Borrower will not knowingly use or knowingly permit any person to use the Project Facilities for any use or purpose in violation of the laws of the United States or the State, and agrees to comply with all material requirements of applicable laws, regulations and statutes of the State or other governmental authority having jurisdiction over the Project Facilities. The Borrower shall have the right to contest by appropriate legal proceedings, without cost or expense to the Issuer, the validity of any law, ordinance, order, rule, regulation or requirement of the nature herein referred to.

Section 6.02 Maintenance and Possession of Project Facilities by Borrower; Operating Expenses; Ownership of Project Facilities. The Borrower agrees that so long as the Subordinate Bonds are outstanding, the Borrower will keep the Project Facilities in good repair and good operating condition at its own cost, ordinary depreciation excepted, making such repairs and replacements as are reasonably necessary. The Borrower will pay or cause to be paid all expenses arising from the operation and maintenance of the Project Facilities. The Borrower shall at all times use the Project Facilities only in furtherance of its lawful purposes; provided, however, that so long as the exemption from taxation of interest on the Subordinate Bonds is not adversely affected, nothing herein contained shall be construed (i) to prevent it from ceasing to operate any portion of the Project Facilities, if in its reasonable judgment (evidenced, in the case of such a cessation other than in the ordinary course of business, by a determination by its governing body) it is advisable not to operate the same, or (ii) to obligate it to retain, preserve, repair, renew or replace any portion of the Project Facilities, leases, rights, privileges or licenses no longer used or, in the judgment of its governing body, useful in the conduct of its business.

Section 6.03 Liens. The Borrower will pay or cause to be paid all utility charges and other charges arising from its operations at the Project Facilities which, if unpaid, would become a lien on the Project Facilities and will not permit any lien or encumbrance to be established or to remain unsatisfied against (a) the Mortgaged Property, except as permitted by the Subordinate Mortgage and (b) the Project Facilities other than the Mortgaged Property. The Borrower may in good faith contest any such lien filed or established against the Project Facilities, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom.

Section 6.04 Taxes and Other Governmental Charges. The Borrower will pay, as the same respectively become due and before penalty attaches, any taxes, license fees and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the operation of the Project Facilities. The Borrower may, at its expense in good faith contest any such taxes, assessments, license fees and other governmental charges by appropriate proceedings and, in the event of any such contest, may permit the taxes, assessments, license fees or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom if funds sufficient to satisfy the contested amount have been deposited in an escrow account satisfactory to the Subordinate Trustee.

Section 6.05 Insurance. So long as the Subordinate Bonds are Outstanding, the Borrower agrees at all times to keep the Mortgaged Property insured as required by the Subordinate Mortgage, and so long as the Senior Bonds or Senior Mortgage Loan are outstanding, the Senior Mortgage Loan Documents.

Section 6.06 Damage; Destruction or Condemnation: Application of Insurance and Award Proceeds. In the event of damage to or destruction of the Project Facilities from any cause whatsoever or any taking of the Project Facilities, or any part thereof, whether directly or indirectly or temporarily or permanently, in or by condemnation or other eminent domain proceedings, except for any award or payment made for relocation benefits (hereinafter called a "Taking"), the Borrower agrees to repair or replace all Project Facilities and apply any insurance proceeds or proceeds of any taking as required by the Subordinate Mortgage, subject, however, to the requirements of the Senior Mortgage Loan Documents.

## **ARTICLE VII. SPECIAL COVENANTS**

Section 7.01 No Warranty of Condition or Suitability. The Issuer does not make any warranty, either express or implied, as to the design or capacity of the Project Facilities, as to the suitability for operation of the Project Facilities or as to the condition of the Project Facilities or that the Project Facilities will be suitable for the Borrower's purposes or needs. The Borrower releases the Issuer from, agrees that the Issuer shall not be liable for, and agrees to hold the Issuer, its Board, its directors, officers and employees, harmless against, any claim, cause of action, suit or liability for any loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to the Project Facilities or the use thereof.

Section 7.02 Books and Records; Inspection and Examination: Notice of Defaults. The Borrower will keep accurate books of record and account in which true and complete entries will be made in accordance with generally accepted accounting principles consistently applied and upon request of the Subordinate Trustee will give any representative of the Subordinate Trustee access upon reasonable notice during normal business hours to, and permit such representative to examine, copy or make extracts from, any and all books, records and documents in its possession, to inspect any of its properties and to discuss its affairs, finances and accounts with any of its officers, all at such times and as often as it may reasonably be requested.

Section 7.03 Further Assurances, Financing Statements, Maintenance of Lien. At the request of the Issuer or the Subordinate Trustee, the Borrower shall execute any financing statement or other instrument which is or may be required to carry out the intent of the parties as expressed in this Subordinate Financing Agreement, the Authorizing Resolution, or the other Subordinate Financing Documents. The Borrower shall, at its sole expense, file or cause to be filed all financing statements, including any financing statement of the Issuer, under the Uniform Commercial Code, or similar instruments, necessary to perfect and continue the security interest of the Subordinate Trustee in the personal property included in the Mortgaged Property and in this Subordinate Financing Agreement (except for the Issuer's Reserved Rights). The Subordinate Trustee shall not be responsible for filing or for the sufficiency or accuracy of any financing statements initially filed to perfect security interests granted under the Indenture or this Agreement or in any agreement or document contemplated herein or therein, or otherwise to carry out the

intent of this Agreement. This Subordinate Trustee shall file continuation statements with respect to each U.C.C. financing statement relating to the trust estate filed by the Borrower at the time of the issuance of the Bonds; provided that a copy of the filed initial financing statement is timely delivered to the Subordinate Trustee. In addition, unless the Subordinate Trustee shall have been notified in writing by the Borrower that any such initial filing or description of collateral was or has become defective, the Subordinate Trustee shall be fully protected in (a) relying on such initial filing and descriptions in filing any financing or continuation statements or modifications thereto pursuant to this section and (b) filing any continuation statements in the same filing offices as the initial filings were made. The Borrower shall be responsible for the customary fees charged by the Subordinate Trustee for the preparation and filing of continuation statements and for the reasonable costs incurred by the Subordinate Trustee in preparation and filing of all continuation statements hereunder, including attorneys' fees and expenses.

Section 7.04 Assignments. The Borrower consents to the pledge and assignment of the Subordinate Note, the Loan Repayments, the Additional Payments and other interests of the Issuer in this Subordinate Financing Agreement by the Issuer to the Subordinate Trustee as provided in the Subordinate Indenture. The interests and obligations of the Borrower under this Subordinate Financing Agreement are otherwise non-assignable, unless consented to in writing by the Issuer and the Subordinate Trustee.

Section 7.05 Observance of Authorizing Resolution Covenants and Terms. The Borrower will not do, in any manner, anything which will cause or permit to occur any violation of any provision of the Authorizing Resolution, but will faithfully observe and perform, and will do all things necessary so that the Issuer may observe and perform, all the conditions, covenants and requirements of the Authorizing Resolution. The Issuer agrees that it will observe and perform all obligations imposed upon it by the Subordinate Financing Documents; provided that the Issuer has no obligation to use its own funds to perform or cause performance of any such obligations, and provided further that no covenant, representation or undertaking shall ever give rise to any liability of the Issuer, or its Board, directors, officers, agents or employees or constitute a charge against their general credit. The Issuer has no taxing power.

#### Section 7.06 Tax Exempt Status of Bonds; Arbitrage.

(a) General. The Borrower and Issuer will not take, or omit to take, any action that will adversely affect the exclusion from gross income for federal income tax purposes of interest paid on the Subordinate Bonds, and, in the event of such action or omission, it will use all reasonable efforts to cure the effect of such action or omission. The Borrower's obligations under the Regulatory Agreement and the Tax Certificate are incorporated by reference and shall be binding upon the Borrower to the same extent as if fully set forth herein.

(b) Modification of Tax Covenants. Subsequent to the issuance of the Subordinate Bonds and prior to their payment in full (or provision for the payment thereof having been made in accordance with the provisions of this Subordinate Financing Agreement), this Section 7.06 may not be amended, changed, modified, altered or terminated except as permitted herein and with the written consent of the Issuer. Anything contained in this Subordinate Financing Agreement to the contrary notwithstanding, the Issuer, the Subordinate Trustee and the Borrower hereby agree to amend this Subordinate Financing Agreement and, if appropriate, the Regulatory

Agreement, to the extent required, in the opinion of Bond Counsel, in order for interest on the Subordinate Bonds to remain excludable from gross income for federal income tax purposes. The party requesting such amendment, which may include the Subordinate Trustee, shall notify the other parties to this Subordinate Financing Agreement of the proposed amendment and send a copy of such requested amendment to Bond Counsel. After review of such proposed amendment, Bond Counsel shall render to the Issuer and the Subordinate Trustee an opinion as to the effect of such proposed amendment upon the includability of interest on the Subordinate Bonds in the gross income of the recipient thereof for federal income tax purposes and the Subordinate Trustee shall be authorized to conclusively rely on such opinion. The Borrower shall pay all necessary fees and expenses incurred with respect to such amendment. The Borrower, the Issuer and, where applicable, the Subordinate Trustee per written instructions from the Issuer shall execute, deliver and, if applicable, the Borrower shall file of record, any and all documents and instruments, including without limitation, an amendment to the Regulatory Agreement, with a file-stamped copy to the Subordinate Trustee, necessary to effectuate the intent of this Section 7.06. If either the Borrower or the Issuer defaults in the performance of its obligations under this Section 7.06; provided, however, that the Subordinate Trustee shall take no action under this Section 7.06 without first notifying the Borrower or the Issuer, as is applicable, of its intention to take such action and providing the Borrower or the Issuer, as is applicable, a reasonable opportunity to comply with the requirements of this Section 7.06.

The Borrower irrevocably authorizes and directs the Issuer and any other agent designated by the Issuer to make payment of such amounts from funds of the Borrower, if any, held by the Issuer or the Subordinate Trustee, or any agent of the Issuer or the Subordinate Trustee. The Borrower further covenants and agrees that, pursuant to the requirements of Treasury Regulation Section 1.148- 1(b), it (or any related person contemplated by such regulations) will not purchase interests in the Subordinate Bonds in an amount related to the amount of the Mortgage Loan.

(c) Compliance with Tax Certificate. In furtherance of the covenants in this section, the Borrower has executed, complied and will continue to comply with the provisions of the Tax Certificate, which are by this reference incorporated into this Subordinate Financing Agreement and made a part of this Subordinate Financing Agreement as if set forth in this Subordinate Financing Agreement in full, and the terms of which shall control over any conflicting provisions of this Subordinate Financing Agreement.

Section 7.07 Compliance with Usury Laws; Total Interest. In no event shall the aggregate amounts contracted for, demanded, charged, or collected in connection herewith which are deemed “interest” exceed the Lawful Rate. The term “Lawful Rate” shall mean the highest lawful rate of interest applicable to the Subordinate Bonds pursuant to laws of the State. It is expressly stipulated and agreed to be the intent of the Borrower and the Issuer at all times to comply with the applicable law governing the Lawful Rate or amount of interest payable on or in connection with the Subordinate Bonds (or applicable United States federal law to the extent that it permits the Issuer to contract for, demand, charge, take, reserve, or receive a greater amount of interest than under law of the State). If the applicable law, as judicially interpreted from time to time, shall ever render usurious any amount called for under this Subordinate Financing Agreement, the Subordinate Bonds or under any of the other Subordinate Financing Documents or contracted for, demanded, charged, taken, reserved, or received with respect to the Subordinate

Bonds, or if acceleration of the maturity of the Subordinate Bonds or if any prepayment by the Borrower results in the Borrower having paid any interest in excess of that permitted by law, then it is the Borrower's and the Issuer's express intent that all excess amounts theretofore collected by the Issuer be credited on the principal balance of the Subordinate Bonds (or, if the Subordinate Bonds has been or would thereby be paid in full, the excess refunded to the Borrower), and the provisions of the Subordinate Bonds and the other Subordinate Financing Documents immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new documents, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and thereunder. The right to accelerate maturity of the Subordinate Bonds does not include the right to accelerate any interest which has not otherwise accrued on the date of acceleration, and the Issuer does not intend to collect any unearned interest in the event of acceleration. All sums paid or agreed to be paid to the Issuer for the use, forbearance, or detention of the indebtedness evidenced hereby shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full term of such indebtedness until payment in full so that the rate or amount of interest on the account of such indebtedness does not exceed the applicable usury ceiling. Notwithstanding any provision contained in the Subordinate Bonds or in any other Subordinate Financing Documents that permit the compounding of interest, including, without limitation, any provision by which any accrued interest is added to the principal amount of the Subordinate Bonds, the total amount of interest that the Borrower is obligated to pay and the Issuer is entitled to receive with respect to the Subordinate Bonds shall not exceed the amount calculated on a simple (i.e., noncompounded) interest basis at the Lawful Rate on principal amounts actually advanced to or for the account of the Borrower, so long as such advances remain outstanding, including all current and prior advances and any advances made pursuant to the Subordinate Financing Documents (such as the payment of taxes, insurance premiums, and similar expenses or costs). This Subordinate Financing Agreement is also subject to the condition that amounts paid hereunder representing late payment or penalty charges or the like shall only be payable to the extent permitted by law.

The provisions of this Section shall prevail over any other provision of this Financing Agreement.

#### Section 7.08 Indemnification.

(a) The Borrower and the General Partner of the Borrower shall pay and shall protect, indemnify and hold harmless the Subordinate Trustee, the Subordinate Trustee's members, employees, officers and agents, and the Issuer Indemnified Parties (collectively, the "Indemnified Parties") from and against all liabilities, losses, damages, costs, expenses (including attorneys' fees), causes of action, suits, claims, demands and judgments of any nature (collectively referred to herein as the "Liabilities") in any manner relating to and/or arising from or in connection with the Subordinate Bonds (including the approval, issuance or non-issuance, and, if issued, the administration thereof) or: (i) any injury to or death of any person or damage to the Project in or upon Project or growing out of or connected with the use, nonuse, condition or occupancy of the Project; (ii) violation or breach of any agreement or condition of this Subordinate Financing Agreement or any of the other Subordinate Financing Documents; (iii) a violation by the Borrower of any contract, agreement or restriction relating to the Project; (iv) any act, or failure to act, by the Borrower or negligence of the Borrower or any of its agents, contractors, servants, employees

or licensees; (v) any violation of any environmental law, rule or regulation with respect to, or the release of any toxic substance from, the Project during the period in which the Borrower is in possession or control of the Project; (vi) a violation by the Borrower of any law, ordinance or regulation affecting the Project or the ownership, occupancy or use thereof; (vii) any statement or information contained in this Subordinate Financing Agreement, the Tax Certificate, any other Subordinate Financing Documents or any other documents or agreements relating to the Subordinate Bonds and the proceedings relating to their issuance and sale, which is misleading, untrue or incorrect in any material respect; (viii) the financing, refinancing, acquisition, rehabilitation, equipping and installation of the Project or the failure to construct, acquire, equip or install the Project; (ix) any proceeding concerning the validity or enforceability of the Subordinate Bonds or the tax-exemption of the Subordinate Bonds or the interest thereon; (x) to the extent not previously mentioned, any claims whatsoever asserting any of the foregoing, regardless of the lack of merit thereof; and (xi) the costs incurred in connection with any claims, investigations, governmental or regulatory actions, proceedings or inquiries relating in any way to the Subordinate Bonds or the transactions contemplated hereby or by the Subordinate Indenture.

The Borrower also agrees to indemnify, protect, defend, and hold harmless the Indemnified Parties from and against the Liabilities (i) in any manner whatsoever arising from or relating to the Subordinate Bonds (including the approval, issuance or non-issuance, and, if issued, the administration thereof), or any errors or omissions in information provided to the Issuer in connection with any legal proceedings or other official actions of the Issuer pertaining to the Subordinate Bonds, (ii) in any manner whatsoever arising from or relating to any fraud or misrepresentations or omissions contained in information provided to the Issuer or the Subordinate Trustee in connection with the proceedings of the Issuer relating to the issuance of the Subordinate Bonds, (iii) in any way arising from or relating to the execution or performance of this Subordinate Financing Agreement or other Subordinate Financing Documents by the Borrower, the issuance or sale of the Subordinate Bonds or any other cause whatsoever pertaining to the financing of a portion of the Project with the proceeds of the Subordinate Bonds and the Issuer's approval under the Act, specifically including, but not limited to, the defense of the validity of the Subordinate Bonds, compliance of securities laws, or tax exemption of the interest on the Subordinate Bonds; or (iv) any statement or information relating to the Borrower, its business or properties contained in any final official statement or prospectus furnished to purchasers of any Subordinate Bonds that is untrue or incorrect in any material respect and any omission relating to the Borrower, its business or properties from any official statement or prospectus of any statement or information which should be contained in it for the purpose for which it is to be used or which is necessary to make the statement in it not misleading in any material respect, if the final official statement of prospectus is approved in writing by the Borrower.

It is the intention of the parties hereto that the Indemnified Parties shall not incur pecuniary liability or expense (specifically including, but not limited to, expenses incurred in defending any claim, action, lawsuit, or administrative or other legal proceeding) by reason of, arising out of, or relating to the Subordinate Bonds (including the approval, issuance or non-issuance, and, if issued, the administration thereof) or (i) the terms of this Subordinate Financing Agreement or other Subordinate Financing Documents, or (ii) by reason of, arising out of, or relating to the undertakings required of the Issuer, the County or their respected members, officials, directors, officers, agents, attorneys and employees hereunder in connection with the issuance of the Subordinate Bonds, the execution of the Subordinate Indenture, the performance of any act

required of the Issuer, the County and any of their respective members, officials, directors, officers, agents, attorneys and employees by this Subordinate Financing Agreement or other Subordinate Financing Documents, as applicable, or the performance of any act requested of the Issuer, the County and any of their respective members, officials, officers, directors, agents, attorneys and employees by the Borrower or in any way arising from the transaction of which this Subordinate Financing Agreement or any other Subordinate Financing Document, as applicable, is a part or arising in any manner in connection with the Project; nevertheless, if the Issuer, the Subordinate Trustee, the County or any of their respective members, officials, officers, directors, agents, attorneys and employees should incur any such pecuniary liability, then in such event the Borrower shall indemnify and hold harmless the Issuer, the Trustee, the County and any of their respective officials, officers, directors, agents, attorneys and employees against all claims by or on behalf of any Person, arising out of the same, and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, and upon notice from the Issuer, the Subordinate Trustee, the County or any of their officials, officers, directors, commissioners, agents or employees, the Borrower shall defend such party, its officials, officers, directors, agents and employees in any such action or proceeding.

Promptly after receipt by an Indemnified Party under this Section 7.08 of notice of the existence of a claim in respect of which indemnity hereunder may be sought or of the commencement of any action against the Indemnified Party in respect of which indemnity hereunder may be sought, the Indemnified Party shall notify the Borrower in writing of the existence of such claim or commencement of such action (provided that a failure to so notify the Borrower will not excuse the Borrower from its obligations hereunder). In case any such action shall be brought against an Indemnified Party under this Section 7.08, the Indemnified Party shall notify the Borrower of the commencement thereof and the Borrower shall be entitled to participate in and to assume the defense thereof, with counsel reasonably satisfactory to the Indemnified Party, with full power to litigate, compromise or settle the same; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement; provided, however, that if the Indemnified Party shall have been advised by independent counsel selected by the Indemnified Party that there may be legal defenses available to it which are adverse to or in conflict with those available to the Borrower or other Issuer Indemnified Parties which, in the opinion of such counsel, should be handled by separate counsel, the Borrower shall not have the right to assume the defense of such action on behalf of the Indemnified Party, but shall be responsible for the reasonable fees and expenses of the Indemnified Party in conducting its defense; and provided, further, that if the Borrower shall have failed to assume the defense of such action and shall have failed to employ counsel therefor reasonably satisfactory to the Indemnified Party within a reasonable time after notice of commencement of such action, such reasonable fees and expenses incurred by the Indemnified Party in conducting its own defense shall be borne by the Borrower.

The duty of the Borrower to defend each Indemnified Party under this Section 7.08 shall commence from the time the claim is known of, and such duty shall exist and continue regardless of the merits of the claim, and shall survive the payment or defeasance of the Subordinate Bonds and the termination of any other provisions of this Subordinate Financing Agreement and the Subordinate Indenture.



In addition, the Borrower agrees that if either party initiates any action, suit or other proceeding with respect to any claim, demand or request for relief, whether judicial, administrative, or other legal proceeding, in which the Issuer, its Board, its directors, officers, attorneys, accountants, financial advisors or staff is named or joined as a party, the Borrower will pay to and reimburse to the such parties the full amount of all reasonable fees and expenses incurred by them with respect to their defense of or participation in such action, suit or other proceeding. All Indemnified Parties shall be deemed third party beneficiaries hereof, with full right to enforce the provisions hereof in respect of such Indemnified Party.

The provisions contained in this Section 7.08 pertaining to indemnification of the Indemnified Parties shall be in addition to any other indemnification provided to such Indemnified Parties in any other agreement by the Borrower in connection with the issuance and sale of the Subordinate Bonds and all matters relating thereto.

(b) The Issuer makes no warranty, either express or implied, as to the Project or the condition thereof, or that the Project will be suitable for the purposes or needs of the Borrower. The Issuer makes no representation or warranty, express or implied, that the Borrower will have quiet and peaceful possession of the Project. The Issuer makes no representation or warranty, express or implied, with respect to the merchantability, condition or workmanship of any part of the Project or its suitability for the purposes of the Borrower.

(c) Notwithstanding anything to the contrary contained herein or in the Subordinate Bonds or in any other instrument or document executed by or on behalf of the Issuer in connection herewith, (i) Issuer shall have no obligation to take action under this Subordinate Financing Agreement, the Subordinate Bonds, the other Subordinate Financing Documents or such other instruments or documents, unless Issuer is reasonably requested in writing by an appropriate person to take such action and is provided with indemnity and assurances satisfactory to it of payment of or reimbursement for any expenses (including attorneys' fees) in such action, (ii) neither Issuer nor its Board, nor any director, officer, agent, attorney or employee of the Issuer relating to the Subordinate Bonds or the Project, shall be personally liable to the Borrower, the Subordinate Trustee or any other person for any action taken by Issuer or by its Board, directors, officers, agents, attorneys and employees relating to the Subordinate Bonds or the Project, or for any failure to take action under this Subordinate Financing Agreement, the Subordinate Bonds, the other Subordinate Financing Documents or such other instruments or documents, except that the Issuer agrees to take, or to refrain from taking, any action if so required by a valid injunction or if required to comply with any final judgment for specific performance; and (iii) any final judgment rendered against the Issuer for breach of its obligations under this Subordinate Financing Agreement, the Subordinate Bonds, the other Subordinate Financing Documents or such other instruments or documents, shall be payable solely from the revenues derived from the Project and the Borrower by the Issuer under this Subordinate Financing Agreement or other Subordinate Financing Documents, as applicable, and no other personal liability, or charge payable directly or indirectly from the general funds of the Issuer, shall arise therefrom.

(d) Notwithstanding anything to the contrary contained herein or in the Subordinate Bonds, this Subordinate Financing Agreement, other Subordinate Financing Documents or in any other instrument or document executed by or on behalf of the Issuer in connection herewith, no stipulation, covenant, agreement or obligation contained herein or therein

shall be deemed or construed to be a stipulation, covenant, agreement, or obligation of any past, present or future director, officer, employee, attorney or agent of the Issuer, or of any director, officer, employee, attorney or agent of any successor to the Issuer, in any such person's individual capacity, and no such person, in his individual capacity, shall be liable personally for any breach or non-observance of or for any failure to perform, fulfill or comply with any such stipulations, covenants, agreements or obligations, nor shall any recourse be had for the payment of the principal of, premium, if any, or interest on any of the Subordinate Bonds or for any claim based thereon or on any such stipulation, covenant, agreement, or obligation, against any such person, in his individual capacity, 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 person, in his individual capacity, is hereby expressly waived and released.

(e) In the Issuer accepting the provisions for the Borrower to indemnify the Indemnified Parties from claims of third parties, and in the Borrower agreeing to make such indemnities, as provided herein, the Issuer (and all applicable Indemnified Parties) intend to retain, and do not waive, the limits and scope of any sovereign immunity enjoyed by the Issuer (or any applicable Indemnified Party) as provided pursuant to State law with respect to such claims, as well as all other immunities, defenses and privileges the Issuer (or any applicable Indemnified Party) may enjoy with respect to such claims under State or federal law.

(f) The provisions of this Section 7.08 shall survive the termination of this Subordinate Financing Agreement.

Notwithstanding any other provision of this Section 7.08 to the contrary, the Borrower's indemnification obligations under this Section 7.08 shall not extend to the Subordinate Trustee or any of its officers, members, directors, officials, employees, attorneys and agents to the extent of any Liabilities arising from the gross negligence or willful misconduct of the Subordinate Trustee or any of its officers, members, directors, officials, employees, attorneys and agents.

THE SUBORDINATE BONDS AND THE INTEREST THEREON ARE LIMITED OBLIGATIONS OF THE ISSUER, PAYABLE SOLELY FROM THE TRUST ESTATE PLEDGED THEREFOR UNDER THE INDENTURE. NONE OF THE COMMONWEALTH, THE COUNTY, NOR ANY OTHER POLITICAL SUBDIVISION OR BODY CORPORATE AND POLITIC, OR AGENCY, OF THE COMMONWEALTH, THE COUNTY OR THE ISSUER (EXCEPT TO THE LIMITED EXTENT PROVIDED HEREIN) SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE SUBORDINATE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER OF THE ISSUER, AND NEITHER THE SUBORDINATE BONDS NOR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF THE COMMONWEALTH, THE COUNTY, OR ANY OTHER POLITICAL SUBDIVISION OR BODY CORPORATE AND POLITIC OF THE COMMONWEALTH, THE COUNTY OR THE ISSUER (EXCEPT TO THE LIMITED EXTENT PROVIDED HEREIN), WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER.

NO DIRECTOR, OFFICER, AGENT, EMPLOYEE OR ATTORNEY OF THE ISSUER, INCLUDING ANY PERSON EXECUTING THE INDENTURE OR THE SUBORDINATE BONDS, SHALL BE LIABLE PERSONALLY ON THE SUBORDINATE BONDS OR FOR ANY REASON RELATING TO THE ISSUANCE OF THE SUBORDINATE BONDS. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THE SUBORDINATE BONDS, OR FOR ANY CLAIM BASED ON THE SUBORDINATE BONDS, OR OTHERWISE IN RESPECT OF THE SUBORDINATE BONDS, OR BASED ON OR IN RESPECT OF THE INDENTURE OR ANY SUPPLEMENTAL INDENTURE, AGAINST ANY DIRECTOR, OFFICER, EMPLOYEE OR AGENT, AS SUCH, OF THE ISSUER OR ANY SUCCESSOR, WHETHER BY VIRTUE OF ANY CONSTITUTION, STATUTE OR RULE OF LAW, OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, ALL SUCH LIABILITY BEING, BY THE ACCEPTANCE OF THE SUBORDINATE BONDS AND AS PART OF THE CONSIDERATION FOR THE ISSUE OF THE SUBORDINATE BONDS, EXPRESSLY WAIVED AND RELEASED.

NEITHER THE DIRECTORS OF THE ISSUER NOR ANY PERSON EXECUTING THE SUBORDINATE BONDS SHALL BE LIABLE PERSONALLY ON THE BONDS BY REASON OF THE ISSUANCE THEREOF. THE SUBORDINATE BONDS AND OTHER OBLIGATIONS OF THE ISSUER SHALL NOT BE A DEBT OF THE COUNTY, THE COMMONWEALTH OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) AND NEITHER THE COUNTY, NOR THE COMMONWEALTH OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) SHALL BE LIABLE THEREON, NOR IN ANY EVENT SHALL SUCH SUBORDINATE BONDS OR OBLIGATIONS BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN THOSE OF THE ISSUER. THE SUBORDINATE BONDS SHALL NOT CONSTITUTE AN INDEBTEDNESS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION.

#### **ARTICLE VIII. EVENTS OF DEFAULT AND REMEDIES**

Section 8.01 Events of Default. The following shall be “Events of Default” under this Subordinate Financing Agreement and the term “Event of Default” shall mean, whenever used in this Subordinate Financing Agreement, any one or more of the following events:

(a) If the Borrower fails to pay any amount due under the Subordinate Note or any Loan Repayment required to be paid under the Subordinate Bonds and Section 5.01 hereof within ten (10) days of the due date (including any repayment of principal of the Subordinate Bonds due by way of acceleration, call for redemption of the Subordinate Note and the Subordinate Bonds or otherwise). Notwithstanding the provisions hereof, if Surplus Revenues are insufficient to make a scheduled interest or principal payment, such insufficiency shall not result in a default hereunder and the payment of such interest or principal payment will be deferred (with interest accruing on the unpaid amounts to the extent permitted by law at the rate applicable to the Subordinate Bonds, compounded on each Interest Payment Date), but not past the maturity date of the Subordinate Bonds; or

(b) If the Borrower shall default in the due and punctual performance of any of the other covenants, conditions, agreements and provisions contained in the Subordinate Note or this Subordinate Financing Agreement, and such default shall continue for thirty (30) days after notice thereof has been furnished to the Borrower from the Subordinate Trustee; provided, however, that if such default cannot be cured within 30 days, it shall not constitute a default hereunder if the Borrower provides to the Subordinate Trustee a proposed method and schedule of curing such default, initiates action to cure such default within such 30 days, diligently pursues such action until such default is cured and provides the Subordinate Trustee with progress reports relating thereto at such intervals as may be reasonably requested by the Subordinate Trustee; or

(c) If an “Event of Default” or default shall occur and is continuing after the expiration of any applicable grace period under any other Subordinate Financing Documents; or

(d) If the Borrower shall (i) apply for or consent to the appointment of a receiver, trustee or liquidator for it or for any of its property, (ii) admit in writing its inability to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) be adjudicated a bankrupt or insolvent, or (v) file a voluntary petition in bankruptcy, or a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under such law; or

(e) If there is filed against the Borrower any involuntary petition seeking liquidation or reorganization of the Borrower or appointing a receiver, trustee or liquidator of the Borrower or of all or a substantial part of the assets thereof, and such petition shall not be dismissed or vacated within ninety (90) days thereafter; or

(f) Any statement, representation, warranty or certification made by the Borrower under any of the Subordinate Financing Documents shall be incorrect or misleading in any material respect when made; or

(g) Failure of the Borrower to pay to the Subordinate Trustee an amount sufficient to pay the Annual Issuer’s Fee and the Issuer’s Fees and Expenses then due in accordance with Section 5.02(b) hereof within thirty (30) days of the due date of the Annual Issuer’s Fee and any other Issuer’s Fees and Expenses.

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

Section 8.02 Remedies on Default. Whenever any Event of Default shall have happened and be subsisting, subject to the terms of the Subordination Agreement, any one or more of the following steps may be taken:

(a) After ten (10) days written notice to the Borrower of the proposed action and provided that the Event of Default has not been duly cured, the Trustee may declare the unpaid principal of and interest on the Subordinate Note and the Subordinate Bonds, and all or any

amounts of Loan Repayments thereafter to become due and payable under Section 5.01 hereof for the remainder of the term of this Subordinate Financing Agreement to be immediately due and payable, whereupon the same shall become immediately due and payable, together with any Additional Payments and other payments due under Sections 5.02, 5.05, 8.04, 8.05 or otherwise under this Subordinate Financing Agreement.

(b) The Trustee may take whatever action at law or in equity that appears necessary or desirable to enforce this Subordinate Financing Agreement or any of the other Subordinate Financing Documents in accordance with the provisions hereof or thereof.

Any amounts collected by the Subordinate Trustee pursuant to action taken under the foregoing paragraphs shall be applied first to advances and expenses of the Subordinate Trustee, then to payment of the Subordinate Bonds (interest first, and then principal), then to payment of amounts due the Issuer hereunder and any excess to the Borrower.

Whenever any Default shall occur, the Trustee (or the Issuer with respect to Sections 5.02, 7.01, 7.08 or 8.04 hereof) may take whatever action at law or in equity, including all of the remedies available under the Uniform Commercial Code, which may appear necessary or desirable to collect any payments then due and thereafter to become due hereunder or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Subordinate Financing Agreement.

Section 8.03 Remedies Cumulative, Delay Not to Constitute Waiver. No remedy conferred upon or reserved to the Issuer, the Subordinate Trustee or a receiver by this Subordinate Financing Agreement or by the other Subordinate Financing Documents is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Subordinate Financing Agreement or the other Subordinate Financing Documents or now or hereafter existing at law or in equity or by statute, [and in all cases, subject to the terms of the Subordination Agreement. No delay or omission to exercise any right or power accruing upon any Default shall impair any such right or power, and any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer, the Subordinate Trustee or a receiver to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required. In the event any agreement contained in this Subordinate Financing Agreement or the other Subordinate Financing Documents should be breached by any party and thereafter waived by the other parties, such waiver shall be limited to a particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 8.04 Agreement to Pay Attorneys' Fees and Expenses. In the event the Borrower should default under any of the provisions of this Subordinate Financing Agreement or other Subordinate Financing Documents, and the Issuer or the Subordinate Trustee should employ attorneys or incur other expenses for the collection of payments due or to become due hereunder or thereunder or the enforcement of performance or observance or any obligation or agreement on the part of the Borrower contained herein or therein, the Borrower agrees that it will on demand therefor reimburse the reasonable fees of such attorneys and such other expenses so incurred, subject to the terms of the Subordination Agreement. The Borrower also agrees to pay all costs of the Trustee to appear in and defend any action or proceeding purporting to affect the rights or

powers of the Trustee under this Subordinate Financing Agreement or the other Subordinate Financing Documents, including the cost of reasonable attorney's fees, in all cases subject to the terms of the Subordination Agreement.

Section 8.05 Advances. In the event the Borrower shall fail to pay any Loan Repayments under Section 5.01 hereof, or to do any other thing or make any other payment required to be done or made by any other provision of this Subordinate Financing Agreement or the other Subordinate Financing Documents, the Subordinate Trustee, in its own discretion, may do or cause to be done any such thing or make or cause to be made any such payment at the expense or as an advance for the account of the Borrower, and, subject to the terms of the Subordination Agreement, the Borrower shall pay to the Subordinate Trustee all necessary costs and expenses so incurred and advances so made, with interest at the lesser of (i) 4.00% per annum above the then current interest rate on the Subordinate Bonds or (ii) the maximum rate permitted by law. Any such advance shall be entitled to priority of payment from any funds thereafter received from the Borrower.

## **ARTICLE IX. MISCELLANEOUS**

Section 9.01 Notices. All notices, certificates or other communications hereunder shall be deemed sufficiently given when delivered or when mailed by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

Issuer:	Housing Finance Authority of St. Johns County, Florida 200 San Sebastian View, Suite 2300 St. Augustine, FL 32084 Attention: Executive Director
With a copy to:	Bradley, Garrison & Komando, P.A. 1279 Kingsley Avenue, Suite 118 Orange Park, Florida 32073 Attention: Rich Komando, Esq. Telephone: (904) 269-1111 Email: <a href="mailto:rich@claylawyers.com">rich@claylawyers.com</a>
Borrower:	Ponte Vedra Beach Leased Housing Associates I, LLLP c/o Dominion Development & Acquisition, LLC 2905 Northwest Boulevard, Suite 150 Plymouth, MN 55441 Attention: Terry Sween Telephone: (404) 806-5851 Email: <a href="mailto:tsween@dominiuminc.com">tsween@dominiuminc.com</a>
With a copies to:	Winthrop & Weinstine, P.A. 225 South Sixth Street, Suite 3500 Minneapolis, MN 55402-4629 Attention: Neil D. Mahoney Telephone: (612) 604-6596 Email: <a href="mailto:nmahoney@winthrop.com">nmahoney@winthrop.com</a>

Investor Limited Partner: Alliant Credit Facility IV, LLC  
c/o Dominion Development & Acquisition, LLC  
2905 Northwest Boulevard, Suite 150  
Plymouth, MN 55441  
Attention: Terry Sween  
Telephone: (404) 806-5851  
Email: tsween@dominiuminc.com

With a copy to: \_\_\_\_\_

Subordinate Trustee: U.S. Bank Trust Company, National Association  
500 West Cypress Creek Road, Suite 460  
Fort Lauderdale, FL 33309  
Attention: Scott A. Schuhle, Vice President  
Telephone: (954) 938-2476  
Email: scott.schuhle@usbank.com

The Borrower, the Issuer and the Subordinate Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Section 9.02 Binding Effect. This Subordinate Financing Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns, subject to the limitation that any obligation of the Issuer created by or arising out of this Financing Agreement shall not be a general debt of the Issuer but shall be payable solely out of the proceeds derived from this Subordinate Financing Agreement or the other Subordinate Financing Documents.

Section 9.03 Counterparts. This Subordinate Financing Agreement may be signed in any number of counterparts. Complete sets of counterparts shall be lodged with the Issuer, the Borrower and the Subordinate Trustee.

Section 9.04 Benefit of Holders. Except as otherwise provided herein, all covenants and agreements on the part of the Borrower and the Issuer herein are hereby declared to be for the benefit of the Subordinate Trustee or any Holder of the Subordinate Bonds. Persons other than the parties hereto and such Holders are not intended to be beneficiaries of any of the covenants and agreements set forth in this Subordinate Financing Agreement.

Section 9.05 Due Dates. Should any payment on the Subordinate Bonds become due and payable upon a day that is not a Business Day, such payment shall be made on the next succeeding Business Day.

Section 9.06 Captions. The captions or headings in this Subordinate Financing Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provision of this Subordinate Financing Agreement.

Section 9.07 Term of Agreement. Except as otherwise provided herein, the provisions of this Subordinate Financing Agreement shall remain in full force and effect from the date of

execution hereof until such time as the Subordinate Note and the Subordinate Bonds are not outstanding.

Section 9.08 Severability. Any provision of this Subordinate Financing Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 9.09 Limited Recourse. Notwithstanding any provision or obligation to the contrary set forth in this Subordinate Financing Agreement, (1) the liability of the Borrower and any partner, trustee, director, officer, employee, or agent thereof (collectively, "Borrower Parties") under this Subordinate Financing Agreement or the Subordinate Mortgage shall be limited to the property subject to the Subordinate Mortgage or to such other security as may from time to time be given or have been given for payment of the Borrower's obligations under this Subordinate Financing Agreement and Subordinate Bonds, and any judgment rendered against the Borrower Parties under this Subordinate Financing Agreement or the Subordinate Mortgage, the Subordinate Note and the Subordinate Bonds shall be limited to the property subject to the Subordinate Mortgage and any other security so given for satisfaction thereof; and (2) no deficiency or other personal judgment nor any order or decree of specific performance shall be sought or rendered against the Borrower Parties, their successors, transferees or assigns, in any action or proceeding arising out of the Subordinate Mortgage, this Subordinate Financing Agreement, the Subordinate Note, the Subordinate Bonds, or any judgment, order or decree rendered pursuant to any such action or proceeding; provided, however, that nothing in this Subordinate Financing Agreement, the Subordinate Mortgage, the Subordinate Note or the Subordinate Bonds shall limit the Issuer's or Subordinate Trustee's ability to exercise any right or remedy that it may have with respect to any property pledged or granted to the Issuer or the Trustee, or both of them, or to exercise any right against the Borrower Parties or any other person or entity on account of any damage caused by fraud or intentional misrepresentation by the Borrower or any intentional damage of the property subject to the Subordinate Mortgage. Furthermore, the Borrower shall be fully liable for the misapplication of (1) proceeds paid prior to any foreclosure under any and all insurance policies, under which the Subordinate Trustee and/or the Issuer is named as insured, by reason of damage, loss or destruction to any portion of the property subject to the Subordinate Mortgage, to the full extent of such misapplied proceeds and awards, (2) proceeds or awards resulting from the condemnation, or other taking in lieu of condemnation, prior to any foreclosure of the property subject to the Subordinate Mortgage, to the full extent of such misapplied proceeds and awards, (3) rents, issues, profits and revenues received or applicable to a period subsequent to the occurrence of a default under this Subordinate Financing Agreement, the Subordinate Mortgage and the Subordinate Bonds but prior to foreclosure, and (4) proceeds from the sale of all or any part of the property subject to the Subordinate Mortgage and any other proceeds that, under the terms hereof, should have been paid to the Issuer or the Subordinate Trustee. Furthermore, the Borrower shall be fully liable for the breach of the Borrower's covenants contained in Sections 5.02, 7.01, 7.08 and 8.04 of this Subordinate Financing Agreement; provided, however in no event shall the Borrower or any Borrower Parties be personally liable for payment of the principal of, premium, if any, or interest on the Subordinate Note or the Subordinate Bonds. The limit on the Borrower's liability set forth in this paragraph shall not, however, be construed, and is not intended in any way, to constitute a release, in whole or in part, of the Borrower's obligations under this



Subordinate Financing Agreement or a release, in whole or in part, or an impairment of the lien and security interest of the Subordinate Mortgage, this Subordinate Financing Agreement, the Subordinate Note and the Subordinate Bonds upon the properties described therein, or to preclude the Issuer or the Subordinate Trustee from foreclosing the Subordinate Mortgage in case of any default or enforcing any other right of the Issuer or the Subordinate Trustee, or to alter, limit or affect the liability of any person or party who may now or hereafter or prior hereto guarantee, or pledge, grant or assign its assets or collateral as security for, the obligations of the Borrower under the Subordinate Mortgage, this Subordinate Financing Agreement, the Subordinate Note and the Subordinate Bonds.

Section 9.10 Audit Expenses. The Borrower agrees to pay any costs incurred by the Issuer as a result of the Issuer's compliance with an audit, random or otherwise, by the Internal Revenue Service or any other governmental agency with respect to the Senior Bonds, the Subordinate Bonds, or the Project.

Section 9.11 No Liability of Issuer's Officers. No covenant or agreement contained in this Subordinate Financing Agreement or the Subordinate Indenture shall be deemed to be the covenant or agreement of any officer, director, official, employee or agent of the Issuer, in his or her individual capacity, and none of such persons shall be subject to any personal liability or accountability by reason of the execution hereof or thereof, whether by virtue of any constitution, statute or rule of law, or by the enforcement or any assessment or penalty, or otherwise. No recourse shall be had against any director, officer, employee, agent or counsel, past, present, or future of the Issuer, either directly or through the Issuer or otherwise for payment for or to the Issuer or any receiver thereof, or for or to any owner of the Subordinate Bonds, or otherwise, of any sum that may be due and unpaid by the Issuer upon the Subordinate Bonds or under or upon any obligation, covenant or agreement contained in this Subordinate Financing Agreement or in any other document executed in connection therewith. Neither shall any recourse be had against any of such Persons on account of the issuance and sale of the Subordinate Bonds or on account of any representations in connection therewith. Any and all personal liability or obligation, whether in common law or in equity, or by reason of statute or constitution or by the enforcement of any assessment or otherwise, of such director, officer, employee, agent or counsel to respond by reason of any act or omission on his part or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to any owner of the Subordinate Bonds or otherwise, of any sum that may remain due and unpaid upon the Subordinate Bonds or under any documents executed in connection with the issuance thereof is hereby expressly waived and released as a condition of and in consideration for the execution of this Subordinate Financing Agreement and the issuance of the Subordinate Bonds.

Section 9.12 Exculpatory Provision. In the exercise of the powers of the Issuer and its Indemnified Parties and the Subordinate Trustee under this Financing Agreement or any other Subordinate Financing Document, the Issuer Indemnified Parties and the Subordinate Trustee shall not be accountable to the Borrower for any action taken or omitted by it or its officers in good faith and believed by it or them to be authorized or within their discretion or rights or powers conferred on them. The Issuer Indemnified Parties, the Subordinate Trustee and their respective officers shall be protected in its or their acting upon any paper or document believed by it or them to be genuine, and it and they may conclusively rely upon the advice of counsel and may (but need not) require further evidence of any fact or matter before taking any action.

Section 9.13 Conflict with Senior Mortgage Loan; Supremacy of Senior Mortgage..  
Notwithstanding anything in this Subordinate Financing Agreement to the contrary, the provisions hereof are subordinate and subject to the Senior Mortgage, and the other Senior Mortgage Loan Documents, as set forth in the Subordination Agreement between the Issuer, Subordinate Trustee, Borrower and Senior Mortgage Lender.

[Signature page follow]

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

**HOUSING FINANCE AUTHORITY OF ST. JOHNS  
COUNTY, FLORIDA**

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

[SEAL]

Attest: \_\_\_\_\_  
Secretary

**PONTE VEDRA BEACH LEASED HOUSING  
ASSOCIATES I, LLLP**, a Minnesota limited  
liability limited partnership

By: Ponte Vedra Leased Housing Associates I,  
LLC, a Minnesota limited liability company, its  
General Partner

By: \_\_\_\_\_  
Terrence Sween, Vice President

## EXHIBIT A

### Form of Promissory Note (Subordinate Series 2023C)

FOR VALUE RECEIVED, PONTE VEDRA BEACH LEASED HOUSING ASSOCIATES I, LLLP, a Minnesota limited liability limited partnership (“**Maker**”) promises to pay to U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as Trustee (“**Payee**” or “**Trustee**”), the sum of [\_\_\_\_\_] No/100 Dollars (\$[2023C PAR].00), payable with interest on any remaining balance of principal at the long-term applicable federal rate of four per cent (4.00%) per annum, payable annually, commencing [\_\_\_\_\_, 202\_], and thereafter on each [\_\_\_ 1] until the entire indebtedness has been paid solely from available surplus cash as defined below. Any principal and interest not so paid shall not create any default in the terms of this note (“**Surplus Cash Note**”) but shall accrue and be payable in full on the maturity date hereof. In any event, the balance of principal, if any remaining unpaid, plus accrued interest, shall be due and payable on [\_\_\_ 1, 20\_\_] (“**Maturity Date**”). The definition of any capitalized term or word used herein can be found in this Surplus Cash Note, the Subordinate Trust Indenture, dated as of December 1, 2023 (the “**Indenture**”) by and between the Housing Finance Authority of St. Johns County, Florida (the “**Issuer**”) and the Trustee, or the Subordinate Financing Agreement dated as of December 1, 2023 (the “**Financing Agreement**”) between Maker and the Issuer.

[Form of Subordinate Promissory Note to come]

IN WITNESS WHEREOF, Maker has signed this Surplus Cash Note on this \_\_ day of December, 2023.

MAKER:

**PONTE VEDRA BEACH LEASED HOUSING ASSOCIATES I, LLLP**, a Minnesota limited liability limited partnership

By: Ponte Vedra Leased Housing Associates I, LLC, a Minnesota limited liability company, its General Partner

By: \_\_\_\_\_  
Terrence Sween, Vice President

**EXHIBIT B**

**DESCRIPTION OF LAND**

*All that certain lot or parcel of land together with all improvements thereon located and being in St. Johns County, Florida and being more particularly described as follows:*

[to be inserted]

**EXHIBIT G**  
**LAND USE RESTRICTION AGREEMENT**  
**(see attached)**



PREPARED BY AND RETURN TO:  
Emily Magee  
Butler Snow LLP  
6022 San Jose Boulevard, Suite 100  
Jacksonville, Florida 32217

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**LAND USE RESTRICTION AGREEMENT**

among

**HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA**

and

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

and

**PONTE VEDRA BEACH LEASED HOUSING ASSOCIATES I, LLLP**

Relating to

**\$21,500,000 Housing Finance Authority of St. Johns County, Florida  
Multifamily Housing Revenue Bonds  
(Oaks at St. John)  
Series 2023A, Series 2023B & Subordinate Series 2023C  
Dated as of December 1, 2023**

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**THIS LAND USE RESTRICTION AGREEMENT** (this “Agreement”) dated as of December 1, 2023, is by and among the **HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA**, a public body corporate and politic duly created, organized and existing under the laws of the State of Florida (the “Authority”), **U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION**, a national banking association, as trustee of each series of Bonds hereinafter described (the “Trustee”), and **PONTE VEDRA BEACH LEASED HOUSING ASSOCIATES I, LLLP**, a limited liability limited partnership formed under the laws of the State of Minnesota, and its successors and assigns (the “Borrower”) pursuant to (i) that certain Trust Indenture dated as of December 1, 2023 between the Authority and the Trustee relating to the issuance of the Authority’s Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023A, in the original aggregate principal amount of \$[2023A PAR] (the “2023A Bonds”), (ii) that certain Trust Indenture dated as of December 1, 2023 between the Authority and the Trustee relating to the issuance of the Authority’s Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023B, in the original aggregate principal amount of \$[2023B PAR] (the “2023B Bonds”), and (iii) that certain Subordinate Trust Indenture dated as of December 1, 2023 between the Authority and the Trustee relating to the issuance of the Authority’s Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023C, in the original aggregate principal amount of \$[2023C PAR] (the “2023C Bonds” and together with the Series 2023A Bonds and the Series 2023B Bonds, the “Bonds”).

**WITNESSETH:**

**WHEREAS**, the Borrower intends to acquire, rehabilitate, install and equip a multifamily rental facility located within St. Johns County, Florida (the “County”) to be occupied by lower income persons all for the public purpose of assisting persons or families of low, moderate or middle income within the County to afford the costs of decent, safe and sanitary housing; and

**WHEREAS**, the Authority has authorized the issuance and delivery of the Bonds in the aggregate principal amount of \$21,500,000 in order to provide one or more loans to the Borrower pursuant to (i) the Loan Agreement, dated December 1, 2023, by and between the Authority and the Borrower relating to the Series 2023A Bonds (the “Series 2023A Loan Agreement), (ii) the Loan Agreement, dated December 1, 2023, by and between the Authority and the Borrower relating to the Series 2023B Bonds (the “Series 2023B Loan Agreement) and (iii) the Subordinate Financing Agreement December 1, 2023, by and between the Authority and the Borrower relating to the Series 2023C Bonds (the “Subordinate Financing Agreement”) to finance a portion of the costs of the acquisition, rehabilitation and equipping of a 160-unit residential rental development known as the Oaks at St. John and located in an unincorporated area of St. Johns County, Florida, on land more particularly described on Exhibit A hereto (the “Project”); and

**WHEREAS**, it is intended that the interest on the Bonds be excludable from gross income for federal income tax purposes in that the Borrower has represented and certified to the Authority that the Project will be a “qualified residential rental project” within the meaning of Section 142(d) of the Internal Revenue Code of 1986 as amended (the “Code”); and

**WHEREAS**, to comply with the requirements of the Series 2023A Loan Agreement, the Series 2023B Loan Agreement and the Subordinate Financing Agreement and to assure continued compliance with the Code and the Act (hereinafter defined), the Authority, the Borrower and the Trustee hereby enter into this Agreement; and

**WHEREAS**, this Agreement shall be properly filed and recorded by the Owner within the official records of the County and shall constitute a restriction upon the use of the Land subject to and in accordance with the terms and conditions contained herein.

**NOW, THEREFORE**, in consideration of the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Authority, the Trustee and the Borrower hereby agree as follows:

Section 1. Definitions and Interpretation. Any capitalized term not otherwise defined in the recitals set forth above or as defined below shall have the meaning ascribed to such term in the Indenture. The following terms shall have the respective meanings set forth below:

“Act” shall mean the (i) Florida Housing Finance Authority Law, Sections 159.601 through 159.623, Florida Statutes, as amended, (ii) Ordinance No. 80-7 on February 26, 1980, as amended, and Ordinance 80-25 on March 11, 1980, as amended, creating the Housing Finance Authority of St. Johns County, Florida and (iii) resolutions duly adopted by the Board of County Commissioners of St. Johns County, Florida and Issuer, and other applicable provisions of law.

“Area Median Gross Income” shall mean the median gross income for the area in which the Project is located as determined under Section 8 of the United States Housing Act of 1937 (or, if such program is terminated, under such program as in effect immediately before such termination) and the multifamily tax subsidy income limits as published annually by the United States Department of Housing and Urban Development (“HUD”).

“Available Units” means residential units in a residential rental project that are actually occupied and residential units in the project that are unoccupied and have been leased at least once after becoming available for occupancy.

“Certificate of Continuing Program Compliance” shall mean the certificate, substantially in the form attached as Exhibit B hereto, as such form may be revised by the Authority from time to time, required to be delivered by the Borrower to the Authority pursuant to Section 5(e) hereof.

“Closing Date” shall mean the date the Bonds are delivered to the initial purchaser or purchasers thereof against payment therefor.

“Code” shall mean the Internal Revenue Code of 1986, as amended, and with respect to a specific section thereof such reference shall be deemed to include (a) the applicable Regulations promulgated or proposed under such section or any previous corresponding section, (b) any successor provision of similar import hereafter enacted, (c) any corresponding provision of any subsequent Internal Revenue Code and (d) the applicable regulations promulgated or proposed under the provisions described in (b) and (c).

“Completion Date” shall mean (i) the rehabilitation of the Project has been substantially completed and all units are available for occupancy and the Project has been placed in service for purposes of Section 42 of the Code, and (ii) there are no liens on the Project (other than Permitted Encumbrances) as evidenced by a certificate of completion from the Borrower.

“Compliance Monitoring Fee” means a compliance monitoring fee in an amount equal to \$183 per month plus \$11.24 per set-aside rental unit in the Development; provided, however, that

the monthly minimum fee shall not be less than \$286 (subject to adjustment from time to time by the Authority), to be paid by the Borrower to the Compliance Monitor at all times during the Qualified Project Period or for such longer period if the set-aside requirements required by the Code, Chapter 159, Part IV, Florida Statutes, or other Authority requirements remain in force. The compliance monitoring fee shall be equal to the annual amount pro-rated from the first day of the Qualified Project Period (as evidenced by the delivery of the initial Certificate of Continuing Program Compliance) to the following [ ] 1.

“County” shall mean St. Johns County, Florida.

“Income Certification” shall mean a Tenant Income Certification substantially in the form of Exhibit C hereto, as such form may be revised by the Authority from time to time and in any event containing the information as may be required by applicable written rules, rulings, policies, procedures, regulations or other official statements now or hereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service with respect to obligations issued under Section 142(d) of the Code.

“Land” shall mean the real property described in Exhibit A attached hereto.

“Low-Income Tenants” means individuals or families whose incomes do not exceed 60% of the area median gross income, adjusted for family size, as determined by Section 142(d) of the Code, for the County. Except as otherwise provided herein, occupants of a dwelling unit shall not be considered to be of low income if all the occupants are students (as defined in Section 152(f)(2) of the Code), no one of whom is entitled to file a joint federal income tax return. Notwithstanding the foregoing, a dwelling unit shall not fail to be treated as a dwelling unit that is occupied by Low-Income Tenants merely because such dwelling unit is occupied (a) by an individual who is (i) a student and receiving assistance under Title IV of the Social Security Act, (ii) a student who was previously under the care and placement responsibility of a foster care program (under Part B or Part E of the Title IV of the Social Security Act), or (iii) a student enrolled in a government supported job training program, or (b) entirely by full-time students if such students are (i) single parents and their children and such parents are not dependents of any person other than the full-time student occupying the unit, or (ii) married and file a joint return. Except as provided in Section 4 hereof, in no event shall occupants of a dwelling unit be considered to be of low income if, upon any recertification, such tenant’s gross income exceeds 140% of the applicable income limit for a Low-Income Tenant of the same family size. In such case, such tenant shall cease to qualify as a Low-Income Tenant. Notwithstanding the foregoing, so long as the next vacant unit of comparable or smaller size is rented to a Low-Income Tenant, the fact that such tenant’s gross income exceeds 140% of the applicable income limit shall not place the Project in non-compliance. Said income requirements shall be adjusted for family size in accordance with income limits published, from time to time, by HUD. The method of determining low income in effect at the date of execution and delivery of the Bonds shall be determinative, even if such method is subsequently changed.

“Loan” shall mean, collectively, the Series 2023A Loan, the Series 2023B Loan and the Subordinate Loan.

“Net Proceeds of the Bonds” shall mean the face amount of the Bonds, plus original issue premium, if any, and less original issue discount, if any, and less the amount of original Bond proceeds, if any, deposited in a qualified reserve account.

“Official Intent” shall mean the date of a declaration of “official intent” to reimburse costs paid with respect to the Project (within the meaning of §1.150-2 of the United States Treasury Regulations), which with respect to the determination of Qualified Project Costs for the Project, shall be December 9, 2021, for an amount up to \$21,500,000.

“Outstanding” shall mean, with respect to the Bonds, those Bonds that are Outstanding under the Indenture.

“Project” shall mean the Land and the buildings, structures, facilities and equipment now or hereafter comprising the 160-unit multifamily residential rental housing project located thereon, which Project is to be financed with the proceeds of the Loan.

“Project Costs” shall mean, to the extent authorized by the Act and the Code, all costs incurred by the Borrower with respect to the acquisition, rehabilitation and equipping, as the case may be, of the Project, including, without limitation, costs for site preparation, the planning of buildings and improvements, the acquisition of property, the removal or demolition of existing structures, the construction and rehabilitation of housing, related facilities and improvements, and all other work in connection therewith, and all costs of financing, including, without limitation, the cost of consultants, accounting and legal services, other expenses necessary or incident to determining the feasibility of the housing development, contractors’ and developers’ fees and the Borrower’s overhead and supervision fees and costs, costs of insurance and real estate taxes during construction, administrative and other expenses necessary or incident to the Project and the financing thereof (including reimbursement to any municipality, county or entity for expenditures made for the Project), interest accrued during construction and rehabilitation and for a reasonable period thereafter and all other costs approved by Bond Counsel; provided, however, that, unless otherwise approved by Qualified Bond Counsel, any Project Costs initially paid from other monies more than 60 days prior to the adoption of the resolution of the Issuer approving the issuance of the Bonds may be reimbursed from Bond proceeds only if such Project Cost was (A) a cost of issuance of the Bonds, (B) a preliminary capital expenditure (within the meaning of United States Treasury Regulations Section 1.150-2(f)(2)) with respect to the Project (such as architectural, engineering and soil testing services) incurred before commencement of acquisition or rehabilitation of the Project that do not exceed twenty percent (20%) of the issue price of the Bonds (as defined in United States Treasury Regulations Section 1.148-1), or (C) was a capital expenditure with respect to the Project that is paid not more than 60 days prior to the date of Official Intent and reimbursed no later than eighteen (18) months after the later of the date the expenditure was paid or the date the Project is placed in service (but no later than three (3) years after the expenditure is paid); provided further, however, that if any portion of the Project is being constructed or developed by the Borrower or an Affiliate (whether as a developer, a general contractor or a subcontractor), “Project Costs” reimbursed by or paid from Bond proceeds to such persons shall include only (a) the actual out-of-pocket costs incurred by the Borrower or such Affiliate in developing or constructing the Project (or any portion thereof), (b) any reasonable fees for supervisory services actually rendered by the Borrower or such Affiliate (but excluding any profit component) to the extent such amount can be traced to third party costs and (c) any overhead expenses incurred by the Borrower or such Affiliate which are directly attributable to the work performed on the Project to the extent paid out to unrelated employees of third parties, and shall not include, for example, intercompany profits resulting from members of an affiliated group (within the meaning of Section 1504 of the Code) participating in the rehabilitation of the Project or payments received by such Affiliate due to early completion of the Project (or any portion

thereof).

“Qualified Bond Counsel” shall mean Foley & Lardner LLP, or an attorney or firm of attorneys that is appointed by the Authority and is of nationally recognized standing with respect to the issuance of bonds by states and their political subdivisions.

“Qualified Project Costs” means all Project Costs paid with respect to the Project that (i) are properly chargeable to a capital account (or would be so chargeable with a proper election by the Borrower or but for a proper election by the Borrower to deduct such costs) in accordance with general federal income tax principles and in accordance with United States Treasury Regulations Section 1.103-8(a)(1) and (ii) are paid with respect to a qualified residential rental project or projects within the meaning of Section 142(d) of the Code.

“Qualified Project Period” shall mean the period beginning on the later of: (i) the date the Bonds were issued and (ii) the first day on which at least ten percent (10%) of the residential units in the Project are first occupied (which date shall be certified in writing by the Borrower to the Authority and the Trustee immediately following such date), and ending on the latest of (a) the date that is fifteen (15) years after the date on which at least fifty percent (50%) of the residential units in the Project are first occupied; (b) the first day on which no tax-exempt private activity bond issued with respect to the Project is outstanding; (c) the date on which any assistance provided with respect to the Project under Section 8 terminates; or (d) the date forty (40) years from the date of issuance of the Bonds.

“Regulations” shall mean the regulations promulgated or proposed by the United States Department of the Treasury pursuant to the Code and applicable to the Project, as amended from time to time.

“Section 8” shall mean Section 8 of the United States Housing Act of 1937.

“Series 2023A Loan” means the loan of the proceeds of the Authority’s Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023A, in the original aggregate principal amount of \$[2023A PAR], by the Authority to the Borrower.

“Series 2023A Loan Agreement” shall mean the Loan Agreement dated as of December 1, 2023, by and between the Authority and the Borrower, relating to the Authority’s Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023A, in the original aggregate principal amount of \$[2023A PAR].

“Series 2023B Loan” means the loan of the proceeds of the Authority’s Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023B, in the original aggregate principal amount of \$[2023B PAR], by the Authority to the Borrower.

“Series 2023B Loan Agreement” shall mean the Loan Agreement dated as of December 1, 2023, by and between the Authority and the Borrower, relating to the Authority’s Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023B, in the original aggregate principal amount of \$[2023B PAR].



“Subordinate Loan” means the loan of the proceeds of the Authority’s Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023C, in the original aggregate principal amount of \$[2023C PAR], by the Authority to the Borrower.

“Subordinate Financing Agreement” shall mean the Subordinate Financing Agreement dated as of December 1, 2023, by and between the Authority and the Borrower, relating to the Authority’s Multifamily Housing Revenue Bonds (Oaks at St. John), Subordinate Series 2023C, in the original aggregate principal amount of \$[2023C PAR].

“State” shall mean the State of Florida.

Unless the context clearly requires otherwise, as used in this Agreement, words of the masculine, feminine or neuter gender shall be construed to include any other gender when appropriate and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. This and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

The titles and headings of the sections of this Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.

Section 2. Acquisition, Rehabilitation, Completion and Operation of the Project. The Borrower hereby represents, covenants and agrees that:

(a) The Borrower has incurred, or within the applicable period set forth in Regulation 1.148-2(e)(2) will incur, a substantial binding obligation to commence acquisition and rehabilitation of the Project within the applicable period set forth in Regulation 1.148-2(e)(2), pursuant to which the Borrower is obligated to expend an amount equal to at least five percent (5%) of the “net sale proceeds” of the Bonds.

(b) The Borrower reasonably expects that the total cost of acquisition and rehabilitation of the Project will be at least \$[\_\_\_\_\_].

(c) The Borrower will commence the rehabilitation of the Project within six months of the date of issuance of the Bonds, and will proceed with due diligence to complete the same.

(d) The Borrower reasonably expects to complete the rehabilitation of the Project and to expend the full amount of the proceeds of the Loan by not later than three years following the Closing Date.

(e) At least ninety five percent (95%) of the Net Proceeds of the Bonds shall be applied to pay or reimburse the Borrower for the payment of Qualified Project Costs, and one hundred percent (100%) of the proceeds of the Loan shall be applied to pay or reimburse the Borrower for the payment of Project Costs.

(f) The Borrower shall submit to the Trustee, prior to or upon the date of each disbursement of the Loan, a statement certifying that the full amount of such disbursement will be

applied to pay or reimburse the Borrower for the payment of Project Costs and that at least ninety-five percent (95%) of disbursements from Net Proceeds of the Bonds when combined with all prior disbursements from Net Proceeds of the Bonds will be applied to pay or reimburse the Borrower for the payment of Qualified Project Costs. Such statement may be included in a Borrower Requisition (as defined in the Indenture).

(g) Upon the completion of the Project, the Borrower shall submit to the Authority and the Trustee a certificate of completion containing the following: (i) the Borrower's statement that the Completion Date has been achieved (and an updated final report of sources and uses against the rehabilitation budget); (ii) if applicable, the Borrower's statement that rehabilitation expenditures (within the meaning given such term in section 147(d)(3) of the Code) equal or exceed fifteen percent (15%) of the cost of acquiring the building (and equipment) financed with proceeds of the Bonds; (iii) the Borrower's certification that not less than ninety-five percent (95%) of the Net Proceeds of the Bonds have been applied to pay or reimburse the Borrower for the payment of Qualified Project Costs and that one hundred percent (100%) of the disbursements of Net Proceeds of the Bonds have been applied to pay or reimburse the Borrower for the payment of Project Costs.

(h) The Borrower does not own any buildings or structures that are proximate to the Project, other than those buildings or structures comprising the Project, that are being financed pursuant to a common plan of finance through the issuance of the Bonds under which the Project is also being financed.

Section 3. Residential Rental Property. The Borrower hereby represents, covenants, warrants and agrees that:

(a) (i) The Project will be acquired and constructed for the purpose of providing "qualified residential rental property" as such phrase is used in Section 142(d) of the Code, (ii) the Borrower shall own the entire Project for federal tax purposes, and (iii) the Project shall be owned, managed and operated as a multifamily residential rental property comprised of a building or structure or several buildings or structures containing similarly constructed units, together with any functionally related and subordinate facilities and no other facilities, in accordance with Section 142(d) of the Code and Sections 1.103-8(b)(4) and 1.103-8(a)(3) of the Regulations (as modified by Section 142(d) of the Code), and in accordance with such requirements as may be imposed thereby on the Project from time to time.

(b) The Project will be comprised of one or more similarly constructed units, each of which will contain separate and complete facilities for living, sleeping, eating, cooking and sanitation for an individual or a family, including a living area, a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, refrigerator and sink.

(c) None of the residential rental units in the Project will at any time be (i) utilized on a transient basis, (ii) rented for lease periods of less than six (6) months, or (iii) will be used as a hotel, motel, dormitory, fraternity or sorority house, rooming house, nursing home, hospital, sanitarium, rest home or trailer court or trailer park, or health club or recreational facility (other than health and/or recreational facilities that are available only to tenants and their guests without charge for their use and that are customarily found in Multifamily rental housing projects), and (iv) none of the occupants of such units shall be provided services customarily found in hotels

such as room service for food and beverages, maid service, furnishing and laundering of linens or valet service.

(d) All of the residential rental units in the Project will be rented or available for rent on a continuous basis to members of the general public (other than units occupied by persons permitted pursuant to Section 3(i) hereof) and the Borrower will not give preference to any particular class or group in renting the residential rental units in the Project, except to the extent that units are required to be leased or rented to Low-Income Tenants. Low-Income Tenants will have equal access to and enjoyment of all common facilities of the Project. The Borrower will not discriminate against children of any age when renting the residential rental units in the Project.

(e) The Land consists of a parcel of real property or parcels of real property that are contiguous except for the interposition of a road, street, stream or similar property, and the Project comprises buildings, structures and facilities that are proximate and financed pursuant to a common plan,

(f) Less than 25% of the Net Proceeds of the Bonds will be used (directly or indirectly) to acquire the Land.

(g) None of the Net Proceeds of the Bonds will be used to acquire any property (or an interest therein) unless the first use of such property is pursuant to such acquisition (within the meaning of Section 147(d)(1) of the Code); provided, however, that proceeds of the Bonds may be used to finance the acquisition of property (or an interest therein) where the “first use” of such property is not pursuant to such acquisition if rehabilitation expenditures with respect to such building equal or exceed fifteen percent (15%) of the portion of the cost of acquiring such building (and equipment) financed with proceeds of the Bonds. For purposes of this paragraph, the term “rehabilitation expenditures” has the same meaning given such term in section 147(d)(3) of the Code and, thus, does not include, among other things, any expenditures incurred more than two years after the later of the date the Bonds were issued, or the date on which the property was acquired, or any expenditures attributable to the enlargement of an existing building nor any expenditures described within Section 47(c)(2)(B) of the Code. Expenditures to rehabilitate a building include expenditures to rehabilitate equipment or to replace equipment having substantially the same function, but only if the equipment was part of an integrated operation contained in the building prior to its acquisition by the Borrower. References to equipment in parenthesis refer only to equipment which is functionally related and subordinate to and is purchased with an existing building.

(h) No proceeds of the Bonds shall be used directly or indirectly to provide any airplane, skybox or other private luxury box, health club facility (other than the normal and customary workout facility available to all tenants), facility used for gambling or store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(i) The Borrower or any related person (within the meaning of the Code) shall not occupy any of the residential rental units in the Project; provided, however, that the Borrower or a related person may occupy a residential rental unit in a building or structure that contains five or more residential rental units if the Borrower or a related person is a resident manager or other necessary employee (e.g., maintenance and security personnel).

(j) In the case of a “mixed-use” project wherein part of the building or structure, together with any facilities functionally related and subordinate thereto, contains one or more similarly constructed residential rental units that in the aggregate, meet the Low-Income Tenant occupancy requirements of Section 4 of this Agreement (the “residential rental units”) and the rest of the building is devoted to use unrelated to such units (the “nonqualifying property”), the term “residential rental project” shall mean only the residential rental units and the other portions of the Project allocable to such units, including the allocable portion of the property benefiting both the residential rental units and the nonqualifying property (e.g., the common elements), and all property benefiting only the residential rental units. The allocation of the costs of the common elements shall be made according to a method that properly reflects the proportionate benefit derived, directly or indirectly, by the residential rental units and the nonqualifying property.

(k) If the Project is receiving Section 8 assistance, the Borrower will comply with all Section 8 requirements in administering these restrictions.

(l) No portion of the Project will at any time be owned or used by a cooperative housing corporation;

(m) The Project consists of one or more discrete edifices or other man made construction, each consisting of an independent foundation, outer walls and roof, all of which are (i) owned by the same person for federal tax purposes, (ii) located on a common tract of land or two or more tracts of land which are contiguous except for being separated only by a road, street, stream or similar property, and (iii) financed by the Loan or otherwise pursuant to a common plan of financing, and which will consist entirely of:

(1) Units which are similar in quality and type of construction and amenities;

(2) Facilities functionally related and subordinate in purpose and size to property described above, e.g., parking areas, swimming pool, exercise room and other recreational facilities (none of which may be unavailable to any person because such person is a Low-Income Tenant) and other facilities which are reasonably required for the Project, e.g., heating and cooling equipment, trash disposal equipment or units for residential managers or maintenance personnel;

(n) that during the Term of this Agreement, the Project will not include a unit in a building where all units in such building are not also included in the Project;

(o) that during the Term of this Agreement, the Borrower will not convert the Project to condominium ownership;

(p) within thirty (30) days of the Completion Date, the Borrower shall prepare and submit to Authority and, upon request, the Trustee a certificate in recordable form for purposes of the calculation of the commencement and termination of the Qualified Project Period, if applicable;

(q) that the Borrower shall not discriminate on the basis of race, religion, color, age, sex, marital status, familial status, disability or national origin in the lease, use or occupancy of the Project or in connection with the employment or application for employment of persons for

the operation and management of the Project; provided, however, that nothing herein shall be deemed to preclude the Borrower from discrimination based on income or reported tenant problems relating to the applying tenant or tenants in renting units set aside for Low-Income Tenants in compliance with the requirements of the Code and this Agreement; notwithstanding the foregoing, the Borrower shall not be precluded from discrimination based on age and familial status so long as the Borrower complies with all requirements imposed by or pursuant to the federal fair housing law and regulations of the Department of Housing and Urban Project (24 CFR) issued pursuant to Title VI, the Fair Housing Act, the Rehabilitation Act, the Age Discrimination Act or Executive Order 11063, and similar state laws and regulations; and

(r) that the Borrower shall submit an annual report to the Secretary of the Department of Treasury as required by Section 142(d)(7) of the Code and deliver a copy thereof to Authority and to the Trustee, upon request.

The requirements of this Section 3 shall terminate at the end of the Qualified Project Period, except as otherwise provided in Section 10 hereof.

Section 4. Low-Income Tenants. The Borrower hereby represents, warrants and covenants as follows:

(a) At all times during the Qualified Project Period, not less than forty percent (40%) of the completed residential rental units shall be occupied or held available for occupancy by Low-Income Tenants.

(b) At all times during the term of this Agreement, at least one hundred percent (100%) of the Available Units in the Project shall be rented to or be available to rent by Eligible Persons.

(c) At all times during the Qualified Project Period, all of the residential rental units in the Project will be rented as a residential dwelling, on a continuous basis and may not be used or converted to owner-occupied housing or other residential or business use. For purposes of this requirement, a building or structure will not be deemed to be held for rental use if it contains less than five units, any unit of which is occupied by the owner of the residential rental units.

(d) The determination of whether the income of a resident of a residential rental unit exceeds the applicable income limit shall be made at the time of initial occupancy and annually thereafter on the basis of the current income of the resident. For purposes of paragraphs (a) and (b) of this Section 4, a residential rental unit occupied by an individual or family who at the commencement of the occupancy of such unit is a Low-Income Tenant shall be counted as occupied by a Low-Income Tenant during such individual's or family's tenancy in such unit, even though such individual or family ceases to be a Low-Income Tenant. However, the preceding sentence shall cease to apply to any Low-Income Tenant whose income under the most recent determination exceeds one hundred forty percent (140%) of the applicable income limit if after such determination, but before the next determination, any residential rental unit of comparable or smaller size in the same building (as defined for purposes of the low income housing tax credit in Section 42 of the Code) is occupied by a new resident whose income exceeds the applicable income limit. In addition, a unit that was occupied by a Low-Income Tenant shall be counted as occupied by a Low-Income Tenant until it is reoccupied for a period in excess of thirty-one (31) days, at which time the residential rental unit shall be considered to be occupied by a Low-Income Tenant

only if the individual or family then occupying the residential rental unit satisfies the definition of a Low-Income Tenant.

(e) A development which certifies 100% of its units as low-income shall perform one annual income recertification effective upon the first anniversary of any household's move-in or initial certification. No additional income recertification shall be required by the Authority; however, annual determination of student status shall be required for households comprised entirely of students. Should the annual income recertification of such households result in non-compliance with income occupancy requirements, the next available unit must be rented to a qualifying household in order to ensure continuing compliance of the Project.

(f) The form of lease to be used by the Borrower in renting any unit in the Project to a person who is intended to be a Low-Income Tenant shall (i) provide for termination of the lease and consent by such person to immediate eviction for failure to qualify as a Low-Income Tenant as a result of any material misrepresentation made by such person with respect to the income certification, and (ii) subject to paragraph (d) above, require that the tenant of the unit certify the income of the residents of the unit annually and at any time as the Borrower may reasonably request. The form of lease for the residential rental units to be utilized by the Borrower in renting all dwelling units in the Project shall be subject to the Authority's approval. The lease for the residential rental units must comply with all applicable Section 8 requirements if the Project is receiving a subsidy pursuant to Section 8 of the United States Housing Act of 1937.

(g) In addition to the set aside requirements set forth in paragraphs (a) and (b) of this Section 4, the Owner has agreed in that certain extended low-income housing commitment (as such term is defined in Section 42(h)(6)(B) of the Internal Revenue Code of 1986, as amended) (the "Tax Credit Extended Use Agreement"), that not less than 15.63% of the Available Units (25 units) shall be occupied (or held available for occupancy) on a continuous basis by persons or families whose annual income does not exceed thirty percent (30%) of area median gross income ("AMI") and 84.38% of the Available Units (135) units shall be occupied (or held available for occupancy) on a continuous basis by persons or families whose annual income does not exceed sixty percent (60%) of AMI, each at the time of their initial occupancy of such units. The Owner expressly agrees that it will not agree to, or enter into, any modification or amendment to the Tax Credit Extended Use Agreement without the prior written consent of the Issuer, if such proposed modification or amendment modifies the set aside requirements set forth in this Section 3(e).

#### Section 5. Reporting Requirements

(a) At all times during the Qualified Project Period, the Borrower will obtain and maintain on file income certifications from each Low-Income Tenant residing in the Project as to the anticipated income of such Low-Income Tenant for the period of 12 consecutive months beginning with the date on which the Low-Income Tenant first occupied a unit or first signs a lease for a unit and, subject to Section 4(d) hereof, for each 12 month period thereafter, in the form and manner as may be required by applicable rules, regulations, or policies now or hereafter promulgated by the Department of the Treasury or the Internal Revenue Service with respect to obligations issued under Section 142(d) of the Code, the current form of which is attached hereto as Exhibit C. In addition to the income certifications provided for herein, the Borrower shall submit any other information, documents, or certifications requested by the Authority or the Trustee, that the Authority, deems reasonably necessary to substantiate the Borrower's continuing compliance with the provisions of the Loan Agreement and Section 142(d) of the Code.

(b) At all times during the Qualified Project Period, the Borrower will obtain and maintain on file from each Low-Income Tenant residing in the Project a copy of such Low-Income Tenant's federal income tax return for the taxable year immediately preceding such Low-Income Tenant's initial occupancy (or, if later, the commencement of the Qualified Project Period) in the Project and each year thereafter or other satisfactory evidence of income for such year such as social security information, income tax returns of Qualified Tenants, pay stubs or employer letter showing wages or salary.

(c) The Borrower shall file with the Authority, on the tenth (10th) day of each month, copies of the Income Certifications specified in Sections 5(a) and (b) hereof obtained by the Borrower during the previous calendar month.

(d) The Borrower shall maintain complete and accurate records pertaining to the incomes of and rentals charged to Low-Income Tenants residing in the Project, and shall permit during normal business hours, upon five (5) business days' notice to the Borrower, any duly authorized representative of the Authority or the Trustee to inspect the books and records of the Borrower pertaining to the incomes of and rentals charged to all tenants of residential rental units residing in the Project. The Trustee shall not be required to inspect the incomes or rental records maintained by the Borrower pursuant hereto.

(e) Commencing on the date that the first unit in the Project is occupied, the Borrower shall prepare and submit to the Authority on the tenth (10th) day of each month, rent rolls for the preceding month and a Certificate of Continuing Program Compliance executed by the Borrower stating (i) the percentage of units that were occupied by Low-Income Tenants as of the twentieth (20th) day of the previous month, (ii) that at all times during the previous month at least 40% of the residential rental units were occupied or held available for occupancy by Low-Income Tenants (each as determined in accordance with Section 4 of this Agreement), and (iii) that no default has occurred under this Agreement or, if such a default has occurred, the nature of such default and the steps, if any, the Borrower has taken or proposes to take to correct such default. Attached hereto as Exhibit B is the initial Certificate of Continuing Compliance to be used by the Borrower.

(f) The Borrower will file when due Internal Revenue Code Form 8703-Annual Certification of a Residential Rental Project or such other annual certification required by the Code to be submitted to the Secretary of the Department of Treasury as to whether the Project continues to meet the requirements of Section 142(d) of the Code, with a copy to the Authority and the Trustee, upon request.

Section 6. Tax-Exempt Status of Bonds.

(a) The Authority hereby represents, covenants and agrees as follows:

(i) that the Authority will not knowingly take or fail to take or permit any action to be taken that would adversely affect the exclusion from gross income under Section 103 of the Code of the interest on the Bonds and, if it should take or permit any such action, the Authority shall take all lawful actions that it can take to rescind such actions promptly upon having knowledge thereof; and

(ii) that the Authority will take such action or actions, as may be necessary in the opinion of Qualified Bond Counsel, to comply fully with all applicable rules, rulings, regulations, policies, procedures or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service pertaining to obligations issued under Section 142(d) of the Code.

(b) The Borrower hereby covenants, represents and agrees as follows:

(i) that the Borrower will not take or fail to take or permit any action to be taken which would adversely affect the exclusion from gross income of the interest on the Bonds under Section 103 of the Code, and, if it should take or permit any such action, the Borrower shall take all lawful actions that it can take to rescind such action promptly upon having knowledge thereof;

(ii) that the Borrower in order to preserve the exclusion from gross income under section 103 of the Code of interest on Bonds shall not request any advance (a) which would cause the amount of Net Proceeds of the Bonds used to finance costs of issuance to exceed two percent (2%) of the proceeds on the Bonds allocable to the Loan or (b) which is for costs other than Qualified Project Costs unless at least ninety-five percent (95%) of all advances from Net Proceeds of the Bonds, taking into account costs of issuing the Bonds as costs which are not Qualified Project Costs, shall have been applied to finance Qualified Project Costs; and

(iii) that the Borrower will take such action or actions, as may be necessary in the opinion of Qualified Bond Counsel, to comply fully with all applicable rules, rulings, regulations, policies, procedures or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service pertaining to obligations issued under Section 142(d) of the Code affecting the Project or the Loan.

Section 7. Fair Housing Laws. The Borrower will comply with all fair housing laws, rules, regulations or orders applicable to the Project.

Section 8. Covenants to Run with the Land. The covenants, reservations and restrictions set forth herein shall be deemed covenants running with the Land and, except as provided in Sections 8 and 10 hereof, shall pass to and be binding upon the Borrower's heirs, assigns and successors in title to the Land or the Project; provided, however, that upon the termination of this Agreement in accordance with the terms hereof said covenants, reservations and restrictions shall expire. Except as provided in Section 10 hereof, each and every contract, deed or other instrument hereafter executed covering or conveying the Land or the Project or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments. If a portion or portions of the Project are conveyed, all of such covenants, reservations and restrictions shall run to each portion of the Project. The Borrower, at its cost and expense, shall cause this Agreement to be duly recorded or filed and re-recorded or refiled in such places, and shall pay or cause to be paid all recording, filing, or other taxes, fees and charges, and shall comply with all such statutes and regulations as may be required by law in order to establish, preserve and protect the ability of the Authority to enforce this Agreement.



Section 9. Indemnification of Authority and Trustee. (a) The Borrower releases the Authority and the Trustee, and their respective officers, directors, agents, officials, employees (and as to the Authority, members of its Board of Directors) and any person who controls the Authority or the Trustee (only in its capacity as Trustee and not for the benefit of Bondholders), within the meaning of the Securities Act of 1933, from, and covenants and agrees to indemnify, hold harmless and defend the Authority and the Trustee (individually and not for the benefit of the Bondholders), and their respective officers, directors, employees, agents, officials (and as to the Authority, members of its governing board) and any person who controls the Authority or the Trustee (only in its capacity as Trustee and not for the benefit of Bondholders), within the meaning of the Securities Act of 1933, and employees and each of them (each an “Indemnified Party”) from and against, any and all losses, claims, damages, demands, liabilities and expenses (including but not limited to, reasonable attorneys’ fees and expenses, whether or not suit is brought and whether incurred in settlement negotiations, investigations of claims, at trial, on appeal or otherwise), litigation and court costs, taxes, amounts paid in settlement, amounts paid to discharge judgments, causes of action, suits, claims, demands and judgments of any nature, joint or several, by or on behalf of any person directly or indirectly resulting from, arising out of or related to:

(i) any and all claims arising in connection with the interpretation, performance, enforcement, breach, default or amendment of this Agreement or in connection with any federal or state tax audit or investigation, any securities investigation or enforcement action or any questions or other matters arising under this Agreement;

(ii) the exercise by the Trustee of its powers or duties under the Indenture or under this Agreement;

(iii) the Borrower’s failure to comply with any requirement of this Agreement;

(iv) any act or omission of the Borrower or any of its agents, servants, employees or licensees in connection with the Loan or the Project, including violation of any law, ordinance, court order or regulation affecting the Project or any part of it or the ownership, occupancy or use of it;

(v) any damage or injury, actual or claimed, of whatsoever kind, cause or character, to property (including loss of use of property) or persons, occurring or allegedly occurring in, on or about the Project or arising out of any action or inaction of the Borrower, whether or not related to the Project, or resulting from or in any way connected with specified events, including the construction or management of the Project;

(vi) any violation of any environmental law, rule or regulation with respect to, or the release of any toxic substance from, the Project; and

(vii) any and all claims arising in connection with the operation of the Project, or the conditions, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, rehabilitation or equipping of, the Project or any part of it, including, but not limited to, the ADA (as evidenced by an architect’s certificate to such effect).

(b) This indemnification shall not be affected by any investigation by or on behalf of the Trustee or the Authority or by any information the Trustee or the Authority may have or obtain with respect thereof. This indemnification shall extend to and include, without limitation, all reasonable costs, counsel fees, expenses and liabilities incurred in connection with any such claim or proceeding brought with respect to such claim to the fullest extent permitted by law, with respect to the Authority and its Indemnified Parties, notwithstanding the indemnity herein shall exclude any claims arising out of the negligence, willful misconduct or fraud on the part of the Authority and any Indemnified Parties.

(c) In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought under this Agreement, the Borrower, upon written notice from the Indemnified Party, shall assume the investigation and defense of the action or proceeding, including the engagement of counsel selected by the Borrower, subject to the approval of the Indemnified Party in such party's sole discretion, and shall assume the payment of all reasonable expenses related to the action or proceeding, with full power to litigate, compromise or settle the same in its sole discretion, provided that the Authority or the Trustee, as appropriate, shall have the right to review and approve or disapprove any such compromise or settlement which review and approval shall not be unreasonably withheld or delayed. Each Indemnified Party shall have the right to engage separate counsel in any such action or proceeding and participate in the investigation and defense of the action or proceeding and the Borrower shall be obligated to pay the reasonable fees and expenses of such separate counsel if (a) the Indemnified Party determines that a conflict of interest exists between the interests of the Indemnified Party and the interests of the Borrower or (b) such separate counsel is engaged with the approval of the Borrower, which approval shall not be unreasonably withheld, conditioned or delayed; provided, that notwithstanding the foregoing, each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding at the Borrower's expense, if the Borrower fails to assume the defense of such Indemnified Party. The Borrower shall not be liable for any settlement obtained without the Borrower's consent, which consent shall not be unreasonably withheld, conditioned or delayed.

(d) Notwithstanding any transfer of the Project to another owner, the Borrower shall remain obligated to indemnify each Indemnified Party pursuant to this Section 9 for all matters arising prior to the date of such transfer, and, as a condition to the release of the transferor on and after the transfer date, the transferee must assume the obligations of the Borrower under the Bond Documents on and after such transfer date and indemnify each Indemnified Party pursuant to this Section 9 and for all matters arising on and after the date of such transfer.

(e) The indemnification set forth in this Section 9 shall survive the termination of this Agreement, the repayment of the Loan and the payment or defeasance of the Bonds.

(f) The indemnification provided in this Section 9 is in addition to, and not in substitution of, the indemnification provisions in other documents executed and delivered in connection with the making of the Loan and the issuance of the Bonds.

(g) Notwithstanding any other provision of this Agreement to the contrary, neither the Bondholders nor the Trustee will assume or take subject to any liability for the indemnification obligations of the Borrower for acts or omissions of the Borrower prior to any transfer of title to the Bondholders or the Trustee, as the case may be, whether by foreclosure, deed in lieu of foreclosure or comparable conversion of the Loan. Following any transfer of title to the

Bondholders or the Trustee, as the case may be, any obligations of the Bondholders or the Trustee, as the case may be, under this Section shall be limited to acts and omissions of the Bondholders or the Trustee, as the case may be, which occur following acquisition of the Project by such Person, whether such acquisition is by foreclosure, deed in lieu of foreclosure or comparable conversion of the Loan, and only during the period of such Person's ownership and operation of the Project, provided that such Person's liability shall be strictly limited to acts and omissions of such Person or its agents occurring during the period of such Person's ownership and operation of the Project. The Borrower shall remain liable under this Section for its actions and omissions prior to any transfer of title to the Bondholders or the Trustee, as the case may be. The obligation of the Bondholders or the Trustee, as the case may be, to provide indemnification shall be contingent upon such Person's receipt of written notice from any party asserting a right to indemnification in time sufficient to enable such Person to defend any action, claim or proceeding in a manner which is not prejudicial to such Person's rights. The Bondholders or the Trustee, as the case may be, shall have no indemnification obligations to the Borrower, or with respect to the Bonds.

Section 10. Term. (a) Subject to the rights of the Authority and the Trustee to indemnification by the Borrower pursuant to Section 9 hereof, which shall survive the termination of this Agreement, this Agreement shall remain in full force and effect until the "Term of this Agreement," which shall be the later of (i) the payment in full of the Bonds (or any bonds refunding the Bonds), or (ii) the expiration of the Qualified Project Period, it being expressly agreed and understood that the provisions of this Agreement may survive the termination of the Loan Agreement, if repayment of the Loan occurs prior to the later of such events. Upon the termination of this Agreement, upon request of any party hereto, the Authority, the Trustee, the Borrower and any successor party hereto shall execute a recordable document prepared by the Authority or its counsel further evidencing such termination.

(b) Notwithstanding Section 10(a), the restrictions and requirements contained in this Agreement shall, except as otherwise provided in Section 9 hereof as to the Borrower and subject to the provisions of the last sentence in this Section 10(b), automatically terminate in the event of involuntary noncompliance caused by fire, seizure, requisition, foreclosure or transfer of title by deed in lieu of foreclosure to an entity other than the Borrower or a related person (within the meaning of the Code) to the Borrower, change in a federal law or an action of a federal authority after the date the Bonds are issued which prevents compliance with the covenants expressed herein, or condemnation or similar event (as determined by the Authority upon the advice of Qualified Bond Counsel), but only if, within a reasonable period, either (i) all Bonds are paid, redeemed, retired or cancelled in full, or (ii) amounts received as a consequence of such event are used to provide a project that meets and is subject to the requirements of the Code and applicable Regulations thereunder. In such event, upon the request of the Borrower and at the expense of the Borrower, the parties hereto shall execute an appropriate document in recordable form prepared by the Authority or its counsel to evidence such automatic termination, but the failure to execute or record such document shall not affect the automatic termination. This Section 10(b) shall not apply (and the restrictions contained in this Agreement shall thereafter apply) to the Project in the event that, subsequent to any involuntary noncompliance as described in this Section 10(b) but prior to the expiration of the Qualified Project Period, an obligor on the acquired purpose investment (as defined in Section 1.148-1(b) of the Regulations) or a related person (as defined in Section 1.103-10(e) of the Regulations) obtains an ownership interest in the Project for tax purposes.

(c) Notwithstanding any other provisions of this Agreement, this entire Agreement, or any of the provisions or Sections hereof, may be terminated with the written consent of the Authority, the Trustee, or its assigns and the Borrower if there shall have been received an opinion of Qualified Bond Counsel that such termination will not adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

(d) The Trustee's obligations under this Agreement terminate at such time as the Bonds are no longer outstanding.

Section 11. Correction of Noncompliance. The failure of the Borrower to comply with any of the provisions of either Section 3 or 4 of this Agreement shall not be deemed a default hereunder unless such failure has not been corrected within a period of sixty (60) days following the date that any of the parties hereto learned of such failure. Within a reasonable period of gaining actual knowledge of such failure, the Trustee shall attempt with reasonable diligence to notify the Borrower of such failure by telephonic communication to be confirmed in writing.

Section 12. Modification of Tax Covenants. To the extent any amendments, modifications or changes to the Regulations or the Code shall, in the written opinion of Qualified Bond Counsel filed with the Authority, the Borrower, and the Trustee, impose requirements upon the ownership, occupancy or operation of the Project different than those imposed by the Regulations or the Code and stated herein, this Agreement shall be amended and modified in accordance with such requirements to the extent necessary to maintain the excludability from gross income, for federal income tax purposes of the interest on the Bonds. The parties hereto agree to execute, deliver, and record, if applicable, any and all documents or instruments necessary in the opinion of and in the form approved by Qualified Bond Counsel to effectuate the intent of this Section 12.

Section 13. Reliance. The Borrower hereby recognizes and agrees that the representations and covenants made by the Borrower set forth herein may be relied upon by the Authority and the Trustee. In performing their duties and obligations hereunder, the Authority and the Trustee may rely upon statements and certificates of the Borrower and the Low-Income Tenants that are believed to be genuine and to have been executed by the proper person or persons, and upon audits of the books and records of the Borrower pertaining to occupancy of the Project.

The Trustee is entering into this Agreement in connection with its role as Trustee under the Indentures and the protections afforded the Trustee therein, respectively, shall apply to its duties and obligations under this Agreement. In determining whether any default or lack of compliance by the Borrower exists under this Agreement, the Trustee shall not be required to conduct any investigation into or review of the operations or records of the Borrower and, absent actual knowledge of any default or noncompliance, may assume compliance by the Borrower unless otherwise specifically notified in writing. After the date on which no bonds remain outstanding as provided in the Indentures, the Trustee shall have no duties or responsibilities under this Agreement, and all references herein to the Trustee shall be deemed references to the Issuer.

Section 14. Authority to Monitor Compliance; Compliance Monitoring Fee.

(a) The Authority shall receive reports, certifications and other documents, shall examine all such reports, certifications and other documents then required to be delivered to the Authority hereunder and shall notify the Trustee promptly and the Borrower in writing within

a reasonable time if any such documents contain evidence of non-compliance with the requirements of this Agreement.

(b) In the event all Bonds have matured or been redeemed or defeased prior to the end of the Qualified Project Period, the Borrower shall pay the Compliance Monitoring Fee to the Authority, payable in advance on the date on which the maturity, redemption or defeasance of the Bonds takes place.

Section 15. Uniformity; Common Plan. The covenants, reservations and restrictions hereof shall apply uniformly to the entire Project.

Section 16. Transfer of Project; Covenants to Run with the Land. (a) The Borrower shall not (i) enter into a voluntary sale, lease (other than leases of rental units to tenants), exchange, assignment, conveyance, transfer or other disposition (collectively, a “Disposition”) of all or substantially all of the Project or (ii) allow itself to be terminated for federal income tax purposes or (iii) so long as any Bonds remain Outstanding, place any mortgage lien, assignment of leases and rents or security interests on or pertaining to the Project, without in each instance the prior written consent of the Authority. The Authority shall not unreasonably withhold its written consent to a Disposition, as long as the requirements of this Section 16 are fully satisfied. It is expressly agreed that, in connection with determining whether to grant or withhold such consent, the Authority may (but is not obligated to), among other things: (1) consider the creditworthiness of the party to whom such Disposition will be made and such party’s management ability with respect to the Project; (2) consider whether or not the security for repayment of the Loan and other payment obligations under the Loan Agreement, and the performance of the covenants and other obligations under this Agreement (without regard to whether any Bonds are outstanding) or the Authority’s ability to enforce its rights, remedies and recourses with respect to such security or performance will be impaired in any way or to any degree by the proposed Disposition; (3) require that the Authority be reimbursed for all reasonable costs and expenses incurred by the Authority in connection with investigating the creditworthiness and management ability of the party to whom such Disposition will be made and in determining whether the Authority’s security will be impaired by the proposed Disposition; (4) require the payment of all payment obligations of the Borrower under the Loan Agreement, including but not limited to accrued obligations not yet payable and, in the event of a Disposition in connection with a redemption of the Bonds prior to the termination of the Qualified Project Period, the Compliance Monitoring Fee; (5) require the payment of the Authority’s attorneys’ fees and expenses in connection with such Disposition; (6) require the express, unconditional assumption of all payment obligations and all performance obligations under this Agreement, the Loan Agreement, the Environmental Indemnity and the Guaranty of Recourse Obligations (each as defined in the Indenture) relating to the Project and any other document, agreement or instrument evidencing or securing the Borrower’s obligations under the Loan Agreement by the party to whom such Disposition will be made (with or without the release of the transferor Borrower from liability for such obligations), which assumption shall be in form and substance satisfactory to the Authority and its counsel, and require the recording of such assumption document; (7) require the execution of modification agreements, supplemental mortgage documents, financing statements and such other documents, agreements and instruments as the Authority or their counsel may require, (8) require endorsements to any existing Authority or Trustee title insurance policies insuring the Authority’s or the Trustee’s liens and security interests covering the Project, and (9) require an opinion of Qualified Bond Counsel to the effect that the transfer will not adversely affect the excludability of the interest on the Bonds from the

gross income of the holders thereof for federal income tax purposes. The Authority may, in its discretion, release the Borrower from liability under this Agreement and the Loan Agreement and may limit any such release from liability to events and occurrences arising after such Disposition, whether or not the Authority has knowledge of prior events or occurrences creating such liability at the time of the Disposition.

(b) The restrictions contained in Section 16(a) shall not be applicable to any of the following: (i) any transfer pursuant to or in lieu of a foreclosure or any exercise of remedies (including, without limitation, foreclosure, deed in lieu of foreclosure or comparable conversion of the Loan under the Lender Mortgage); provided, however, that neither the Borrower nor any related person (within the meaning of the Code) to the Borrower shall acquire any interest in the Project during the remainder of the Qualified Project Period; (ii) any sale, transfer, assignment, encumbrance or addition of partnership interests in the Borrower, provided such sale, transfer, assignment, encumbrance or addition does not constitute a change in ownership of the Project which would adversely affect the excludability from gross income, for federal income tax purposes of the interest payable on the Bonds; (iii) grants of utility-related easements and governmental easements, shown on the title policy approved by the Authority and any other easement and use agreements which may be consented to by the Authority; (iv) service-related leases or easements, such as laundry service leases or television cable easements, and easements related to the construction of the Project over portions of the Project, provided, however, the same are granted in the ordinary course of business in connection with the operation of the Project as contemplated by this Agreement; (v) grants of other easements and entry into other use agreements which may be consented to by the Authority and the Majority Owner; (vi) leases of apartment units to tenants, including Low-Income Tenants, in accordance with the requirements of the Loan Agreement and this Agreement and leases of commercial space; (vii) any sale or conveyance to a condemning governmental authority as a direct result of a condemnation or a governmental taking or a threat thereof; (viii) the placing of a subordinate mortgage lien, assignment of leases and rents or security interests on or pertaining to the Project if made expressly subject and subordinate to this Agreement, the Loan documents and provided that such subordinate mortgage lien, assignment of leases and rents or security interests is permitted by the Bond Mortgage; (ix) any change in allocations or preferred return of capital, depreciation or losses or any final adjustment in capital accounts (all of which may be freely transferred or adjusted by the Borrower pursuant to the Borrower's creation documents); or (x) the placing of a mortgage lien, assignment of leases and rents or security interests on or pertaining to the Project after the payment (or provision for payment in accordance with the Indenture) of all Bonds and the release of the Bond Mortgage.

(c) The covenants, reservations and restrictions set forth herein shall be deemed covenants running with the Land and, except as provided in Section 10 hereof and this Section 16, shall pass to and be binding upon the Borrower's heirs, assigns, and successors in title to the Land or the Project; provided, however, that upon the termination of this Agreement in accordance with the terms hereof, said covenants, reservations and restrictions shall expire. Except as provided in Section 10 hereof and this Section 16, each and every contract, deed or other instrument hereafter executed covering or conveying the Land or the Project or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments. If a portion or portions of the Project are conveyed, all such covenants, reservations and restrictions shall run to each portion of the Project.

(d) In connection with any Disposition under paragraph (a) above or any transfer or other action addressed in Section 16(b)(ii) above other than a transfer of limited partnership interests, the Authority, the Trustee and the Majority Owner shall be entitled to require the Borrower to cause an opinion of Bond Counsel to be delivered to them to the effect that the proposed transfer of the Project will not adversely effect the exclusion of interest on the Bonds from the federal gross income of the holders thereof, upon which the Trustee may conclusively rely.

Section 17. Burden and Benefit. The Authority, the Trustee and the Borrower hereby declare their understanding and intent that the burden of the covenants set forth herein touch and concern the Land in that the Borrower's legal interest in the Land and the Project is rendered less valuable thereby. The Authority, the Trustee and the Borrower hereby further declare their understanding and intent that the benefit of such covenants touch and concern the Land by enhancing and increasing the enjoyment and use of the Land and the Project by Low-Income Tenants, the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the public purposes for which the Bonds were issued.

Section 18. Remedies; Enforceability. If a violation of any of the provisions hereof occurs or is attempted, the Authority and its successor and assigns, after expiration of any applicable cure period, may institute and prosecute any proceeding at law or in equity to abate, prevent or enjoin any such violation or attempted violation, to compel specific performance hereunder, or to recover monetary damages caused by such violation or attempted violation. The provisions hereof are imposed upon and made applicable to the Land and shall run with the Land and shall be enforceable against the Borrower or any other person or entity that has or had an ownership interest in the Project at the time of such violation or attempted violation. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right of any party entitled to enforce the provisions hereof or to obtain relief against or recover for the continuation or repetition of such breach or violation or similar breach or violation hereof at any later time or times. Notwithstanding anything to the contrary in this Agreement, with the exception of the obligations of the Borrower to the Authority and the Trustee set forth in Section 9 of this Agreement, the liability of the Borrower under this Agreement is and shall be limited solely to the interest of the Borrower in the Project, it being specifically understood and agreed that neither the Borrower nor the partners comprising the Borrower, if any, shall have any personal liability with respect to the obligations of the Borrower set forth herein, and that any party seeking to enforce personal liability against the Borrower or the partners comprising the Borrower, if any, shall look only to said interest of the Borrower for the satisfaction of such liability. The Authority and the Trustee agree that cure of any violation or default by any limited partner of the Borrower shall be deemed to be a cure by the Borrower and shall be accepted on the same basis as if made by the Borrower.

Section 19. Governing Law. This Agreement shall be governed by the laws of the State, without regard to conflict of law provisions.

Section 20. Filing. This Agreement shall be duly recorded in the Office of the Clerk of the Circuit Court for St. Johns County, Florida, prior to the recording of the Bond Mortgage.

Section 21. Amendments. This Agreement shall not be amended, revised, or terminated except by a written instrument, executed by the parties, and duly recorded in the Office of the Clerk of the Circuit Court for St. Johns County, Florida; provided, however, after the Bonds have

been paid in full, any amendments shall only require a written instrument executed by the Authority and the Borrower. The Authority's consent to any such amendment, revision or termination shall be given only in accordance with the Indenture.

Section 22. Notice. Any written notice required or permitted to be given hereunder shall be given by (i) personal delivery, (ii) registered or certified U.S. mail or (iii) registered expedited service at the addresses set forth below or at such other addresses as may be specified in writing by the parties hereto. Any such notice shall be deemed received on (i) the date of delivery, if given by personal delivery or by expedited delivery service, or (ii) upon the earlier of the third (3rd) business day after the date of mailing or upon actual receipt, if sent by registered U.S. mail.

1. As to the Issuer:

Housing Finance Authority of St. Johns County  
200 San Sebastian View, Suite 2300  
St. Augustine, FL 32084  
Attention: Executive Director

With copy to:

Bradley, Garrison & Kamando, P.A.  
1845 East West Parkway, Suite 6  
Fleming Island, Florida 32003  
Attention: Rich Komando, Esq.  
Telephone: (904) 269-1111  
Email: rich@claylawyers.com

2. As to the Borrower:

Ponte Vedra Beach Leased Housing Associates I, LLLP  
c/o Dominium Development & Acquisition, LLC  
2905 Northwest Blvd., Suite 150  
Plymouth, MN 55441  
Atlanta, Georgia 30350  
Attention: Terry Sween and Mark Moorhouse  
Telephone: (763) 354-5618  
Email: tween@dominiuminc.com; mmoorhouse@dominiuminc.com

With copy to:

Winthrop & Weinstine, P.A.  
225 South Sixth Street, Suite 3500  
Minneapolis, MN 55402-4629  
Attention: Neil D. Mahoney  
Telephone: (612) 604-6596  
Email: nmahoney@winthrop.com

3. As to the Rating Agency:



Moody's Investor Service  
[INSERT ADDRESS]  
Attention: [ ]  
Telephone: [ ]  
Email: [ ]

4. As to the Trustee:

U.S. Bank Trust Company, National Association  
500 West Cypress Creek Road, Suite 460  
Fort Lauderdale, FL 33309  
Attention: Scott A. Schuhle, Vice President  
Telephone: (954) 938-2476  
Email: scott.schuhle@usbank.com

With copy to:

Kutak Rock LLP  
60 South Sixth Street, Suite 3400  
Minneapolis, MN 55402-4513  
Attention: Justin Reppe  
Telephone: (612) 334-5018  
Email: Justin.reppe@kutakrock.com

5. As to the Investor Limited Partner:

Alliant Credit Facility IV, LLC  
c/o Dominion Development & Acquisition, LLC  
2905 Northwest Boulevard, Suite 150  
Plymouth, MN 55441  
Attention: Terry Sween  
Telephone: (404) 806-5851  
Email: tsween@dominiuminc.com

6. As to the Lender:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Section 23. Severability. If any provision hereof shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

Section 24. Multiple Counterparts. This Agreement may be simultaneously executed in multiple counterparts, all of which shall constitute one and the same instrument, and each of which shall be deemed to be an original.

Section 25. [Fannie Mae Rider Language]

IN WITNESS WHEREOF, the Authority, the Trustee and the Borrower have executed this Agreement by duly authorized representatives, all as of the date first written hereinabove.

**HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA**

[SEAL]

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

Attest: \_\_\_\_\_  
Vice Chair

200 San Sebastian View, Suite 2300  
St. Augustine, FL 32084

APPROVED AS TO LEGAL SUFFICIENCY:

By: \_\_\_\_\_  
[ISSUER COUNSEL]  
General Counsel

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

By: \_\_\_\_\_  
[NAME], [TITLE]

[LAND USE RESTRICTION AGREEMENT]

Witnesses:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

**BORROWER:**

PONTE VEDRA BEACH LEASED  
HOUSING ASSOCIATES I, LLLP, a  
Minnesota limited liability limited  
partnership

By: Ponte Vedra Leased Housing Associates  
I, LLC, a Minnesota limited liability  
company, its General Partner

By: \_\_\_\_\_  
Terrence Sween  
Vice President

2905 Northwest Boulevard, Suite 150  
Plymouth, MN 55441-7400

STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ ) SS:

The undersigned, a Notary Public in and for the said County in the State aforesaid, do hereby certify that \_\_\_\_\_, known to me to be the same persons whose names are subscribed to the foregoing instrument as \_\_\_\_\_, of the HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA, appeared before me this day in person and acknowledged that he or she, being thereunto duly authorized, signed, sealed with the seal of said Authority, and delivered the said instrument as the free and voluntary act of said Authority and as their own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF \_\_\_\_\_

\_\_\_\_\_  
(Name of Notary Public, Print, Stamp or Type as Commissioned)

- Personally known to me, or
- Produced identification:

\_\_\_\_\_  
(Type of Identification Produced)





**EXHIBIT A**

LEGAL DESCRIPTION

[to be inserted]



**EXHIBIT B**

**HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA  
CERTIFICATION OF CONTINUING PROGRAM COMPLIANCE**

WITNESSETH that on this \_\_\_\_ day of \_\_\_\_\_, 2023, the undersigned, having borrowed certain funds from the Housing Finance Authority of St. Johns County, Florida (the “Authority”) for the purpose of financing the cost of acquiring, constructing and equipping of Oaks at St. John, a multifamily rental housing project located in St. Johns County, Florida (the “Project”), does hereby certify (i) that such Project is in continuing compliance with the Land Use Restriction Agreement, dated as of [\_\_\_\_]1, 2023 (herein, the “Land Use Restriction Agreement”), executed by the undersigned and filed in the official public records of St. Johns County, Florida (including the requirement that all units be and remain rental units); (ii) that an Income Certification has been submitted for each new tenant in such Project since the filing of the last such certification and that the same are true and correct to the best of the undersigned’s knowledge and belief, and (iii) that no default has occurred under the Land Use Restriction Agreement or if such a default has occurred the Borrower has advised the Authority of such default and has described the steps which it has taken or proposed to take to correct such default. As of the date of this Certificate, the following percentages of residential units in the Project are occupied by Low-Income Tenants (as such term is defined in the Land Use Restriction Agreement), Non-Revenue Units and Vacant Units:

<b>Total number of units available for occupancy as of _____, _____</b>	<b>Percentage</b>	<b>Number</b>
Low-Income Tenants	_____%	_____
Non-Revenue Units	_____%	_____
Vacant Units	_____%	_____
<b>TOTAL</b>	<b>100%</b>	_____

PONTE VEDRA BEACH LEASED HOUSING ASSOCIATES I, LLLP, a Minnesota limited liability limited partnership

By: Ponte Vedra Leased Housing Associates I, LLC, a Minnesota limited liability company, its General Partner

By: \_\_\_\_\_  
Terrence Sween  
Vice President

**EXHIBIT C**  
**FORM OF INCOME CERTIFICATION**

[attached]

**EXHIBIT H**  
**SERIES 2023A BOND PURCHASE AGREEMENT**  
**(see attached)**

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**BOND PURCHASE AGREEMENT**

Dated December \_\_\_\_, 2023

by and among

**COLLIERS SECURITIES LLC,**

**HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA**

and

**PONTE VEDRA BEACH LEASED HOUSING ASSOCIATES I, LLLP**

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Relating to:

**\$5,268,000**

**Housing Finance Authority of St. Johns County, Florida  
Multifamily Housing Revenue Bonds  
(Oaks at St. John), Series 2023A**

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## **BOND PURCHASE AGREEMENT**

Colliers Securities LLC (the “*Underwriter*”), on its own behalf and not as your fiduciary, hereby offers to enter into this Bond Purchase Agreement dated December \_\_, 2023 (this “*Purchase Contract*”) with the Housing Finance Authority of St. Johns County, Florida (together with its successors and assigns, the “*Issuer*”) and Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “*Borrower*”), for the sale by the Issuer and the purchase by the Underwriter of the Bonds defined below which are being issued by the Issuer for the benefit of the Borrower. The Underwriter is an “underwriter” as defined in Section 2(a)(11) of the Securities Act of 1933, as amended (the “*1933 Act*”). This offer is made subject to the written acceptance hereof by the Issuer and the Borrower and delivery of such acceptance (in the form of one or more counterparts hereof) at or prior to 5:00 p.m., Eastern Time, on the date hereof, and will expire if not so accepted at or prior to such time (or such later time as the Underwriter may agree in writing). Upon such acceptance, this Purchase Contract will be binding upon each of the Issuer, the Borrower and the Underwriter.

### **Section 1. Definitions and Background.**

1.1 Capitalized terms used in this Purchase Contract but not defined herein have the meanings assigned to them in the Trust Indenture by and between the Issuer and U.S. Bank trust Company, National Association, a national banking association (the “*Trustee*”) dated as of December 1, 2023 (the “*Indenture*”).

1.2 This Purchase Contract is for the sale and delivery of the Issuer’s Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023A (the “*Bonds*”) which are being issued by the Issuer to provide financing for the Project. The Bonds will be issued pursuant to (i) that certain resolution of the Issuer adopted \_\_\_\_\_, 2023 (the “*Bond Resolution*”), (ii) the Florida Housing Finance Authority Law, Sections 159.601 et seq., Florida Statutes, as amended (the “*Act*”), and (iii) the terms of the Indenture. The Bonds will be payable from sources pledged under the Indenture, including the moneys and securities from time to time held by the Trustee in the funds and accounts established under the terms of the Indenture (collectively, the “*Trust Estate*”). In connection with the issuance of the Bonds, the Issuer will execute and deliver this Purchase Contract; the Indenture; the Loan Agreement by and between the Issuer and the Borrower (the “*Loan Agreement*”) dated as of December 1, 2023; the Tax Certificate and Agreement, dated the Closing Date, executed and delivered by the Issuer and the Borrower (the “*Tax Agreement*”); and the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of December 1, 2023, among the Issuer, the Borrower and the Trustee (the “*Regulatory Agreement*”) (collectively, the “*Issuer Documents*”); and the Borrower will execute and deliver this Purchase Contract, the Loan Agreement, the Continuing Disclosure Agreement, the Remarketing Agreement, the Tax Agreement, and the Regulatory Agreement (collectively, the “*Borrower Documents*”). The Issuer Documents and the Borrower Documents are referred to herein as the “*Financing Documents*.”

### **Section 2. Purchase and Sale.**

2.1 Subject to the terms and conditions set forth in this Purchase Contract, the Underwriter hereby agrees to purchase from the Issuer and the Issuer hereby agrees to sell to the Underwriter, at the Closing (as hereafter defined), \$5,268,000 aggregate principal amount of its Bonds at a price set forth in Exhibit A attached hereto.

2.2 The Bonds will (i) be issued pursuant to the Indenture and (ii) have the payment related terms (that is, the dated date, maturity date, interest rate and price) set forth in Exhibit A attached hereto, and will otherwise correspond to the description thereof contained in the hereinafter-defined Official Statement.

2.3 The Issuer, the Borrower and the Underwriter each acknowledges and agrees that (i) the purchase and sale of the Bonds pursuant to this Purchase Contract is an arm's-length commercial transaction among the Issuer, the Borrower and the Underwriter, (ii) in connection therewith and with the discussions, undertakings and procedures leading up to the consummation of such transaction, the Underwriter is and has been acting solely as a principal and is not acting as the agent, municipal advisor, financial advisor, or fiduciary of the Issuer or the Borrower, (iii) the Underwriter has not assumed individually or collectively any advisory or fiduciary responsibility in favor of the Issuer or the Borrower with respect to the offering contemplated hereby or the discussions, undertakings and procedures leading thereto (irrespective of whether the Underwriter has advised or provided other services or is currently advising or providing other services to the Issuer or the Borrower on other matters) and the Underwriter has no contractual obligation to the Issuer or the Borrower with respect to the offering contemplated hereby except the obligations expressly set forth in this Purchase Contract, and (iv) the Issuer and the Borrower have consulted their own legal, financial, accounting, tax and other advisors to the extent they deem appropriate in connection with the offering of the Bonds. The primary role of the Underwriter is to purchase the Bonds for resale to investors in an arm's-length commercial transaction among the Issuer, the Borrower and the Underwriter. The Underwriter has financial and other interests that differ from those of the Issuer.

### **Section 3. Issue Price.**

The Underwriter will provide to the Issuer an executed Issue Price Certificate dated the Closing Date (as defined herein) in the form attached as Exhibit E hereto or other form reasonably required by Bond Counsel in order to establish the issue price of the Bonds.

The Underwriter reserves the right to change such prices as it deems necessary in connection with the offering of the Bonds. Concessions from the public offering price may be allowed to selected dealers and special purchasers. The Borrower authorizes the Underwriter to complete the supplement to the Official Statement to insert the reoffering price for the Bonds selected by the Underwriter in its complete discretion.

### **Section 4. Closing.**

Subject to the terms and conditions hereof, the delivery of the Bonds and the payment of the purchase price of the Bonds as set forth in Exhibit A hereof (the "*Closing*") will take place at 10:00 a.m. Eastern Time on December \_\_\_, 2023, or at such other time or on such other date mutually agreed upon by the Issuer, the Borrower and the Underwriter, which date shall be referred to herein as the "*Closing Date*."

### **Section 5. Official Statement; Disclosure Matters.**

5.1 The Issuer and the Borrower each hereby (a) confirms its consent to the use by the Underwriter of the Preliminary Official Statement dated December \_\_\_, 2023, relating to the Bonds (the "*Preliminary Official Statement*") in the marketing of the Bonds and (b) authorizes the Underwriter to prepare, use and distribute (at the expense of the Borrower) the Official Statement dated December \_\_\_, 2023, relating to the Bonds (the "*Official Statement*") in final form in connection with the offering and sale of the Bonds.

5.2 The Issuer and the Borrower each agrees to the extent required and permitted by applicable law to cooperate (at the sole cost and expense of the Borrower) with the Underwriter so as to enable the Underwriter to comply with the requirements of Rule 15c2-12 ("*Rule 15c2-12*") under the Securities Exchange Act of 1934, as amended (the "*1934 Act*"), and any other rules of the Securities and Exchange Commission (the "*SEC*") and the Municipal Securities Rulemaking Board (the "*MSRB*"), in connection with the offer and sale of the Bonds.

5.3 The Issuer and the Borrower hereby make the following representations in subsection (a) and (b) respectively:

(a) The Issuer hereby certifies and agrees that the information in the Preliminary Official Statement as of its date and the Official Statement under the captions “THE ISSUER” and “ABSENCE OF LITIGATION – The Issuer” has been “deemed final” by the Issuer as of its date, except for final information as to the offering prices, interest rates, selling compensation, amount of proceeds, delivery dates, other terms depending on such factors, and other information permitted to be omitted under part (b)(1) of Rule 15c2-12.

(b) The Borrower hereby certifies and agrees that the Preliminary Official Statement and the Official Statement have been “deemed final” by the Borrower as of their dates, except for final information as to the offering prices, interest rates, selling compensation, amount of proceeds, delivery dates, other terms depending on such factors, and other information permitted to be omitted under part (b)(1) of Rule 15c2-12.

5.4 The Issuer and the Borrower hereby make the following representations in subsection (a) and (b), respectively:

(a) The Issuer hereby represents that the information in the Preliminary Official Statement and the Official Statement under the captions “THE ISSUER” and “ABSENCE OF LITIGATION – The Issuer” is true and correct and does not contain any untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

(b) The Borrower hereby represents that the information in the Preliminary Official Statement and the Official Statement is true and correct and does not contain any untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

5.5 The Issuer and the Borrower will, at the expense of the Borrower, supply to the Underwriter the Official Statement, in such quantity as may be requested by the Underwriter no later than the earlier of (i) seven (7) business days after the date of this Purchase Contract or (ii) one (1) business day prior to the Closing Date, in order to permit the Underwriter to comply with Rule 15c2-12, and the applicable rules of the MSRB, with respect to distribution of the Official Statement. The Borrower shall provide to the Underwriter the Official Statement, including any amendments thereto, in word-searchable PDF format as described in the MSRB’s Rule G-32 no later than one (1) business day prior to the Closing Date to enable the Underwriter to comply with MSRB Rule G-32.

5.6 During the period commencing on the date of this Purchase Contract and ending on the earlier of (a) 90 days from the End of the Underwriting Period or (b) the time when the Official Statement is available to any person from the MSRB, but in no case less than 25 days following the End of the Underwriting Period (the “*Update Period*”), if any event shall occur which would cause the Official Statement to contain any untrue statement of a material fact or to omit to state any material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading, and in the judgment of the Underwriter, such event requires the preparation and publication of a supplement or amendment to the Official Statement, the Issuer (to the extent of the provisions referred to in Section 5.4(a) hereof) and the Borrower will, at the expense of the Borrower, prepare or cooperate in the preparation of such supplement or amendment to the Official Statement in a form approved by the Underwriter and furnish or cooperate in the furnishing to the Underwriter (at the sole expense of the Borrower) a reasonable number of copies of an amendment of, or a supplement to the Official Statement



so that, as supplemented or amended, it will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading. If the Official Statement is so supplemented or amended prior to the Closing, the approval by the Underwriter of a supplement or amendment to the Official Statement shall not preclude the Underwriter from thereafter terminating this Purchase Contract in accordance with the provisions of Section 12(c) hereof. The “*End of the Underwriting Period*” means the later of the delivery of the Bonds by the Issuer to the Underwriter or when the Underwriter no longer retains (directly or as a syndicate member) an unsold balance of the Bonds for sale to the public; provided, that the “*End of the Underwriting Period*” shall be deemed to be the Closing Date, unless the Underwriter otherwise notifies the Issuer and the Borrower in writing prior to such date that there is an unsold balance of the Bonds, in which case the End of the Underwriting Period shall be deemed to be extended for 30 days. The deemed End of the Underwriting Period may be extended for two additional periods of 30 days each upon receipt of an additional written notification from the Underwriter containing the same information as required in the initial written notice.

5.7 If, during the Update Period, the Issuer becomes aware of any event relating to the information concerning the Issuer under the captions “THE ISSUER” and “ABSENCE OF LITIGATION – The Issuer” of the Official Statement which would cause such portions of the Official Statement to contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading, the Issuer will promptly notify the Underwriter of such event.

5.8 The Issuer shall promptly advise the Underwriter, during the Update Period, of any action, suit, proceeding, inquiry or investigation against the Issuer, of which the Issuer has actual knowledge, seeking to prohibit, restrain or otherwise affect the use of the Preliminary Official Statement or the Official Statement in connection with the offering, sale or distribution of the Bonds.

5.9 If, during the Update Period, the Borrower becomes aware of any event which would cause the Preliminary Official Statement or the Official Statement to contain any untrue statement of a material fact or to omit to state any material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading, the Borrower will promptly notify the Underwriter and the Issuer of such event.

5.10 The Borrower shall promptly advise the Underwriter, during the Update Period, of any action, suit, proceeding, inquiry or investigation against the Borrower, of which they receive written or actual notice, seeking to prohibit, restrain or otherwise affect the use of the Preliminary Official Statement or the Official Statement in connection with the offering, sale or distribution of the Bonds.

5.11 The Borrower represents and warrants to the Underwriter and the Issuer that neither the Borrower nor any affiliates thereof are in default under any undertakings with respect to continuing disclosure requirements designed to comply with Rule 15c2-12 in connection with any issue of municipal securities.

## **Section 6. Representations of the Issuer.**

6.1 In addition to the representations contained in Section 5 herein, the Issuer hereby makes the following representations to the Underwriter:

(a) The Issuer is a public body corporate and politic duly created, organized and existing under the laws of the State of Florida (the “State”), and has full power and authority under the Act to adopt the Bond Resolution and to enter into and to perform its obligations under the

Issuer Documents; and when executed and delivered by the respective parties thereto, the Issuer Documents will constitute the legal, valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their respective terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to the limitation on legal remedies against units of government of the State;

(b) By official action of the Issuer prior to or concurrently with the acceptance hereof, the Issuer has approved and authorized the distribution of the Preliminary Official Statement and the Official Statement and authorized and approved the execution and delivery of the Issuer Documents and the consummation by the Issuer of the transactions contemplated thereby;

(c) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency, public board or body, pending, or threatened against the Issuer seeking to restrain or enjoin the sale or issuance of the Bonds, or in any way contesting or affecting any proceedings of the Issuer taken concerning the sale thereof, the pledge or application of any moneys or security provided for the payment of the Bonds, in any way contesting the validity or enforceability of the Issuer Documents or contesting in any way the completeness or accuracy of the Preliminary Official Statement or the Official Statement or the existence or powers of the Issuer relating to the sale of the Bonds;

(d) The execution and delivery by the Issuer of the Issuer Documents and compliance with the provisions on the Issuer's part contained therein will neither (i) conflict with or constitute a material breach of or default under any law, administrative regulation, judgment or decree to which the Issuer is subject, (ii) conflict with any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Issuer is a party or is otherwise subject, nor (iii) result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the properties or assets of the Issuer under the terms of any such law, administrative regulation, judgment, decree, loan agreement, financing agreement, indenture, bond, security, note, resolution, agreement or other instrument, except as provided by the Issuer Documents;

(e) Except as may be required under Blue Sky or other securities laws of any state and for filings to be made with the Internal Revenue Service on Form 8038, to the Issuer's knowledge, there is no consent, approval, authorization or other order of, or filing with, or certification by, any state court, or state or federal governmental agency, or public body of any state required for the execution and delivery of the Issuer Documents or the consummation by the Issuer of the transactions on its part contemplated herein or therein, which has not been duly obtained or made on or prior to the date hereof;

(f) Upon delivery of the Bonds, the Issuer will have good right, full power and lawful authority to pledge and assign the Trust Estate described in the Indenture to the Trustee as provided in the Indenture and the Bond Resolution;

(g) The Issuer has complied in all material respects with the Bond Resolution and the Issuer Documents; and

(h) The Bonds, when delivered in accordance with the Indenture and paid for by the Underwriter on the Closing Date as provided herein, will be validly issued and outstanding special, limited obligations of the Issuer entitled to all the benefits and security of the Indenture.

6.2 The execution and delivery of this Purchase Contract by the Issuer shall constitute a representation by the Issuer to the Underwriter that the representations and agreements contained in this Section are true as of the date hereof; provided, however, that as to information furnished by the Borrower pursuant to this Purchase Contract, the Issuer is relying solely on such information in making the Issuer's representations and agreements, and as to all matters of law the Issuer is relying on the advice of Bond Counsel; and provided further, that no member, officer, agent or employee of the Issuer shall be individually liable for the breach of any representation, or agreement contained herein.

6.3 It is understood that the representations and covenants of the Issuer contained in this Section 6 and elsewhere in this Purchase Contract shall not create any general obligation or liability of the Issuer, and that any obligation or liability of the Issuer hereunder or under the Issuer Documents is payable solely out of the Trust Estate established under the Indenture. It is further understood and agreed that the Issuer makes no representations, except as set forth in paragraph 5.4(a) above, as to the Official Statement, or as to (i) the financial condition, results of operation, business or prospects of the Borrower or the Project, (ii) any statements (financial or otherwise), representations, documents or certification provided or to be provided by the Borrower in connection with the offer or sale of the Bonds, or (iii) the correctness, completeness or accuracy of such statements, representations, documents or certifications.

### **Section 7. Representations and Warranties of the Borrower.**

7.1 In addition to the representations and warranties made in Section 5 herein, the Borrower hereby makes the following representations and warranties to the Underwriter and the Issuer, all of which will continue in effect subsequent to the purchase of the Bonds:

(a) The Borrower is a limited liability limited partnership duly organized and existing under and pursuant to the laws of the State of Minnesota and is qualified to own the Project and conduct its business in the State.

(b) The Borrower has, and as of the Closing Date will have, full legal right, power and authority to (i) execute and deliver the Borrower Documents, (ii) assist in the preparation, distribution and use of the Preliminary Official Statement and the Official Statement, and (iii) otherwise consummate the transactions contemplated by the Borrower Documents.

(c) The Borrower has duly authorized the (i) execution and delivery of the Borrower Documents, (ii) performance by the Borrower of the obligations contained in the Borrower Documents, (iii) preparation of the Preliminary Official Statement and the Official Statement, and (iv) consummation by the Borrower of all of the transactions contemplated by the Borrower Documents.

(d) The Borrower Documents are, and, when executed and delivered by the Borrower and the other parties thereto, will be, the legal, valid and binding obligations of the Borrower, enforceable in accordance with their respective terms, except to the extent that enforcement thereof may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights generally, or by the exercise of judicial discretion in accordance with general principles of equity.

(e) All consents, approvals, orders or authorizations of, notices to, or filings, registrations or declarations with any governmental authority, board, agency, commission or body having jurisdiction which are required on behalf of the Borrower for the execution and delivery by the Borrower of the Borrower Documents or the consummation by the Borrower of the transactions contemplated hereby or thereby, have been obtained or will be obtained prior to Closing.

(f) The execution and delivery by the Borrower of the Borrower Documents and the consummation by the Borrower of the transactions contemplated hereby and thereby are not prohibited by, do not violate any provision of, and will not result in the breach of or default under (i) the organizational documents of the Borrower, (ii) any applicable law, rule, regulation, judgment, decree, order or other requirement to which the Borrower is subject, or (iii) any contract, indenture, agreement, mortgage, lease, note, commitment or other obligation or instrument to which the Borrower is a party or by which the Borrower or its properties are bound.

(g) There is no legal action, suit, proceeding, investigation or inquiry at law or in equity, before or by any court, agency, arbitrator, public board or body or other entity or person, pending or, to the best knowledge of the Borrower, threatened against or affecting the Borrower or any partner or member of the Borrower, in their respective capacities as such, nor, to the knowledge of the Borrower, any basis therefor, (i) which would restrain or enjoin the issuance or delivery of the Bonds, the use of the Preliminary Official Statement or the Official Statement in the marketing of the Bonds or the collection of revenues pledged under or pursuant to the Borrower Documents or (ii) which would in any way contest or affect the organization or existence of the Borrower or the entitlement of any officer of the Borrower to its position or (iii) which would contest or have a material and adverse effect upon (A) the due performance by the Borrower of the transactions contemplated by the Preliminary Official Statement, the Official Statement or the Borrower Documents, (B) the validity or enforceability of the Bonds, the Borrower Documents or any other agreement or instrument to which the Borrower is a party and that is used or contemplated for use in the consummation of the transactions contemplated hereby and thereby, (C) the exclusion from gross income for federal income tax purposes of the interest on the Bonds or (D) the financial condition or operations of the Borrower, (iv) which contests in any way the completeness or accuracy of the Preliminary Official Statement or the Official Statement or (v) which questions the power or authority of the Borrower to carry out the transactions on its part contemplated by the Preliminary Official Statement, the Official Statement and the Borrower Documents, or the power of the Borrower to own or operate the Project. The Borrower is not subject to any judgment, decree or order entered in any lawsuit or proceeding brought against it that would have such an effect.

(h) On the Closing Date, the Borrower shall not have granted any interests in or rights or options to sell the Bonds to any other party.

(i) All permits (including building permits), licenses and authorizations necessary for the ownership and operation of its Project in the manner contemplated by the Preliminary Official Statement, the Official Statement and each of the Borrower Documents have been obtained or will be obtained, and said ownership and operation are not in conflict with any zoning or similar ordinance applicable to the Project. The Project conforms to all material environmental regulations.

(j) None of the Borrower, any guarantor of the Borrower or any “related person” to the Borrower within the meaning of Section 147 of the Code has acquired or shall acquire, pursuant to any arrangement, formal or informal, any Bonds.

(k) The Borrower has not taken or omitted to take on or prior to the date hereof any action that would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

(l) On the Closing Date, each of the representations and warranties of the Borrower contained in the Borrower Documents and all other documents executed by the Borrower in connection with the Bonds shall be true, correct and complete in all material respects.

(m) As of the Closing Date, the Borrower will not be in material default under any document, instrument or commitment to which the Borrower is a party or to which any of its property is subject which default would or could reasonably be expected to adversely affect the ability of the Borrower to carry out its obligations under the Borrower Documents. As of the Closing Date, the Borrower will be in compliance with all of its obligations under the Regulatory Agreement.

(n) The Borrower is in compliance with all of its prior continuing disclosure undertakings entered into pursuant to Rule 15c2-12, if any.

7.2 Each of the representations and warranties set forth in this Section 7 will survive the Closing.

7.3 Any certificate signed by any officer of the Borrower and delivered to the Underwriter in connection with the delivery of the Bonds will be deemed to be a representation and warranty by the Borrower to the Underwriter as to the statements made therein.

### **Section 8. Covenants of the Issuer.**

The Issuer hereby makes the following covenants with the Underwriter:

(a) Prior to the Closing, the Issuer will not supplement or amend the Official Statement or cause the Official Statement to be supplemented or amended without providing reasonable notice of such proposed supplement or amendment to the Underwriter. Neither the receipt by the Underwriter of notice of a proposed supplement or amendment nor the consent by the Underwriter to such supplement or amendment shall abrogate the Underwriter's rights under Section 12(c) hereof.

(b) Prior to the Closing, the Issuer will not amend, terminate or rescind, and will not agree to any amendment, termination or rescission of the Issuer Documents without the prior written consent of the Underwriter.

(c) Prior to the Closing, except as provided in the Issuer Documents, the Issuer will not create, assume or guarantee any indebtedness payable from, or pledge or otherwise encumber, the revenues, assets, properties, funds or interests which will be pledged pursuant to the Indenture, including, without limitation, the Bonds or the Issuer Documents.

(d) The Issuer will not take any action which will in any way cause the proceeds of the Bonds to be applied in a manner other than as provided in the Indenture and described in the Official Statement or which would cause the interest on the Bonds to be includable in the gross income of the holders thereof for federal income tax purposes.

(e) Prior to the Closing, the Issuer will obtain all governmental consents, approvals, orders or authorizations of any governmental authority or agency that would constitute a condition precedent to the performance by it of its obligations under the Issuer Documents and the Bonds.

(f) The Issuer will reasonably cooperate with the Underwriter upon request, without cost to the Issuer, in the qualification of the Bonds for offering and sale and the determination of their eligibility for investment under the laws of such jurisdictions as the Underwriter may designate; provided that the foregoing shall not require the Issuer to expend its own funds, execute

a general or special consent to service of process or to qualify as a foreign corporation in connection with such qualification in any foreign jurisdiction.

(g) The Issuer will not adopt any amendment of or supplement to the Official Statement to which, after having been furnished a copy, the Underwriter shall reasonably object in writing and if any event relating to or affecting the Issuer or the Borrower shall occur as a result of which it is necessary, in the opinion of the Underwriter, to amend or supplement the Official Statement in order to make the Official Statement so that it does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, the Issuer shall cause to be forthwith prepared and furnished (at the sole expense of the Borrower) to the Underwriter a reasonable number of copies of an amendment of or supplement to the Official Statement (in form and substance satisfactory to the Underwriter) that will amend or supplement the Official Statement so that it will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

**Section 9. Covenants of the Borrower.**

The Borrower hereby makes the following covenants with the Underwriter and the Issuer:

(a) The Borrower will not supplement or amend the Official Statement or cause the Official Statement to be supplemented or amended without providing reasonable notice of such proposed supplement or amendment to the Underwriter and the Issuer. It is understood pursuant to Section 12(c) that, in the event there arises an event or condition which, in the reasonable judgment of the Underwriter, requires the Official Statement to be amended or supplemented or has a material and adverse effect upon the marketability of the Bonds or the ability of the Underwriter to enforce contracts for the sale of the Bonds, the Underwriter shall have the right, pursuant to Section 12(c) hereof, to terminate this Purchase Contract without liability. Neither the receipt by the Underwriter of notice of a proposed supplement or amendment nor the consent by the Underwriter to such supplement or amendment shall abrogate the Underwriter's rights under Section 12(c) hereof.

(b) The Borrower will not adopt any amendment of or supplement to the Official Statement to which, after having been furnished a copy, the Underwriter shall reasonably object in writing and if any event relating to or affecting the Issuer or the Borrower shall occur as a result of which it is necessary, in the opinion of the Underwriter, to amend or supplement the Official Statement in order to make the Official Statement not misleading in light of the circumstances existing at the time it is delivered to the Underwriter, the Borrower shall cause to be forthwith prepared and furnished (at the sole expense of the Borrower) to the Underwriter a reasonable number of copies of an amendment of or supplement to the Official Statement (in form and substance satisfactory to the Issuer and the Underwriter) that will amend or supplement the Official Statement so that it will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

(c) Prior to the Closing, the Borrower will not amend, terminate or rescind, and will not agree to any amendment, termination or rescission of the Borrower Documents without the prior written consent of the Underwriter.

(d) Prior to the Closing, the Borrower will not create, assume or guarantee any indebtedness payable from, or pledge or otherwise encumber, the revenues, assets, properties, funds or interests which will be pledged pursuant to the Indenture, including, without limitation, the Bonds, the Financing Documents or any indebtedness allowed under the loan from the Mortgage Lender.

(e) The Borrower will cooperate with the Issuer to cause the Bonds to be delivered to the address and at the time specified by the Underwriter in conjunction with the Closing.

(f) The Borrower will not take or omit to take any action which will in any way cause the proceeds of the Bonds, or other moneys on deposit in any fund or account in connection with the Bonds, to be applied in a manner other than as provided in the Indenture and described in the Preliminary Official Statement or the Official Statement and will not take or omit to take any action which would cause the interest on the Bonds to be includable in the gross income of the holders thereof for federal income tax purposes.

(g) The Borrower will cooperate with the Underwriter in the qualification of the Bonds for offering and sale and the determination of their eligibility for investment under the laws of such jurisdictions as the Underwriter may designate.

(h) The Borrower agrees to cause the necessary amount to be paid to the Trustee and/or the escrow agent on the Closing Date to pay costs of issuance.

(i) The Borrower agrees to provide the Underwriter, at the Borrower's expense, a reasonable number of additional copies of the Financing Documents as the Underwriter shall request.

#### **Section 10. Conditions of Closing.**

10.1 The obligations of the Underwriter to consummate at the Closing the transactions contemplated hereby are subject to receipt by the Underwriter of the items described in Section 10.2 hereof and to the satisfaction of the following conditions:

(a) The Underwriter will not have discovered any material error, misstatement or omission in the representations and warranties made in this Purchase Contract, which representations and warranties will be deemed to have been made again at and as of the time of the Closing and will then be true in all material respects.

(b) The Issuer and the Borrower will have performed and complied with all agreements and conditions required by this Purchase Contract to be performed or complied with by such respective parties at or prior to Closing.

(c) The Bonds, the Financing Documents and the Official Statement shall each have been executed and delivered by each of the parties thereto, shall be in full force and effect on and as of the Closing Date and shall not have been amended, modified or supplemented prior to the Closing except as may have been agreed to in writing by the Underwriter and no event of default shall exist under any such documents.

(d) The Underwriter will have received orders for all of the Bonds (or such amount of the Bonds as is acceptable to the Underwriter) and (a) such orders have not been withdrawn at the time of the Closing and (b) the market price or marketability, at the initial offering price set forth

in the Official Statement, of the Bonds shall not have been adversely affected, in the reasonable judgment of the Underwriter.

(e) The Borrower shall have entered into the Continuing Disclosure Agreement containing covenants meeting the requirements of Rule 15c2-12 under the 1934 Act.

(f) The Issuer shall have received the executed Issue Price Certificate of the Underwriter, substantially in the form attached to this Purchase Contract as Exhibit E.

(g) The obligations of the Issuer hereunder to deliver the Bonds shall be subject to receipt of the opinions of Bond Counsel, described in Section 10.2(a), a supplemental opinion of Bond Counsel, dated the date of closing in a form reasonably acceptable to the Issuer and its counsel, and a filing by the Underwriter of a disclosure and truth-in-bonding statement pursuant to Section 218.385, Florida Statutes as amended, which is attached as Exhibit F hereto.

10.2 In addition to the conditions set forth in Section 10.1, the obligations of the Underwriter to consummate at the Closing the transactions contemplated hereby are subject to receipt by the Underwriter of the following items:

(a) An approving opinion of Bond Counsel, dated the Closing Date, relating to the validity of the Bonds and the tax-exempt status of the Bonds, substantially in the form attached to the Official Statement as Appendix F, and a letter of such counsel, addressed to the Underwriter and the Issuer, to the effect that such opinion may be relied upon, together with a supplemental opinion of Bond Counsel, satisfactory in form and substance to the Underwriter and the Issuer, dated the Closing Date, substantially in the form attached hereto as Exhibit B.

(b) An opinion of counsel to the Borrower, dated the Closing Date, satisfactory in form and substance to the Underwriter, the Trustee, Bond Counsel and the Issuer and in substantially the form attached hereto as Exhibit C.

(c) An opinion of Tiber Hudson LLC, counsel to the Underwriter, satisfactory in form and substance to the Underwriter.

(d) A certificate of the Issuer, dated the Closing Date and signed by an authorized official or officer of the Issuer, to the effect that (i) each of the Issuer's representations contained herein and in all other Issuer Documents, which representations will be deemed to have been made again at and as of the time of Closing, are true and correct in all material respects; (ii) the Issuer has performed and complied with all agreements and conditions required by this Purchase Contract to be performed or complied with by it at or prior to the Closing; and (iii) the information contained in the Preliminary Official Statement and the Official Statement under the captions "THE ISSUER" and "ABSENCE OF LITIGATION – The Issuer" is true and correct in all material respects and does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

(e) Evidence that a public hearing has been duly held and the issuance of the Bonds has been duly approved as required by the Code.

(f) A certificate of the Issuer, dated the Closing Date and signed by an authorized officer of the Issuer, in form and substance satisfactory to the Issuer, the Underwriter and Bond



Counsel, respecting certain tax matters as may be reasonably required by Bond Counsel to enable it to give its opinion.

(g) A certificate of the Borrower, dated the Closing Date and signed by its authorized representative, to the effect that:

(i) each of the Borrower's representations and warranties contained herein and in all Borrower Documents, which representations and warranties will be deemed to have been made again at and as of the time of Closing, are true and correct in all material respects;

(ii) the Borrower has performed and complied with all agreements and conditions required by this Purchase Contract to be performed or complied with by it at or prior to the Closing;

(iii) since the date of the Official Statement and except as set forth therein, there has not been any material adverse change in the Borrower's operations, financial or otherwise;

(iv) the information contained in the Preliminary Official Statement and the Official Statement is true and correct and does not contain any untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading;

(v) there is no action, suit, proceeding, inquiry or investigation, at law or in equity, or before or by any court, public board or body pending or, to the best knowledge of the Borrower, threatened against or affecting the Borrower or any of its affiliates, nor, to the best knowledge of the Borrower, is there any basis therefor, wherein an unfavorable decision, ruling or finding would, in any way, adversely affect the transactions contemplated by the Loan Agreement or the operation and management of the Project, or that might result in any material adverse change in the business, operations, properties, assets, liabilities or condition (financial or other) of the Borrower or that affects the information in the Preliminary Official Statement and the Official Statement; and

(vi) such other matters as the Underwriter may reasonably request.

(h) A certificate of the Borrower dated the Closing Date and signed by its authorized representative, in form and substance satisfactory to the Underwriter and Bond Counsel, respecting certain tax matters as may be reasonably required by Bond Counsel to enable it to give its opinion.

(i) A certificate of the Trustee, dated the Closing Date and signed by an authorized officer of the Trustee, in form and substance satisfactory to the Underwriter.

(j) The Borrower's 15c2-12 Certificate, substantially in the form attached hereto as Exhibit D, duly executed by the Borrower.

(k) Certified copies of the organizational documents of the Borrower and copies of the resolutions or actions of its partners (if applicable) authorizing the execution and delivery of the Borrower Documents.

(l) The Financing Documents (or certified copies thereof) duly executed and delivered by the respective parties thereto, with such amendments, modifications or supplements as may have been agreed to by the Issuer, Bond Counsel and the Underwriter.

(m) Written evidence satisfactory to the Underwriter that Moody's Investors Service, Inc. (the "Rating Agency") has issued a rating of "Aaa/VMIG 1" for the Bonds and such rating shall be in effect on the Closing Date.

(n) An opinion of Nabors Giblin & Nickerson P.A., Disclosure Counsel, dated the Closing Date and satisfactory in form and substance to the Underwriter and the Issuer.

(o) Such additional legal opinions, certificates, instruments and other documents as the Underwriter, the Issuer or Bond Counsel may reasonably deem necessary to evidence the truth and accuracy as of the Closing Date of the respective representations and warranties of the Issuer and the Borrower herein contained and of the Official Statement, and to evidence compliance by the Issuer and the Borrower with this Purchase Contract and all applicable legal requirements, and the due performance and satisfaction by the Issuer and the Borrower at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by the Issuer and the Borrower.

10.3 If any of the conditions set forth in Section 10.1 or 10.2 hereof have not been met on the Closing Date, the Underwriter may, at its sole option, terminate this Purchase Contract or proceed to Closing upon waiving any rights under this Purchase Contract with respect to any such condition. If this Purchase Contract is terminated pursuant to this Section 10, no party hereto will have any rights or obligations to any other party hereto under this Purchase Contract, except as provided in Section 13 hereof.

#### **Section 11. Actions and Events at the Closing.**

The following events will take place at the Closing:

(a) The Issuer will cause the Trustee to deliver the Bonds to the Underwriter. The Bonds so delivered will be in the form required by the Indenture, duly authenticated by the Trustee, and will be fully registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York.

(b) The Issuer and the Borrower, as applicable, will deliver or cause to be delivered to the Underwriter at the offices of Bond Counsel, or at such other place or places as the Issuer, the Borrower and the Underwriter may mutually agree upon, the materials described in Section 10.1 and Section 10.2 hereof.

(c) The Underwriter will deliver to the Trustee, for the account of the Issuer, a wire, payable in immediately available funds, in an amount equal to the purchase price of the Bonds as set forth in Exhibit A hereto.

#### **Section 12. Termination of Agreement.**

The Underwriter may terminate this Purchase Contract, without liability therefor, by notifying the Issuer and the Borrower at any time prior to the Closing, if:

(a) Legislation is enacted or introduced in the Congress or recommended to the Congress for passage by the President of the United States, or favorably reported for passage to

either house of the Congress of the United States by a committee of such house to which such legislation has been referred for consideration, or a decision is rendered by a court established under Article III of the Constitution of the United States or by the Tax Court of the United States, or an order, ruling, regulation (final, temporary or proposed), press release, statement or other form of notice or official statement is issued or made: (i) by or on behalf of the President, the Treasury Department of the United States or the Internal Revenue Service with the purpose or effect, directly or indirectly, of imposing federal income taxation upon such interest as would be received by the owners of the Bonds, or (ii) by or on behalf of the SEC, or any other governmental entity having jurisdiction of the subject matter, to the effect that obligations of the general character of the Bonds or any arrangements underlying the Bonds, are not exempt from registration under the 1933 Act, or that the Indenture is not exempt from qualification under the Trust Indenture Act of 1939, as amended;

(b) The declaration of a general banking moratorium by federal, New York or State authorities, or general suspension of trading in securities on the New York Stock Exchange any other national securities exchange, or the establishment by the New York Stock Exchange, by the SEC, by any federal or state agency or by the decision of any court, of any limitation on prices for such trading, or any outbreak or escalation of hostilities or occurrence of any other national or international calamity or crisis, or escalation of such calamity or crisis, the effect of which on the financial markets of the United States shall be such as to make it impracticable for the Underwriter to proceed with the purchase and offering of the Bonds;

(c) Any event or condition which, in the reasonable judgment of the Underwriter, (i) renders untrue any statement of a material fact in the Official Statement, and the Issuer and the Borrower do not agree to supplement or amend the Official Statement to correct the deficiency, or (ii) causes the Official Statement to omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, and the Issuer and the Borrower do not agree to supplement or amend the Official Statement to correct the deficiency, or (iii) has a material adverse effect upon the marketability of the Bonds, or (iv) would materially and adversely affect the ability of the Underwriter to enforce contracts for the sale of the Bonds;

(d) The imposition by the New York Stock Exchange or other national securities exchange, or any governmental entity, of any restrictions not now in force with respect to any of the Bonds or obligations of the general character of the Bonds or securities generally, or the increase of any such restrictions now in force, including those relating to the extension of credit by, or the charge to the net capital requirements of the Underwriter;

(e) An order, decree or injunction of any court of competent jurisdiction, or order, filing, regulation or official statement by the SEC, or any other governmental entity having jurisdiction of the subject matter, issued or made to the effect that the issuance, offering or sale of obligations of the general character of the Bonds or the issuance, offering or sale of the Bonds or any arrangements underlying the Bonds, as contemplated hereby or by the Preliminary Official Statement or the Official Statement, is or would be in violation of the federal securities laws as then in effect;

(f) The rating on the Bonds shall have been downgraded or withdrawn by the Rating Agency; or

(g) A material disruption in commercial banking, securities settlement, payment, or clearance services shall have occurred.

### **Section 13. Fees and Expenses.**

13.1 The Borrower shall pay to the Underwriter a fee in the amount of \$ \_\_\_\_\_ plus \$ \_\_\_\_\_ for certain fees and expenses (the “Underwriter’s Fee”), payable in immediately available funds on the Closing Date from which the Underwriter will pay certain expenses. The Underwriter’s Fee shall not include the fee of the Underwriter’s counsel. The Borrower acknowledges that it has had an opportunity, in consultation with such advisors as it may deem appropriate, if any, to evaluate and consider the fees and expenses being incurred in connection with the issuance of the Bonds. The Borrower has agreed to pay the Underwriter’s Fee set forth in this Section 13.1, and inclusive in the expense component of the Underwriter’s Fee are actual expenses incurred or paid for by the Underwriter on behalf of the Borrower in connection with the marketing, issuance, and delivery of the Bonds, including, but not limited to, advertising expenses, the costs of any preliminary and final blue sky memoranda, CUSIP fees, and transportation, lodging, and meals for the Borrower’s employees and representatives, if any.

13.2 The Borrower shall pay the costs of issuance of the Bonds, including all expenses incident to the performance of the Underwriter’s and the Issuer’s obligations hereunder, including, but not limited to, (i) the cost of the preparation, printing or other reproduction of this Purchase Contract, the Preliminary Official Statement and the Official Statement, as either may be supplemented or amended, the Indenture and the other Financing Documents in reasonable quantities for distribution; (ii) the cost of engraving, reproducing and signing the definitive Bonds; (iii) the reasonable fees and disbursements of all applicable legal counsel, including Bond Counsel, counsel to the Issuer, counsel to the Trustee (if any), and counsel to the Underwriter; (iv) the initial fees and costs of paying the Trustee and all paying agents, transfer agents and registrars; (v) the fees and expenses of the Issuer; (vi) CUSIP fees; (vii) the cost of qualifying the Bonds for sale in various states chosen by the Underwriter and the cost of preparing or printing any Preliminary Blue Sky Survey to be used in connection with such sale; (viii) the fees and expenses of the experts retained by the Borrower with respect to the acquisition, rehabilitation and financing of the Project; (ix) the fees of the Rating Agency in connection with the rating of the Bonds; (x) normal travel costs, including reasonable transportation and lodging; (xi) ordinary and reasonable meals hosted by the Underwriter that are directly related to the offering contemplated by this Purchase Contract; and (xii) all other applicable fees of professionals hired in conjunction with the issuance of the Bonds. Notwithstanding anything to the contrary, in the event the transaction contemplated hereby does not close, the Borrower shall pay all fees and expenses incurred in connection with the transaction.

13.3 In the event that the Issuer, the Borrower or the Underwriter shall have paid obligations of the other as set forth in this Section, appropriate adjustments will promptly be made.

13.4 In addition to the provisions set forth in Section 14 hereto, the Borrower shall indemnify the Issuer and the Underwriter with respect to the foregoing costs and expenses in the event that the purchase provided for herein is not consummated.

### **Section 14. Indemnification.**

14.1 The Borrower will indemnify and hold harmless the Issuer and the Underwriter, and each of their officers, directors, employees, agents, officials, members, commissioners, board members and each person who “controls” (as such term is used in Section 15 of the 1933 Act and Section 20 of the 1934 Act) the Issuer and the Underwriter (each referred to individually as an “*Indemnified Party*” and collectively as the “*Indemnified Parties*”) against any losses, claims, expenses (including, without limitation, to the extent permitted by law, reasonable attorneys’ fees and expenses actually incurred), damages or liabilities, causes of action (whether in contract, tort or otherwise), suits, claims, demands and judgments of any kind, character and nature (collectively referred to herein as the “*Liabilities*”), joint or several, to which the Indemnified Parties may be threatened or become subject, caused by or directly or indirectly arising from

or in any way relating to (i) the Bonds, the Project, the loan of the proceeds of the Bonds, this Purchase Contract or any document related to the Bonds, the Project or the loan of the proceeds of the Bonds or any transaction or agreement, written or oral, pertaining to the foregoing, (ii) any untrue statement or alleged untrue statement of any material fact contained in the Preliminary Official Statement or the Official Statement, or any supplement or amendment thereto, or (iii) any omission or alleged omission to state in the Preliminary Official Statement or the Official Statement a material fact necessary to be stated therein in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading. This indemnification provision shall not be construed as a limitation on any other liability which the Borrower may otherwise have to any indemnified person, provided that in no event shall the Borrower be obligated for double indemnification, in that the Borrower shall not be required to indemnify an Indemnified Party more than once with respect to a specific indemnification obligation arising as the result of a specific event. Notwithstanding the foregoing, the Borrower shall not be required to indemnify the Indemnified Parties for the gross negligence or willful misconduct of the Indemnified Parties.

14.2 The indemnity agreements in paragraph 14.1 of this Section 14 shall be in addition to any liability which the Borrower may otherwise have hereunder or under the other Borrower Documents, and shall extend on the same terms and conditions to each member, principal, official, officer, commissioner, board member, attorney or employee of the Borrower and to each person, if any, who “controls” (as such term is used in Section 15 of the 1933 Act and Section 20 of the 1934 Act) the Borrower.

14.3 Promptly after receipt by an Indemnified Party under paragraph 14.1 of this Section of notice of the commencement of any action against such Indemnified Party in respect of which indemnity or reimbursement may be sought against the Borrower under any such paragraph, such Indemnified Party will notify the Borrower in writing of the commencement thereof; provided that any delay or failure to give such notification shall be of no effect except to the extent that the Borrower is prejudiced thereby.

14.4 In case any action, claim or proceeding, as to which the Borrower is to provide indemnification hereunder, shall be brought against the Indemnified Party and the Indemnified Party notifies the Borrower of the commencement thereof, the Borrower may, or if so requested by the Indemnified Party shall, participate therein or assume the defense thereof, with counsel reasonably satisfactory to the Indemnified Party; provided that, except as provided below, the Borrower shall not be liable for the expenses of more than one separate counsel representing the Indemnified Parties in the action, claim or proceeding.

14.5 If the Borrower shall not have employed counsel to have charge of the defense of the action, claim or proceeding, or if any Indemnified Party shall have concluded reasonably that there may be a defense available to it or to any other Indemnified Party which is different from or in addition to those available to the Borrower or to any other Indemnified Party (hereinafter referred to as a “separate defense”), (i) the Borrower shall not have the right to direct the defense of the action, claim or proceeding on behalf of the Indemnified Party, and (ii) reasonable legal and other expenses incurred by the Indemnified Party (including without limitation, to the extent permitted by law, reasonable attorney’s fees and expenses actually incurred) shall be borne by the Borrower; provided, that the Borrower shall not be liable for the expenses of more than one additional separate counsel for each Indemnified Party with respect to such separate defenses. For the purpose of this paragraph, an Indemnified Party shall be deemed to have concluded reasonably that a separate defense is available to it or any other Indemnified Party if (a) such Indemnified Party shall have requested an unqualified written opinion from Independent Counsel to the effect that a separate defense exists, and such Independent Counsel shall have delivered such opinion to the Indemnified Party within ten (10) days after such request or (b) the Borrower agrees that a separate defense is so available. For purposes of this paragraph, Independent Counsel shall mean any attorney, or firm or association of attorneys, duly admitted to practice law before the supreme court of any state and not a full-time employee of any Indemnified Party. Nothing contained in this paragraph 14.5 will preclude any

Indemnified Party, at its own expense, from retaining additional counsel to represent such party in any action with respect to which indemnity may be sought from the Borrower hereunder.

14.6 The Borrower agrees to reimburse any Indemnified Party for any reasonable expense (including reasonable fees and expenses of counsel) incurred as a result of producing documents, presenting testimony or evidence, or preparing to present testimony or evidence (based upon time expended by an Indemnified Party at its then current time charges), in connection with any court or administrative proceeding (including any investigation which may be preliminary thereto) arising out of or relating to any public distribution of the Bonds. The Borrower will not be required to reimburse any Indemnified Party if such court or administrative hearing arises out of the gross negligence of, willful misconduct or breach of, this Purchase Contract by an Indemnified Party.

14.7 In order to provide for just and equitable contribution in circumstances in which the indemnity provided for in paragraph 14.1 or 14.2 of this Section 14 is for any reason held to be unavailable, the Borrower and the Indemnified Party shall contribute proportionately to the aggregate Liabilities to which the Borrower and the Indemnified Party may be subject, so that the Indemnified Party is responsible for that portion represented by the percentage that the fees paid by the Borrower to the Indemnified Party in connection with the issuance and administration of the Bonds bears to the aggregate offering price of the Bonds, with the Borrower responsible for the balance; provided, however, that in no case shall the Indemnified Party be responsible for any amount in excess of the fees paid by the Borrower to the Indemnified Party in connection with the issuance and administration of the Bonds; and provided, further, that the foregoing limitation on an Indemnified Party's liability or responsibility shall not be applicable if the indemnity provided for in paragraph 14.1 or 14.2 is unavailable or inapplicable due to the gross negligence or willful misconduct of any Indemnified Party. No person guilty of fraudulent misrepresentation (within Section 10(b) of the 1933 Act) shall be entitled to contribution from any person who was not guilty of such misrepresentation.

14.8 The Indemnified Parties, other than the Underwriter and the Issuer, shall be considered to be third-party beneficiaries of this Purchase Contract for purposes of this Section 14. The provisions of this Section 14 will be in addition to all liability which the Borrower may otherwise have and shall survive any termination and cancellation of this Purchase Contract, the offering and sale of the Bonds and the payment or provisions for payment of the Bonds.

14.9 Notwithstanding anything to the contrary in this Purchase Contract, the Issuer may employ its own counsel (whether one or more separate counsel) in any manner it deems appropriate and the Borrower shall indemnify the Issuer for fees and expenses of such counsel.

#### **Section 15. Limitation of Liability.**

Notwithstanding any provision herein to the contrary, any member, officer, director, partner, agent, commissioner, board members or employee of the Issuer, the Underwriter or the Borrower, including any person executing this Purchase Contract, shall not bear any liability as a result of any failure of the Issuer, the Underwriter or the Borrower to perform the obligations of each, respectively, set forth in this Purchase Contract.

**Section 16. Miscellaneous.**

16.1 All notices, demands and formal actions hereunder will be in writing and mailed, telecopied or delivered to the following address or such other address as either of the parties shall specify:

If to the Underwriter:	Colliers Securities LLC 90 South Seventh Street, Suite 4300 Minneapolis, MN 55402-4108 Attention: Frank J. Hogan
If to the Issuer:	Housing Finance Authority of St. Johns County, Florida 200 San Sebastian View, Suite 2300 St. Augustine, FL 32084 Attention: [_____]
If to the Borrower:	Ponte Vedra Beach Leased Housing Associates I, LLLP c/o Dominion Development & Acquisition, LLC 375 Northridge Road, Suite 500 Atlanta, GA 30350 Attention: Terrence Sween

16.2 This Purchase Contract will inure to the benefit of and be binding upon the parties hereto and their successors and assigns and, except as provided in Section 14 hereof will not confer any rights upon any other person. The terms “successor” and “assigns” will not include any purchaser of any of the Bonds from the Underwriter merely because of such purchase.

16.3 This Purchase Contract may not be assigned by any of the parties hereto prior to the Closing.

16.4 If any provision of this Purchase Contract is held or deemed to be or is, in fact, inoperative, invalid or unenforceable as applied in any particular case in any jurisdiction or jurisdictions, or in all jurisdictions because it conflicts with any provision of any constitution, statute, rule of public policy, or any other reason, such circumstances will not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance or of rendering any other provision or provisions of this Purchase Contract invalid, inoperative or unenforceable to any extent whatever.

16.5 This Purchase Contract will be construed in accordance with and governed by the internal laws of the State, without regard to conflict of law principles of the State.

16.6 This Purchase Contract may be executed in several counterparts (including counterparts exchanged by email in PDF format), each of which will be regarded as an original and all of which will constitute one and the same document.

**Section 17. Survival of Certain Representations and Obligations.**

The respective agreements, covenants, representations, warranties and other statements of the Issuer and the Borrower and each of their respective officers set forth in or made pursuant to this Purchase Contract shall survive delivery of and payment for the Bonds and shall remain in full force and effect, regardless of any investigation, or statements as to the results thereof, made by or on behalf of the Underwriter.

If the foregoing is in accordance with your understanding, please sign and return to us two counterparts hereof and, upon the acceptance hereof by the Issuer and the Borrower, this Purchase Contract and such acceptance shall constitute the binding agreement among us as to the matters set forth above.

Very truly yours,

**COLLIERS SECURITIES LLC**

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

Frank J. Hogan  
Senior Vice President

[Signatures continue on following page]



[Issuer's signature page to Purchase Contract]

**HOUSING FINANCE AUTHORITY OF ST. JOHNS  
COUNTY, FLORIDA**

By: \_\_\_\_\_  
Michael O'Donnell  
Chair

[Signatures continue on following page]

[Borrower's signature page to Purchase Contract]

**PONTE VEDRA BEACH LEASED HOUSING ASSOCIATES I, LLLP,**  
a Minnesota limited liability limited partnership

By: Ponte Vedra Beach Leased Housing Associates I, LLC,  
a Minnesota limited liability company,  
as sole General Partner

By: \_\_\_\_\_  
Terrence Sween  
Vice President

**EXHIBIT A**

**TERMS OF BONDS**

**Multifamily Housing Revenue Bonds  
(Oaks at St. John), Series 2023A**

<u>Dated Date</u>	<u>Initial Mandatory Tender Date</u>	<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Price</u>
December ____, 2023	_____ 1, 20__	____ 1, 20__	\$5,268,000	____%	____%

**EXHIBIT B**

**PROPOSED FORM OF SUPPLEMENTAL OPINION OF BOND COUNSEL**

December \_\_\_, 2023

Colliers Securities LLC  
Minneapolis, Minneapolis

**\$5,268,000**

**Housing Finance Authority of St. Johns County, Florida  
Multifamily Housing Revenue Bonds  
(Oaks at St. John), Series 2023A**

Ladies and Gentlemen:

This opinion is being rendered to you pursuant to the Bond Purchase Agreement (the “Bond Purchase Agreement”), dated December \_\_\_, 2023, among the Housing Finance Authority of St. Johns County, Florida (the “Issuer”), the Underwriter named therein (the “Underwriter”) and Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “Borrower”), relating to the sale by the Issuer of the above-captioned bonds (the “Bonds”) which are being issued pursuant to a Trust Indenture (the “Indenture”), dated as of December 1, 2023, by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee.

We have acted as Bond Counsel in connection with the issuance and sale of the Bonds, and in that capacity we have participated in various conferences with representatives of and counsel for the Underwriter, representatives of and counsel for the Borrower, and representatives of and counsel for the Issuer relating to the preparation of the Official Statement, dated December \_\_\_, 2023 (the “Official Statement”). In addition, we have participated in the preparation of the Indenture. We have also examined the documents and other items referred to in our opinion of even date herewith relating to the Bonds.

Based on and subject to the foregoing, and in reliance thereon, we are of the opinion that:

1. The Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Indenture is exempt from qualification under the Trust Indenture Act of 1939, as amended.
2. The statements contained in the Official Statement (except as to any statistical and financial data included in the Official Statement and except for the information relating to The Depository Trust Company, its Participants and its book-entry only system, as to which we do not express an opinion) under the captions “THE BONDS,” “TAX MATTERS,” “APPENDIX B – SUMMARY OF CERTAIN PROVISIONS OF THE TRUST INDENTURE,” “APPENDIX C – SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT” and “APPENDIX D – SUMMARY OF CERTAIN PROVISIONS OF THE REGULATORY AGREEMENT,” insofar as such statements contained under such captions purport to summarize certain provisions of the Bonds, the Indenture, the Loan Agreement, the Regulatory Agreement, and certain aspects of our firm’s opinion relating to the federal and the State of Florida tax implications of certain aspects of the Bonds present an accurate summary of such matters.
3. The Bond Purchase Agreement has been duly authorized, executed and delivered by the Issuer and, assuming due execution and delivery by the other parties thereto, constitutes a valid, legal and binding special obligation of the Issuer enforceable in accordance with its terms, except as the enforceability

thereof may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights or contractual obligations generally and no opinion is being rendered as to the availability of any particular remedy thereunder.

This letter is furnished by us solely for your benefit and may not be relied upon by any other persons. This letter is not to be used, circulated, quoted, or otherwise referred to or relied upon for any other purpose or by any other person. This letter is not intended to be relied upon by the holders of the Bonds.

Very truly yours,

**EXHIBIT C**

**FORM OF OPINION OF COUNSEL TO THE BORROWER**

December \_\_\_\_, 2023

Colliers Securities LLC  
Minneapolis, Minneapolis

Housing Finance Authority of St. Johns County, Florida  
St. Augustine, Florida

**\$5,268,000**

**Housing Finance Authority of St. Johns County, Florida  
Multifamily Housing Revenue Bonds  
(Oaks at St. John), Series 2023A**

Ladies and Gentlemen:

We have acted as counsel to Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “Borrower”), in connection with the issuance of the above-captioned bonds (the “Bonds”) by the Housing Finance Authority of St. Johns County, Florida (the “Issuer”).

Capitalized terms used but not defined herein have the meanings assigned to them in the Trust Indenture dated as of December 1, 2023, between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”), or the hereinafter-defined Bond Purchase Agreement.

In our capacity as such counsel, in rendering the opinions set forth below, we have examined, among other things, originals or copies, certified or otherwise identified to our satisfaction, of the following documents: (i) the Preliminary Official Statement, dated December \_\_\_\_, 2023, of the Issuer relating to the Bonds (the “Preliminary Official Statement”); (ii) the Official Statement, dated December \_\_\_\_, 2023, of the Issuer relating to the Bonds (the “Official Statement”); (iii) the Regulatory Agreement and Declaration of Restrictive Covenants, among the Issuer, the Trustee and the Borrower, dated as of December 1, 2023; (iv) the Loan Agreement, dated as of December 1, 2023, between the Issuer and the Borrower; (v) the Bond Purchase Agreement, dated December \_\_\_\_, 2023, among the Issuer, the Underwriter named therein and the Borrower (the “Bond Purchase Agreement”); (vi) the Continuing Disclosure Agreement, dated as of December 1, 2023, between the Borrower and the Dissemination Agent named therein; (vii) the Remarketing Agreement, dated as of December 1, 2023, between the Borrower and the Remarketing Agent named therein; (viii) the promissory note, dated the Closing Date, executed by the Borrower; (ix) the Tax Certificate and Agreement, dated the Closing Date, executed and delivered by the Issuer and the Borrower; and (x) such other documents, certificates and instruments as we have deemed necessary for the purposes of reaching the opinion expressed herein. We have also relied as to matters of fact upon a certificate of the Borrower and examined certain other certificates and documents.

In such examination, we have assumed the genuineness of all signatures (other than those relating to the Borrower), the authenticity of all documents submitted to us as originals, and the conformity to the original document of all documents submitted to us as photostatic or certified copies. We have assumed due authorization, execution and delivery of all documents referenced herein by the parties thereto other than the Borrower and that each of such parties has full power, authority and legal right to execute and deliver each such instrument.

Based upon and subject to the foregoing, we are of the opinion that, as of the date hereof:

(i) The Borrower (a) is a limited liability limited partnership validly existing under the laws of the State of Minnesota, (b) is in good standing and duly qualified to transact business in the State of Florida (the “State”), and (c) has full power and authority to execute and deliver the documents listed above numbered (iii) through (ix) (the “Financing Documents”) and the Official Statement and to perform its obligations under each respective agreement.

(ii) The Financing Documents and the Official Statement have each been duly authorized, executed and delivered by the Borrower and the Finance Documents constitute legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their respective terms, except as the enforcement thereof may be limited by (a) applicable bankruptcy, insolvency, moratorium, reorganization and similar laws (including fraudulent conveyance laws) affecting the enforcement of creditors’ rights and remedies generally in effect from time to time, and (b) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(iii) The execution and delivery of the Financing Documents and the performance by the Borrower of the terms of the respective agreements do not conflict with or violate any other document, instrument, decree, indenture or agreement by which the Borrower is bound.

(iv) No approval, authorization or other action by, or filing with, the State or any agency thereof, is required in connection with the execution and delivery by the Borrower of the Bond Purchase Agreement.

(v) There is no action, suit, proceeding, inquiry or investigation at law or in equity or before any court or public body pending or, to the best of our knowledge, threatened, to challenge the right, power or authority of the Borrower to acquire, own and operate the Project or to perform its obligations under the Bond Purchase Agreement or the other Financing Documents.

(vi) The information in the Preliminary Official Statement and the Official Statement does not contain an untrue statement of fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading as of the date hereof.

We express no opinion as to any matter whatsoever, relating to the accuracy or completeness of any financial accounting or projection information furnished to any party, the accuracy or completeness of any representation made by our clients, the financial status of our clients, the ability of our clients to meet their obligations under any of the above-referenced agreements or any other related document.

Very truly yours,

**EXHIBIT D**

**FORM OF BORROWER'S RULE 15c2-12 CERTIFICATE**

**\$5,268,000**

**Housing Finance Authority of St. Johns County, Florida  
Multifamily Housing Revenue Bonds  
(Oaks at St. John), Series 2023A**

The undersigned hereby certifies and represents to Colliers Securities LLC (the "Underwriter") that the undersigned is authorized to execute and deliver this certificate on behalf of Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the "Borrower"), and hereby further certifies to the Underwriter as follows:

(a) This certificate is delivered to enable the Underwriter to comply with Securities and Exchange Commission Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule") in connection with the issuance and sale of the above captioned securities (the "Bonds").

(b) In connection with the issuance and sale of the Bonds, there has been prepared a Preliminary Official Statement, dated December \_\_, 2023, relating to the Bonds (the "Preliminary Official Statement") setting forth information concerning the Bonds and the Borrower.

(c) As used herein, "Permitted Omissions" shall mean the offering price(s), interest rate(s), accreted values, yield to maturity, selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, ratings and other terms of the Bonds depending on such matters and the identity of the Underwriter(s), all with respect to the issuance and sale of the Bonds.

(d) The Preliminary Official Statement is, as of the date thereof, deemed final within the meaning of the Rule, except for Permitted Omissions.

(e) The section of the Preliminary Official Statement entitled "UNDERTAKING TO PROVIDE CONTINUING DISCLOSURE" describes the agreement the Borrower expects to make for the benefit of the Bondholders in the Continuing Disclosure Agreement dated as of December 1, 2023, executed by the Borrower and U.S. Bank Trust Company, National Association, as dissemination agent, by which the Borrower will undertake to provide continuing disclosure in accordance with the Rule.

Dated: December \_\_, 2023

[Remainder of page intentionally left blank]



[Signature page to Rule 15c2-12 Certificate]

IN WITNESS WHEREOF, I have hereunto set my hand as of the date set forth above.

**PONTE VEDRA BEACH LEASED HOUSING ASSOCIATES I, LLLP,**  
a Minnesota limited liability limited partnership

By: Ponte Vedra Beach Leased Housing Associates I, LLC,  
a Minnesota limited liability company,  
as sole General Partner

By: \_\_\_\_\_  
Terrence Sween  
Vice President

**EXHIBIT E**

**FORM OF ISSUE PRICE CERTIFICATE**

**\$5,268,000**

**Housing Finance Authority of St. Johns County, Florida  
Multifamily Housing Revenue Bonds  
(Oaks at St. John), Series 2023A**

The undersigned, on behalf of Colliers Securities LLC (the “Underwriter”), on behalf of itself, hereby certifies as set forth below with respect to the sale and issuance of the above-captioned obligations (the “Bonds”).

1. Sale of the Bonds. As of the date of this certificate, for each Maturity of the Bonds, the first price at which at least 10% of such Maturity of the Bonds was sold to the Public is the respective price listed in Exhibit A attached to the Bond Purchase Agreement dated December \_\_, 2023, among the Underwriter, Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “Borrower”), and Housing Finance Authority of St. Johns County, Florida (the “Issuer”).

2. Defined Terms.

(a) “*Issuer*” means the Housing Finance Authority of St. Johns County, Florida, a public body corporate and politic duly created, organized and existing under the laws of the State of Florida.

(b) “*Maturity*” means Bonds with the same credit and payment terms. Bonds with different maturity dates, or Bonds with the same maturity date but different stated interest rates, are treated as separate Maturities.

(c) “*Public*” means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than the Underwriter or a related party to the Underwriter. The term “related party” for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(d) “*Underwriter*” means (i) Colliers Securities LLC, (ii) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public, and (iii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (ii) of this paragraph to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents the Underwriter’s interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer and the Borrower with respect to certain of the representations set forth in the Tax Agreement and with respect to compliance with the federal income tax rules affecting the Bonds, and by Butler Snow LLP, Jacksonville, Florida, Bond Counsel, in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038, and

other federal income tax advice that it may give to the Issuer and the Borrower from time to time relating to the Bonds.

Dated: December \_\_\_\_, 2023

[Underwriter's signature page to Issue Price Certificate]

Dated as of the date hereof.

**COLLIERS SECURITIES LLC**

By: \_\_\_\_\_  
Frank J. Hogan  
Senior Vice President

**EXHIBIT F**

**DISCLOSURE STATEMENT**

December \_\_\_\_, 2023

Housing Finance Authority of St. Johns County, Florida  
200 San Sebastian View, Suite 2300  
St. Augustine, FL 32084

Ponte Vedra Beach Leased Housing Associates I, LLLP  
c/o Dominion Development & Acquisition, LLC  
375 Northridge Road, Suite 500  
Atlanta, GA 30350

**\$5,268,000**

**Housing Finance Authority of St. Johns County, Florida  
Multifamily Housing Revenue Bonds  
(Oaks at St. John), Series 2023A**

Ladies and Gentlemen:

Pursuant to Chapter 218.385, Florida Statutes, and in reference to the issuance of Bonds as set forth above (the “Bonds”), Colliers Securities LLC (the “Underwriter”) makes the following disclosures to the Housing Finance Authority of St. Johns County, Florida (the “Issuer”) and to Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “Borrower”), the general partner of which is Ponte Vedra Beach Lease Housing Associates I, LLC, a Minnesota limited liability company. All capitalized terms not otherwise defined herein shall have the respective meanings specified in the Bond Purchase Agreement dated the date hereof by and among the Underwriter, the Issuer and the Borrower (the “Bond Purchase Agreement”). The Underwriter is acting as underwriter in connection with the offering or sale of the Bonds. The fees to be paid to the Underwriter in the Bond Purchase Agreement are equal to \_\_\_\_% of the total face amount of the Bonds.

(a) The expenses estimated to be incurred by the Underwriter in connection with the issuance of the Bonds are itemized on Schedule A hereto.

(b) Names, addresses and estimated amounts of compensation of any person who is not regularly employed by, or not a partner or officer of, the Underwriter and who enters into an understanding with either the Issuer or the Underwriter, or both, for any paid or promised compensation or valuable consideration directly, expressly or impliedly, to act solely as an intermediary between the Issuer and the Underwriter for the purpose of influencing any transaction in the purchase of the Bonds:

[None]

(c) The amount of underwriting spread expected to be realized is \$\_\_\_\_ per \$1,000 of the Bonds and consists of the following components including the property management fee indicated:

	<u>Per \$1,000</u>
Management Fee	\$
Average Takedown	
Expenses	
Total	\$

(d) No fee, bonus or other compensation is estimated to be paid by the Underwriter in connection with the issuance of the Bonds, to any persons not regularly employed or retained by the Underwriter (including any “finder” as defined in Section 218.386(1)(a), Florida Statutes, as amended), except as specifically enumerated as expenses to be incurred and paid by the Underwriter, as set forth in Schedule A attached hereto.

(e) The name and address of the Underwriter connected with the Bonds is:

Colliers Securities LLC  
 90 South Seventh Street, Suite 4300  
 Minneapolis, MN 55402-4108  
 Attention: Frank J. Hogan

(f) *Truth in Bonding Statement.* The Bonds are being issued for the purpose of financing or refinancing, including through reimbursement, ((i) the acquisition, rehabilitation and equipping of a multifamily rental housing development within St. Johns County, Florida, known as Oaks at St. John, located at 2010 Nettles Lane, Ponte Vedra Beach, FL 32081, consisting of approximately 160 units, including related facilities, fixtures, furnishings and equipment; (ii) fund a debt service reserve fund for the Bonds; (iii) an operating reserve fund for the Bonds, (iv) necessary capitalized interest on the Bonds, and (v) a portion of the costs of issuance of the Bonds. This debt or obligation is expected to be repaid over a period of \_\_\_ years. Total interest paid over the life of the debt or obligation, assuming an interest rate (total interest cost) of \_\_\_% per annum, will be approximately \$\_\_\_\_\_.

The source of repayment and security for this proposal to issue the Bonds is exclusively limited to certain revenues derived from the Borrower pursuant to the Loan Agreement. Because (a) such revenues may not be used by the Issuer for any purpose other than the purposes set forth in the Indenture, (b) the Issuer has no taxing power and the taxing power of the Issuer and the State of Florida is not pledged or involved in the Bonds, (c) the Bonds and the interest thereon do not constitute a debt of the Issuer within the meaning of any constitutional or statutory provision, and (d) the faith and credit of the Issuer are not pledged to the payment of the principal of or the interest on the Bonds, authorizing this debt or obligation will not result in any moneys not being available to the Issuer to finance other transactions each year for the \_\_\_-year term of the Bonds. We understand that the Issuer does not require any further disclosure from the Underwriter pursuant to Section 218.385, Florida Statutes.

This statement is for informational purposes only and shall not affect or control the actual terms and conditions of the Bonds.

**COLLIERS SECURITIES LLC**

By: \_\_\_\_\_  
Frank J. Hogan  
Senior Vice President

SCHEDULE A

<u>Expense</u>	<u>Amount (\$)</u>
Out-of-Pocket/Marketing Expenses	
Ipreo Bookrunning System	
Ipreo Wire Fees	
Ipreo Order Monitor/Dealer EOE (Lead-managed Only)	
DTC Setup	
CUSIP Numbers	
Day Loan	
<b>Total Expenses</b>	<b>\$</b>



**EXHIBIT I**  
**PRELIMINARY OFFICIAL STATEMENT**  
**(see attached)**

NEW ISSUE – Book-Entry Only

RATING: Moody's "[Aaa/VMIG 1]"  
SEE "RATING" herein.

*In the opinion of Butler Snow LLP, Bond Counsel, under existing law and assuming compliance with certain covenants described herein, interest on the Bonds is excludable from the gross income of the owners thereof for federal income tax purposes, except that no opinion is expressed as to the status of interest on any Bond for any period that a Bond is held by a "substantial user" of the facilities financed by such Bond or by a "related person" within the meaning of Section 147(a) of the Internal Revenue Code of 1986, as amended (the "Code"). Bond Counsel is further of the opinion that, under existing law, interest on the Bonds is not an item of preference for purposes of the federal alternative minimum tax; however, such interest is taken into account in determining the annual adjusted financial statement income of applicable corporations (as defined in Section 59(k) of the Code) for the purpose of computing the alternative minimum tax imposed on corporations. In the further opinion of Bond Counsel, under the provisions of the Act, the Bonds and the interest thereon are exempt from all state and local taxes in Florida. See "TAX MATTERS" herein and the proposed form of opinion of Bond Counsel attached hereto as "Appendix F" for a description of certain other federal tax consequences of ownership of the Bonds.*

\$5,268,000\*

**Housing Finance Authority of St. Johns County, Florida  
Multifamily Housing Revenue Bonds  
(Oaks at St. John), Series 2023A**

**Dated: Date of Delivery**  
**Initial Interest Rate:** \_\_\_\_%  
**Initial Offering Price:** \_\_\_\_%

**Maturity Date:** \_\_\_\_\_ 1, 20\_\_\*  
**Initial Mandatory Tender Date:** January 1, 2027\*  
**CUSIP:** \_\_\_\_\_

The Housing Finance Authority of St. Johns County, Florida (the "Issuer") is issuing its Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023A (the "Bonds") pursuant to a Trust Indenture dated as of December 1, 2023 (the "Indenture"), by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the "Trustee"). The Bonds shall bear interest on the outstanding principal amount thereof at the Initial Interest Rate set forth above (the "Initial Interest Rate") from their date to but not including the Initial Mandatory Tender Date set forth above (the "Initial Mandatory Tender Date"), payable on each January 1 and July 1 commencing July 1, 2024\*. The Bonds will be issued as fully registered bonds in book entry form and book entry interests in the Bonds will be available for purchase in principal amounts of \$5,000, or any integral multiple of \$1,000 in excess thereof. See "THE BONDS" herein.

The Bonds are being issued to finance a loan (the "Loan") to Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the "Borrower") to enable the Borrower to pay a portion of the cost of acquiring, rehabilitating and equipping of a multifamily residential rental housing development located in St. Johns County, Florida (the "Project"). The Loan will be made to the Borrower pursuant to a Loan Agreement, dated as of December 1, 2023 (the "Loan Agreement"), between the Issuer and the Borrower, under which the Borrower has agreed to provide, as described herein, payments to the Issuer in amounts sufficient, together with interest earnings thereon (without the need for reinvestment), to pay the principal of and interest on the Bonds when due. The Loan will be evidenced by a Promissory Note in the principal amount of \$5,268,000\* (the "Note") from the Borrower to the Issuer and endorsed to the Trustee.

Pursuant to the Loan Agreement, the Borrower will cause the Mortgage Lender to deposit Eligible Funds (as defined herein) of up to \$5,268,000\* in the form of Eligible Funds to be deposited in the Collateral Fund established under the Indenture, allowing the Trustee to disburse a like amount of Bond proceeds to the Borrower to pay costs of the Project pursuant to the terms of the Indenture and the Loan Agreement. It is anticipated that the principal of and interest on the Bonds will be paid from amounts on deposit (plus interest earnings thereon) in the Bond Fund, the Collateral Fund, and the Project Fund (together, the "Special Funds").

The Bonds are subject to mandatory tender for purchase, subject to satisfaction of the applicable terms and conditions set forth in the Indenture, on the Initial Mandatory Tender Date. All Bondholders must tender their Bonds for purchase on the Initial Mandatory Tender Date. The Bonds may be remarketed and a new interest rate for the Bonds may be determined on the Initial Mandatory Tender Date in accordance with the terms of the Indenture. If the Bonds are remarketed on the Initial Mandatory Tender Date, the terms of the Bonds after such date may differ materially from the description provided in this Official Statement. Therefore, prospective purchasers of the Bonds on and after the Initial Mandatory Tender Date cannot rely on this Official Statement, but rather must rely upon any disclosure documents prepared in connection with such remarketing.

The Bonds are subject to optional and mandatory redemption prior to maturity as set forth herein.

At all times the Bonds will be secured by amounts on deposit under the Indenture, which amounts shall constitute Eligible Funds (as defined herein) and shall be invested in Eligible Investments, and such amounts will be sufficient (along with investment earnings thereon), without the need for reinvestment, to pay all of the interest on the Bonds when due and to pay the principal of the Bonds on the earlier of any Mandatory Tender Date or any Redemption Date, as further described herein. See "SECURITY AND SOURCES OF PAYMENT FOR THE BONDS" herein.

THE ISSUER SHALL NOT IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS, OR FOR THE PERFORMANCE OF ANY PLEDGE, MORTGAGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WHICH MAY BE UNDERTAKEN BY THE ISSUER EXCEPT FROM THE SOURCES SPECIFICALLY PLEDGED THERETO PURSUANT TO THE INDENTURE, AND NEITHER THE BONDS NOR ANY OF THE AGREEMENTS OR OBLIGATIONS OF THE ISSUER SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE BONDS AND THE INTEREST THEREON SHALL NOT BE DEEMED TO CONSTITUTE OR TO CREATE IN ANY MANNER A DEBT, LIABILITY OR OBLIGATION OF THE STATE, ST. JOHNS COUNTY, FLORIDA (THE "COUNTY") NOR ANY OTHER POLITICAL SUBDIVISION THEREOF OR A PLEDGE OR A GRANT OF THE FAITH AND CREDIT OF THE STATE, THE COUNTY OR ANY SUCH POLITICAL SUBDIVISION, BUT SHALL BE LIMITED OBLIGATIONS OF THE ISSUER

\* Preliminary; subject to change.

This Preliminary Official Statement and certain of the information contained herein is in a form deemed final for purposes of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (except for the omission of certain information permitted to be omitted under Rule 15c2-12(b)(1)). The information herein is subject to revision, completion or amendment in a final Official Statement. The Bonds may not be sold, nor may an offer to buy be accepted prior to the time the Official Statement is delivered in final form. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or a solicitation of an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction.

PAYABLE SOLELY FROM THE SECURITY AND OTHER FUNDS PLEDGED THEREFOR AND SHALL NOT BE PAYABLE FROM ANY OTHER ASSETS OR FUNDS OF THE ISSUER, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE, THE COUNTY OR ANY POLITICAL SUBDIVISION IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS. THE ISSUER HAS NO TAXING POWER.

NEITHER THE MEMBERS OR OFFICIALS OF THE ISSUER NOR ANY PERSON EXECUTING THE BONDS SHALL BE LIABLE PERSONALLY ON THE BONDS BY REASON OF THE ISSUANCE THEREOF. THE BONDS AND OTHER OBLIGATIONS OF THE ISSUER SHALL NOT BE A DEBT OF THE STATE, THE COUNTY OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) AND NEITHER THE STATE NOR THE COUNTY OR ANY OTHER POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) SHALL BE LIABLE THEREON, NOR IN ANY EVENT SHALL SUCH BONDS OR OBLIGATIONS BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN THOSE OF THE ISSUER.

Simultaneously with the issuance of the Bonds, the Issuer is issuing its Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023B in the principal amount of \$14,231,667\* (the "Series 2023B Bonds") and its Multifamily Housing Revenue Bonds (Oaks at St. John), Subordinate Series 2023C in the principal amount of \$\_\_\_\_\_ \* (the "Series 2023C Bonds"), the aggregate proceeds of which will be used to make a loan to the Borrower to finance a portion of the cost of the Borrower's acquisition, rehabilitation and equipping of the Project. The Series 2023B Bonds and the Series 2023C Bonds are not being offered pursuant to this Official Statement. Closing on the Bonds is contingent on the closing of the Series 2023B Bonds and the Series 2023C Bonds.

The Bonds are offered for delivery when, as and if issued and received by Colliers Securities LLC (the "Underwriter") and subject to the approval of legality by Butler Snow LLP, Jacksonville, Florida, and certain other conditions. Certain legal matters will be passed upon for the Issuer by its counsel, Bradley, Garrison & Komando, P.A., Orange Park, Florida, for the Underwriter by its counsel, Tiber Hudson LLC, Washington, D.C., and for the Borrower by its counsel, Winthrop & Weinstine, P.A., Minneapolis, Minnesota. Certain financial advisory services will be provided to the Issuer by Public Resources Advisory Group, St. Petersburg, Florida. It is expected that the Bonds will be available in book-entry form through the facilities of DTC in New York, New York on or about December \_\_\_\_, 2023.

*This cover page contains limited information for ease of reference only. It is not a summary of the Bonds or the security therefor. The entire Official Statement, including the Appendices, must be read to obtain information essential to make an informed investment decision.*



Date: December \_\_\_\_, 2023

No broker, dealer, salesman or other person has been authorized by the Issuer to give any information or to make any representations other than those contained in this Official Statement, and, if given or made, such other information or representations must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale prior to the registration or qualification under the securities laws of any such jurisdiction. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made under the Indenture shall, under any circumstances, create any implication that there has been no change in the affairs of the Issuer since the date hereof.

All quotations from and summaries and explanations of provisions of laws and documents herein do not purport to be complete and reference is made to such laws and documents for full and complete statements of their provisions. This Official Statement is not to be construed as a contract or agreement between the Issuer and the purchasers or owners of any of the Bonds. All statements made in this Official Statement involving estimates or matters of opinion, whether or not expressly so stated, are intended merely as estimates or opinions and not as representations of fact. The cover page hereof and the appendices attached hereto are part of this Official Statement. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale of the Bonds shall under any circumstances create any implication that there has been no change in the affairs of the Issuer since the date hereof.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVER-ALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICES OF THE BONDS AT LEVELS ABOVE THOSE WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

The Underwriter has reviewed the information in this Official Statement pursuant to its responsibilities to investors under federal securities laws, but the Underwriter does not guarantee the accuracy or completeness of such information.

No registration statement relating to the Bonds has been filed with the Securities and Exchange Commission (the "Commission") or with any state securities agency. The Bonds have not been approved or disapproved by the Commission or any state securities agency, nor has the Commission or any state securities agency passed upon the accuracy or adequacy of this Official Statement. Any representation to the contrary is a criminal offense.

CUSIP data herein are provided by CUSIP Global Services, managed by FactSet Research Systems Inc., on behalf of the American Bankers Association. CUSIP numbers have been assigned by an independent company not affiliated with the Issuer and are included solely for the convenience of the holders of the Bonds. The Issuer is not responsible for the selection or uses of these CUSIP numbers, and no representation is made as to their correctness on the Bonds or as indicated above. The CUSIP number for a specific maturity is subject to being changed after the issuance of the Bonds as a result of various subsequent actions.

U.S. Bank Trust Company, National Association, as Trustee, has not reviewed, provided or undertaken to determine the accuracy of any of the information contained in this Official Statement and makes no representation or warranty, express or implied, as to any matters contained in this Official Statement, including, but not limited to, (i) the accuracy or completeness of such information, (ii) the validity of the Bonds, or (iii) the tax-exempt status of the Bonds.

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## OFFICIAL STATEMENT

**\$5,268,000\***

**Housing Finance Authority of St. Johns County, Florida  
Multifamily Housing Revenue Bonds  
(Oaks at St. John), Series 2023A**

### INTRODUCTION

This Official Statement (this “Official Statement”) has been prepared in connection with the issuance of the above-captioned Bonds (the “Bonds”) by the Housing Finance Authority of St. Johns County, Florida (the “Issuer”), a public body corporate and politic duly organized and existing under the laws of the State of Florida (the “State”). The Issuer has authorized the issuance of the Bonds by its duly adopted resolution dated November \_\_, 2023 (the “Bond Resolution”) and the Bonds are issued pursuant to a Trust Indenture dated as of December 1, 2023 (the “Indenture”), by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”). Certain capitalized terms that are used in this Official Statement and not otherwise defined shall have the definitions ascribed to them in “APPENDIX A – DEFINITIONS OF CERTAIN TERMS” hereto.

The Bonds are to be issued pursuant to the Florida Housing Finance Authority Law, Sections 159.601 et seq., Florida Statutes, as amended (the “Act”), for the purpose of providing funds to make a loan (the “Loan”) to Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “Borrower”) to enable the Borrower to pay a portion of the cost of acquiring, rehabilitating and equipping of a multifamily residential rental housing development located in St. Johns County, Florida (the “Project”). See “PRIVATE PARTICIPANTS” and “THE PROJECT” herein.

The Loan will be made to the Borrower under a Loan Agreement dated as of December 1, 2023 (the “Loan Agreement”), by and between the Issuer and the Borrower. Pursuant to the Loan Agreement, the Borrower has agreed to make payments to the Issuer in amounts sufficient, together with interest earnings thereon, to pay the principal of and interest on the Bonds when due (the “Bond Service Charges”) to the extent that amounts otherwise available for such payment are insufficient therefor. The Loan will be evidenced by a promissory note in the principal amount of \$5,268,000\* (the “Note”) from the Borrower to the Issuer and endorsed to the Trustee.

Simultaneously with the issuance of the Bonds it is expected that the Borrower will close on a mortgage loan (the “Mortgage Loan”) with Colliers Mortgage LLC, a Delaware limited liability company (the “Mortgage Lender”), and will cause to be deposited certain proceeds of the Mortgage Loan (the “Eligible Funds”) into the Collateral Fund held by the Trustee under the Indenture allowing the Trustee to disburse a like amount of Bond proceeds to the Borrower to pay costs of the Project pursuant to the terms of the Indenture and the Loan Agreement. See “THE PROJECT — Plan of Financing” herein.

Amounts on deposit in the Collateral Fund, the Bond Fund and the Project Fund (collectively, the “Special Funds”) will be invested in Eligible Investments. It is anticipated that the aggregate Eligible Funds and Eligible Investments on deposit in the Project Fund and the Collateral Fund will, at all times, equal the principal amount of Bonds Outstanding. It is anticipated that the Bond Service Charges will be paid from amounts on deposit in the Special Funds, along with investment earnings thereon (without the need for reinvestment). At all times the Bonds will be secured by amounts on deposit under the Indenture, which amounts shall constitute Eligible Funds (as defined herein) and shall be invested in Eligible Investments, and such amounts will be sufficient (along with investment earnings thereon), without the need for reinvestment, to pay all of the interest on the Bonds when due and to pay the principal of the Bonds on the earlier of any Mandatory Tender Date or any Redemption Date, as further described herein. See “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS” herein.

The Bonds shall bear interest on the outstanding principal amount thereof at a rate equal to the interest rate set forth on the cover page hereof (the “Initial Interest Rate”) from their date, to but not including, January 1, 2027\*

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\* Preliminary; subject to change.

(the “Initial Mandatory Tender Date”), payable on each January 1 and July 1, commencing July 1, 2024\* (each an “Interest Payment Date”) and on each Mandatory Tender Date and each Redemption Date.

The Bonds are subject to mandatory tender for purchase, subject to satisfaction of the applicable terms and conditions set forth in the Indenture, on the Initial Mandatory Tender Date. All Bondholders must tender their Bonds for purchase on the Initial Mandatory Tender Date. A new interest rate for the Bonds may be determined on the Mandatory Tender Date in accordance with the terms of the Indenture. If the Bonds are remarketed on the Initial Mandatory Tender Date, the terms of the Bonds after such date may differ materially from the description provided in this Official Statement. Therefore, prospective purchasers of the Bonds on and after the Initial Mandatory Tender Date cannot rely on this Official Statement, but rather must rely upon any disclosure documents prepared in connection with such remarketing.

The Bonds are subject to optional and mandatory redemption prior to maturity as set forth herein under “THE BONDS.”

Simultaneously with the issuance of the Bonds, the Issuer is issuing its Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023B in the principal amount of \$14,231,667\* (the “Series 2023B Bonds”) and its Multifamily Housing Revenue Bonds (Oaks at St. John), Subordinate Series 2023C in the principal amount of \$\_\_\_\_\_ \* (the “Series 2023C Bonds”), the aggregate proceeds of which will be used to make a loan to the Borrower to finance a portion of the cost of the Borrower’s acquisition, rehabilitation and equipping of the Project. The Series 2023B Bonds and the Series 2023C Bonds are not being offered pursuant to this Official Statement. Closing on the Bonds is contingent on the closing of the Series 2023B Bonds and the Series 2023C Bonds.

Brief descriptions of the Issuer, the Borrower, the Mortgage Lender, the Mortgage Loan, the Project, the Bonds, the security for the Bonds, the Indenture, the Loan Agreement and the Regulatory Agreement are included in this Official Statement. The summaries herein do not purport to be complete and are qualified in their entireties by reference to such documents, agreements and programs as may be referred to herein, and the summaries herein of the Bonds are further qualified in their entireties by reference to the form of the Bonds included in the Indenture and the provisions with respect thereto included in the aforesaid documents.

## **THE ISSUER**

*The following information has been provided by the Issuer for use herein. While the information is believed to be reliable, none of the Trustee, the Borrower, the Underwriter, the Mortgage Lender nor any of their respective counsel, members, officers or employees make any representations as to the accuracy or sufficiency of such information.*

### **General**

The Issuer was created as a public body corporate and politic in accordance with the Florida Housing Finance Authority Law, Sections 159.601 et seq., Florida Statutes, as amended, and Ordinance No. 80-7 enacted by the Board of County Commissioners (the “Board”) of St. Johns County, Florida (the “County”) on February 26, 1980, as amended by Ordinance No. 80-25 enacted by the Board on March 11, 1980 (collectively, the “Act”). The Board is the principal legislative and governing body of the County, as provided by the Florida Constitution and Chapter 125, Florida Statutes. The Issuer is authorized, in furtherance of the public purposes described in the Act, to alleviate the shortage of affordable residential housing within the County, by providing funds for investment by the private sector in the construction or rehabilitation of such housing for low, moderate or middle income families or persons within the County by issuing its revenue bonds. The Issuer is also authorized to enter into such agreements which are necessary to secure the repayment of the principal of and interest on the Bonds. On November \_\_, 2023, the Issuer adopted Resolution No. 2023-\_\_\_, approving the issuance of the Bonds. [The Bonds remain subject to approval by the Board of the County as required under the Act and Section 147(f) of the Internal Revenue Code of 1986, as amended, which approval is anticipated to occur on \_\_\_\_\_, 2023.]

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\* Preliminary; subject to change.

The Issuer has previously issued bonds to finance and refinance multifamily properties, however, those bonds were issued pursuant to separate trust indentures and are not secured by the Project.

The Issuer is currently composed of seven members appointed by the Board. The members of the Issuer serve for terms not exceeding four years (members continue to serve until a new appointment is made) and the current members of the Issuer and the dates on which their respective terms expire are as follows:

<u>Office</u>	<u>Member Name</u>	<u>Expiration of Term</u>
Chairman	Michael O'Donnell	February 4, 2024
Vice-Chair	Robert Marshall	February 4, 2024
Board Member	Erick Saks	February 16, 2025
Board Member	Malinda Peebles	June 1, 2022
Board Member	Andrew Evener	February 16, 2025
Board Member	Vacant	

Roberto Ortiz, Housing/Community Services Manager is the Executive Director of the Issuer. As Executive Director, he is responsible for the administration of the County's bond financed housing programs and the availability of affordable housing. Mr. Ortiz began working as the Executive Director in 2020.

Mr. Ortiz began his career with the County in 2019. He was the Senior Property Manager for a \$32 million CDBG-DR grant portfolio responsible for the new construction of two Affordable Housing Multi-Family developments in St. Johns County. Mr. Ortiz was promoted to his current position in late 2020 and is now heading the Housing and Community Development Department. Mr. Ortiz's more than 20 years of background and experience in government and the private sector provides him knowledge in executive management, budgeting, housing finance, urban planning, community and economic development, and neighborhood revitalization.

Mr. Ortiz received a dual degree in Business Management and Industrial Psychology from the University of Puerto Rico in San Juan, Puerto Rico. Mr. Ortiz is currently working toward finishing his Masters of Public Administration (MPA) degree.

The Issuer's office is located at 200 San Sebastian View, Suite 2300, St. Augustine, Florida 32084, and the Issuer's telephone number is (904) 827-6894.

The Issuer neither has nor will assume responsibility for the accuracy or completeness of any information herein which has been furnished by others.

## **THE BONDS**

### **Terms of Bonds Generally**

The Bonds shall mature on \_\_\_\_\_ 1, 20\_\_\* (the "Maturity Date"). The Bonds are dated their date of delivery and shall bear interest at the Initial Interest Rate from their date of delivery, to but not including the Initial Mandatory Tender Date, payable on each Interest Payment Date, commencing July 1, 2024\*, and on each Mandatory Tender Date and each Redemption Date.

Interest on the Bonds shall be computed on the basis of a 360-day year of 12 months of 30 days each.

The principal of and interest on any of the Bonds shall be payable in lawful money of the United States of America. Except as described below under the subcaption "Book-Entry-Only System," (a) the principal of any Bond shall be payable when due to a Holder upon presentation and surrender of such Bond at the Designated Office of the Trustee or at the office, designated by the Trustee, of any paying agent 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

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\* Preliminary; subject to change.



whose name the Bond (or one or more Predecessor Bonds) is registered at the close of business of the Regular Record Date applicable to that Interest Payment Date on the Register at the address appearing therein.

### **Special Obligations**

THE ISSUER SHALL NOT IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS, OR FOR THE PERFORMANCE OF ANY PLEDGE, MORTGAGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WHICH MAY BE UNDERTAKEN BY THE ISSUER EXCEPT FROM THE SOURCES SPECIFICALLY PLEDGED THERETO PURSUANT TO THE INDENTURE, AND NEITHER THE BONDS NOR ANY OF THE AGREEMENTS OR OBLIGATIONS OF THE ISSUER SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE BONDS AND THE INTEREST THEREON SHALL NOT BE DEEMED TO CONSTITUTE OR TO CREATE IN ANY MANNER A DEBT, LIABILITY OR OBLIGATION OF THE STATE, ST. JOHNS COUNTY, FLORIDA (THE "COUNTY") NOR ANY OTHER POLITICAL SUBDIVISION THEREOF OR A PLEDGE OR A GRANT OF THE FAITH AND CREDIT OF THE STATE, THE COUNTY OR ANY SUCH POLITICAL SUBDIVISION, BUT SHALL BE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE SECURITY AND OTHER FUNDS PLEDGED THEREFOR AND SHALL NOT BE PAYABLE FROM ANY OTHER ASSETS OR FUNDS OF THE ISSUER, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE, THE COUNTY OR ANY POLITICAL SUBDIVISION IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS. THE ISSUER HAS NO TAXING POWER.

NEITHER THE MEMBERS OR OFFICIALS OF THE ISSUER NOR ANY PERSON EXECUTING THE BONDS SHALL BE LIABLE PERSONALLY ON THE BONDS BY REASON OF THE ISSUANCE THEREOF. THE BONDS AND OTHER OBLIGATIONS OF THE ISSUER SHALL NOT BE A DEBT OF THE STATE, THE COUNTY OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) AND NEITHER THE STATE NOR THE COUNTY OR ANY OTHER POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) SHALL BE LIABLE THEREON, NOR IN ANY EVENT SHALL SUCH BONDS OR OBLIGATIONS BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN THOSE OF THE ISSUER.

### **Redemption of the Bonds**

Optional Redemption of Bonds. The Bonds are subject to optional redemption prior to their maturity, at direction of the Authorized Borrower Representative, either in whole or in part on any Business Day on or after the later to occur of (a) the date that the Project is placed in service, as certified in writing by the Borrower to the Trustee, and (b) January 1, 2027\* (the "Optional Redemption Date"), at a redemption price equal to the principal amount of the Bonds to be redeemed, plus accrued interest, but without premium, to the date fixed for redemption.

Mandatory Redemption of Bonds. The Bonds shall be redeemed in whole at a redemption price of 100% of the principal amount of such Bonds, plus accrued interest to the Redemption Date, if any, on any Mandatory Tender Date upon the occurrence of any of the following events: (i) the Borrower has not elected to request the remarketing of the Bonds, (ii) the conditions to remarketing set forth in the Indenture have not been met by the dates and times set forth therein, or (iii) the proceeds of a remarketing on deposit in the Bond Fund at 11:00 a.m. Eastern time on the Mandatory Tender Date are insufficient to pay the purchase price of the Outstanding Bonds on such Mandatory Tender Date. Bonds subject to redemption in accordance with this paragraph shall be redeemed from (i) amounts on deposit in the Collateral Fund, (ii) amounts on deposit in the Negative Arbitrage Account of the Bond Fund, (iii) amounts on deposit in the Project Fund, and (iv) any other Eligible Funds available or made available for such purpose at the direction of the Borrower.

Purchase in Lieu of Redemption. At the election of the Borrower upon a redemption in whole of the Bonds, by written notice to the Trustee and the Remarketing Agent given not less than five (5) Business Days in advance of such redemption date, the Bonds will be deemed tendered for purchase in lieu of the redemption on such date and the call for redemption shall be cancelled. The purchase price of Bonds so purchased in lieu of redemption shall be the

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\* Preliminary; subject to change.

principal amount thereof together with all accrued and unpaid interest to the date of redemption and any prepayment fee, if due, and shall be payable on the date of redemption thereof. Bonds so purchased in lieu of redemption shall remain outstanding and shall be registered to or upon the direction of the Borrower.

**Partial Redemption.** In the case of a partial redemption of Bonds when Bonds of denominations greater than \$5,000 are then Outstanding, each \$5,000 unit of face value of principal thereof shall be treated as though it were a separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all of the \$5,000 units of face value represented by a Bond are to be called for redemption, then upon notice of redemption of a \$5,000 unit or units, the Holder of that Bond shall surrender the Bond to the Trustee (a) for payment of the redemption price of the \$5,000 unit or units of face value called for redemption (including without limitation, the interest accrued to the date fixed for redemption and any premium), and (b) for issuance, without charge to the Holder thereof, of a new Bond or Bonds of the same series, of any Authorized Denomination or Denominations in an aggregate principal amount equal to the unmatured and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

If less than all of an Outstanding Bond of one maturity in a Book Entry System is to be called for redemption, the Trustee shall give notice to the Depository or the nominee of the Depository that is the Holder of such Bond, and the selection of the Beneficial Ownership Interests in that Bond to be redeemed shall be at the sole discretion of the Depository and its participants.

### **Notice of Redemption**

Unless waived by any Holder of Bonds to be redeemed, official notice of redemption will be given by the Trustee on behalf of the Issuer by mailing a copy of an official redemption notice by registered or certified mail, postage prepaid, return receipt requested, 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 30 days nor more than 60 days prior to the date fixed for redemption. A second notice of redemption will be given, as soon as practicable, by registered or certified mail to the Holder of each Bond which has been so called for redemption (in whole or in part) but has not been presented and surrendered to the Trustee within 60 days following the date fixed for redemption of that Bond.

### **Mandatory Tender**

**Mandatory Tender for Purchase.** All Outstanding Bonds shall be subject to mandatory tender by the Holders for purchase in whole and not in part on each Mandatory Tender Date. The purchase price for each such Bond shall be payable in lawful money of the United States of America by check or draft, shall equal 100% of the principal amount to be purchased and accrued interest, if any, to the Mandatory Tender Date, and shall be paid in full on the applicable Mandatory Tender Date.

**Mandatory Tender Dates.** The Mandatory Tender Dates shall consist of (i) the Initial Mandatory Tender Date and (ii) any subsequent dates for mandatory tender of the Bonds established by the Borrower with the consent of the Remarketing Agent in connection with a remarketing of the Bonds pursuant to the Indenture.

**Holding of Tendered Bonds.** While tendered Bonds are in the custody of the Trustee pending purchase pursuant to the Indenture, the tendering Holders thereof shall be deemed the owners thereof for all purposes, and interest accruing on tendered Bonds through the day preceding the applicable Mandatory Tender Date is to be paid as if such Bonds had not been tendered for purchase.

**Effect of Prior Redemption.** Notwithstanding anything in the Indenture to the contrary, any Bond tendered under the Indenture will not be purchased if such Bond matures or is redeemed on or prior to the applicable Mandatory Tender Date.

**Purchase of Tendered Bonds.** The Trustee shall utilize the following sources of payments to pay the tender price of the Bonds not later than 2:30 p.m. Local Time on the Mandatory Tender Date in the following priority; (i) amounts representing proceeds of remarketed Bonds deposited in the Remarketing Proceeds Account, to pay the

principal amount, plus accrued interest, of Bonds tendered for purchase, (ii) amounts on deposit in the Collateral Fund, to pay the principal amount of Bonds tendered for purchase, (iii) amounts on deposit in the Negative Arbitrage Account of the Bond Fund to pay the accrued interest; if any, on Bonds tendered for purchase, (iv) amounts on deposit in the Project Fund to pay the accrued interest, if any, on the Bonds tendered for purchase and (v) any other Eligible Funds available or made available for such purpose at the direction of the Borrower.

Undelivered Bonds. Bonds shall be deemed to have been tendered for purposes of the Indenture whether or not the Holders shall have delivered such Undelivered Bonds to the Trustee, and subject to the right of the Holders of such Undelivered Bonds to receive the purchase price of such Bonds and interest accrued thereon to the Mandatory Tender Date, such Undelivered Bonds shall be null and void. If such Undelivered Bonds are to be remarketed, the Trustee shall authenticate and deliver new Bonds in replacement thereof pursuant to the remarketing of such Undelivered Bonds.

### **Notice of Mandatory Tender**

Notice to Holders. Not fewer than 30 days preceding a Mandatory Tender Date, the Trustee will give written notice of mandatory tender to the Holders of the Bonds then Outstanding (with a copy to the Borrower, the Investor Limited Partner and the Remarketing Agent) by first class mail, postage prepaid, at their respective addresses appearing on the Register stating:

(i) the Mandatory Tender Date and that (a) all Outstanding Bonds are subject to mandatory tender for purchase on the Mandatory Tender Date, (b) all Outstanding Bonds must be tendered for purchase no later than 12:00 noon Local Time on the Mandatory Tender Date and (c) Holders will not have the right to elect to retain their Bonds;

(ii) the address of the Designated Office of the Trustee at which Holders should deliver their Bonds for purchase and the date of the required delivery;

(iii) that all Outstanding Bonds will be purchased on the Mandatory Tender Date at a price equal to the principal amount of the Outstanding Bonds plus interest accrued to the Mandatory Tender Date; and

(iv) any Bonds not tendered will nevertheless be deemed to have been tendered and will cease to bear interest from and after the Mandatory Tender Date.

Second Notice. In the event that any Bond required to be delivered to the Trustee for payment of the purchase price of such Bond shall not have been delivered to the Trustee on or before the 30th day following a Mandatory Tender Date, the Trustee shall mail a second notice to the Holder of the Bond at its address as shown on the Register setting forth the requirements set forth in the Indenture for delivery of the Bond to the Trustee and stating that delivery of the Bond to the Trustee (or compliance with the provisions of the Indenture concerning payment of lost, stolen or destroyed Bonds) must be accomplished as a condition to payment of the purchase price or redemption price applicable to the Bond.

Failure to Give Notice. Neither failure to give or receive any notice described in this section, nor the lack of timeliness of such notice or any defect in any notice (or in its content) shall affect the validity or sufficiency of any action required or provided for in this section.

### **Book-Entry Only System**

*The following information on the Book-Entry System applicable to all Bonds has been supplied by DTC and neither the Issuer, the Borrower nor the Underwriter make any representation, warranties or guarantees with respect to its accuracy or completeness.*

The Depository Trust Company (“DTC”), New York, NY, will act as securities depository for the Bonds. The Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership

nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Bond certificate will be issued for each issue of the Bonds, each in the aggregate principal amount of such issue, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has an S&P Global Ratings' rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not affect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Bond documents. For example, Beneficial Owners of Bonds may wish to ascertain that the nominee holding the Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails

an Omnibus Proxy to Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, distributions, and dividend payments on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from Issuer or Agent, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, Agent, or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of Issuer or Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

A Beneficial Owner shall give notice to elect to have its Bonds purchased or tendered, through its Participant, to the Trustee, and shall effect delivery of such Bonds by causing the Direct Participant to transfer the Participant's interest in the Bonds, on DTC's records, to the Trustee. The requirement for physical delivery of Bonds in connection with an optional tender or a mandatory purchase will be deemed satisfied when the ownership rights in the Bonds are transferred by Direct Participants on DTC's records and followed by a book-entry credit of tendered Bonds to the Trustee DTC account.

DTC may discontinue providing its services as depository with respect to the Bonds at any time by giving reasonable notice to the Issuer. Under such circumstances, in the event that a successor depository is not obtained, Bond certificates are required to be printed and delivered.

The Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Bond certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that Issuer believes to be reliable, but the Issuer takes no responsibility for the accuracy thereof.

## **SECURITY AND SOURCES OF PAYMENT FOR THE BONDS**

### **General**

The Bonds will be secured by all right, title and interest of the Issuer in the Trust Estate, including, but not limited to (i) the Revenues, including, without limitation, all Loan Payments, Eligible Funds and other amounts receivable by or on behalf of the Issuer under the Loan Agreement in respect of repayment of the Loan, (ii) the Special Funds, including all accounts in such Special Funds and all money deposited therein and the investment earnings on such money, (iii) all right, title and interest of the Issuer in the proceeds derived from the sale of the Bonds, and any securities in which money in the Special Funds are invested, and (except for money 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 under the Indenture by the Issuer or by anyone on its behalf, or with its written consent, to the Trustee, which is authorized by the Indenture 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, except for the Reserved Rights, and (v) the Loan Agreement, except for the Reserved Rights (the foregoing collectively referred to as the "Trust Estate").

THE ISSUER SHALL NOT IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS, OR FOR THE PERFORMANCE OF ANY PLEDGE, MORTGAGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WHICH MAY BE UNDERTAKEN BY THE ISSUER EXCEPT FROM THE SOURCES SPECIFICALLY PLEDGED THERETO PURSUANT TO THE

INDENTURE, AND NEITHER THE BONDS NOR ANY OF THE AGREEMENTS OR OBLIGATIONS OF THE ISSUER SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE BONDS AND THE INTEREST THEREON SHALL NOT BE DEEMED TO CONSTITUTE OR TO CREATE IN ANY MANNER A DEBT, LIABILITY OR OBLIGATION OF THE STATE, ST. JOHNS COUNTY, FLORIDA (THE "COUNTY") NOR ANY OTHER POLITICAL SUBDIVISION THEREOF OR A PLEDGE OR A GRANT OF THE FAITH AND CREDIT OF THE STATE, THE COUNTY OR ANY SUCH POLITICAL SUBDIVISION, BUT SHALL BE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE SECURITY AND OTHER FUNDS PLEDGED THEREFOR AND SHALL NOT BE PAYABLE FROM ANY OTHER ASSETS OR FUNDS OF THE ISSUER, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE, THE COUNTY OR ANY POLITICAL SUBDIVISION IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS. THE ISSUER HAS NO TAXING POWER.

NEITHER THE MEMBERS OR OFFICIALS OF THE ISSUER NOR ANY PERSON EXECUTING THE BONDS SHALL BE LIABLE PERSONALLY ON THE BONDS BY REASON OF THE ISSUANCE THEREOF. THE BONDS AND OTHER OBLIGATIONS OF THE ISSUER SHALL NOT BE A DEBT OF THE STATE, THE COUNTY OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) AND NEITHER THE STATE NOR THE COUNTY OR ANY OTHER POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) SHALL BE LIABLE THEREON, NOR IN ANY EVENT SHALL SUCH BONDS OR OBLIGATIONS BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN THOSE OF THE ISSUER.

The Bonds and the interest thereon are limited obligations of the Borrower, payable solely from the trust estate pledged therefor under the Indenture. None of the Borrower's partners, nor any of their members, officers, directors or affiliates shall in any event be liable for the payment of the principal, interest or premium if any, on the Bonds, nor for the performance of any pledge, obligation or agreement whatsoever with respect thereto.

#### **Repayment of Loan**

The Loan Agreement and the Note obligate the Borrower to cause to be paid to the Trustee amounts which shall be sufficient to pay Bond Service Charges coming due on each Bond Payment Date, however, it is expected that the Eligible Funds required to be deposited in the Collateral Fund and amounts on deposit in the Special Funds will be sufficient to pay such Bond Service Charges and such amounts will be a credit against the Borrower's payment obligations under the Loan Agreement and the Note.

#### **Additional Bonds**

No additional Bonds on parity with the Bonds may be issued pursuant to the Indenture.

### **PRIVATE PARTICIPANTS**

*The following information concerning the private participants has been provided by representatives of the private participants and has not been independently confirmed or verified by either the Underwriter or the Issuer. No representation is made herein as to the accuracy or adequacy of such information or as to the absence of material adverse changes in such information subsequent to the date hereof.*

#### **The Borrower**

The Borrower for the Project is Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership, a single-asset entity formed for the specific purpose of acquiring, owning, and operating the Project. The general partner of the Borrower is Ponte Vedra Beach Leased Housing Associates I, LLC, a Minnesota limited liability company (the "General Partner"), which will have a 0.01% ownership interest in the Borrower. Alliant Credit Facility IV, LLC, a California limited liability company (the "Investor Limited Partner"), will own a 99.989% interest in the Borrower. Ponte Vedra Beach Leased Housing Associates LP I, LLC, a Minnesota limited liability company (the "Class B Limited Partner"), will own a 0.001% interest in the Borrower. Alliant Credit

Facility ALP IV, LLC, a California limited liability company (the “Administrative Limited Partner”) will have a 0.001% interest in the Borrower.

### **The Investor Limited Partner**

Simultaneously with the issuance of the Bonds, the Borrower expects the General Partner, the Investor Limited Partner, the Administrative Limited Partner and the Class B Limited Partner to enter into an amended and restated agreement of limited partnership of the Borrower (as amended, the “Partnership Agreement”), pursuant to which the Investor Limited Partner will acquire a 99.98% ownership interest in the Borrower. Pursuant to the offer, the equity funding arrangements for the funding of the tax credit equity are expected to be in the total amount set forth under “THE PROJECT — Plan of Financing” herein paid in stages during and after rehabilitation of the Project. These funding levels and the timing of the funding are subject to numerous adjustments and conditions which could result in the amounts funded and/or the timing or even occurrence of the funding varying significantly from the estimates set forth herein and neither the Issuer nor the Underwriter makes any representation as to the availability of such funds.

### **Limited Assets and Obligation of Borrower, General Partner, Class B Limited Partner, Investor Limited Partner and Administrative Limited Partner**

The Borrower, the General Partner, the Class B Limited Partner, the Investor Limited Partner and the Administrative Limited Partner have no substantial assets other than the Project and do not intend to acquire any other substantial assets or to engage in any substantial business activities other than those related to the ownership of the Project. However, the affiliates of the General Partner, the Class B Limited Partner, the Investor Limited Partner and the Administrative Limited Partner are engaged in and will continue to engage in the acquisition, development, ownership and management of similar types of housing projects. Such affiliates may be financially interested in, as officers, or otherwise, and devote substantial times to, business and activities that may be inconsistent or competitive with the interests of the Project.

The obligations and liabilities of the Borrower under the Loan Agreement and the Note are of a non-recourse nature and are limited to the Project and moneys derived from the operation of the Project. Neither the Borrower nor its partners have any personal liability for payments on the Note to be applied to pay the principal of and interest on the Bonds. Furthermore, no representation is made that the Borrower has substantial funds available for the Project. Accordingly, neither the Borrower’s financial statements nor those of its partners are included in this Official Statement.

### **The Developer**

Ponte Vedra Beach Leased Housing Development I, LLC, a Minnesota limited liability company (the “Developer”), will act as the developer for the Project. Dominion, an affiliate of the Developer, has 50 years of experience in the business of acquiring, owning, and developing affordable apartment complexes. Founded in 1972, Dominion and its affiliates have been involved in the development of approximately 230 apartment complexes containing approximately 34,000 units in 23 states. These projects include more than 200 low-income housing tax credit projects.

### **The Architect**

The architect for the Project is Dominion Construction & Architecture Services, LLC (the “Architect”). The Architect has been a licensed architect for four years and has been the principal architect for approximately 25 multifamily developments with an excess of 5,000 units throughout the United States.

### **The Supervisory Architect**

The supervisory architect for the Project is Ebersoldt & Associates (the “Supervisory Architect”). The Supervisory Architect has been a licensed architect for 22 years and has been the principal architect for approximately 100 multifamily developments with an excess of 10,000 units throughout the United States.

## The General Contractor

The general contractor for the Project will be Community Construction Group, LLC (the “General Contractor”). The General Contractor is not an affiliate of the Developer. The General Contractor and its affiliated construction companies have been constructing and rehabilitating multifamily rental housing developments for over 10 years and have constructed over 79 projects, with nearly 3,000 units.

## The Property Manager

The Project will be managed by Dominion Florida Management Services LLC, a Florida limited liability company, or its affiliates (collectively, the “Property Manager”). The Property Manager is an affiliate of the Developer. The Property Manager has been involved in the management of apartment complexes since 1976. The Property Manager currently manages more than 228 apartment complexes comprising a total of approximately 38,800 units throughout the United States. The Property Manager was formed in 1976 and currently has a staff of 140 corporate personnel and over 850 site employees.

## The Mortgage Lender

Colliers Mortgage LLC, a Delaware limited liability company (the “Mortgage Lender”), will, upon satisfaction of certain conditions precedent, make the Mortgage Loan to the Borrower. The Mortgage Lender is a mortgage banking company specializing in FHA-insured construction and permanent mortgage loans, Fannie Mae forward commitments and permanent mortgage loans, and Fannie Mae bond credit enhancements for multifamily and seniors housing projects across the United States. The Lender has been approved by HUD as an eligible issuer and servicer of loans guaranteed by GNMA. To be approved by GNMA to issue GNMA guaranteed certificates with respect to long-term mortgages on multifamily projects, the Lender is required to have a net worth (based on audited financial statements) equal to at least \$500,000 plus 0.2% of any securities outstanding in excess of \$35 million.

## THE PROJECT

*The following information concerning the Project has been provided by representatives of the Borrower and has not been independently confirmed or verified by either the Underwriter or the Issuer. No representation is made herein as to the accuracy or adequacy of such information or as to the absence of material adverse changes in such information subsequent to the date hereof.*

The Project, known as Oaks at St. John, is located in Ponte Vedra, Florida, on an approximately 24.12-acre site. The Project contains 160 apartment units located in seven buildings. Construction of the Project is anticipated to commence in January 2024 and be completed approximately 12 months later.

The building construction consists of seven buildings with community space. Common area improvements will include: an office, a lounge with coffee bar, exercise room, office equipment for tenant use and meeting rooms. Site amenities include: playground areas for various ages of children and families, landscaped courtyards between buildings with picnic areas to grill out or have large gatherings, and walking paths to encourage outdoor physical activity. There are 330 parking spaces for resident use only.

The unit mix and approximate square footage for the units of the Project will be as follows:

Unit Type	Average Square Feet	Number of Units
1 bedroom 1 bath	823	36
2 bedroom 2 bath	1,090	48
3 bedroom 2 bath	1,224	44
4 bedroom 2 bath	1,342	<u>32</u>
<b>TOTAL</b>		<b>160</b>



## Plan of Financing

The estimated sources and uses of funds for the Project are projected to be approximately as follows:

<b>Sources of Funds*</b>	
Bond Proceeds	\$5,268,000
Mortgage Loan	16,500,000
Supplemental Mortgage	3,040,000
Tax-Exempt Seller Note	2,000,000
Equity Bridge Loan	14,231,667
LIHTC Equity	13,546,169
Cash Flow from Operations	153,149
Subordinate Cash Flow Note	1,235,187
Deferred Developer Fee	<u>5,497,643</u>
<b>Total</b>	<b><u>\$61,471,815</u></b>
<b>Uses of Funds*</b>	
Acquisition Costs	\$24,400,000
Construction Costs	6,483,334
Interim Escrowed Funds	2,482,204
Lender or Investor Cash Reserves	615,726
Professional Services	858,800
Equity Bridge Loan Costs	242,896
Cash Collateralized Bond Costs	106,511
Permanent Financing Costs	749,032
Closing Costs	184,250
Tax Credit Fees	351,752
Developer Fee	5,497,643
Repayment of Bond Principal	5,268,000
Repayment of Tax-Exempt Equity Bridge Loan	<u>14,231,667</u>
<b>Total</b>	<b><u>\$61,471,815</u></b>

All costs of issuance of the Bonds, including the underwriter's fee, will be paid by the Borrower.

*The Mortgage Loan.* Simultaneously with the closing and issuance of the Bonds, the Borrower will close on a Fannie Mae mortgage loan on the Project (the "Mortgage Loan") pursuant to the Mortgage Loan Documents. The Mortgage Loan is expected to be in the original principal amount of \$16,500,000\* and is expected to bear interest at the estimated rate of \_\_\_\_% per annum. The Mortgage Loan proceeds will be fully disbursed on the Closing Date. It is anticipated that the Mortgage Loan portion of the Eligible Funds will be deposited into the Collateral Fund (along with other Eligible Funds), thereby permitting the Trustee to transfer a like amount from the Project Fund pursuant to the Indenture to pay eligible Project Costs. The Mortgage Loan will be amortized over 35 years.

*Tax-Exempt Equity Bridge Loan.* Simultaneously with the closing and issuance of the Bonds, the Borrower will close on a tax-exempt equity bridge loan on the Project (the "Equity Bridge Loan") in the original principal amount of \$14,231,667\*, which will be funded with the proceeds of the issuance and sale of the Series 2023B Bonds. The Equity Bridge Loan is expected to bear interest at the estimated rate of \_\_\_\_% per annum. The Equity Bridge Loan will be amortized over \_\_\_\_\* years.

*[Tax-Exempt Seller Note][Supplemental Mortgage Loan].* Simultaneously with the closing and issuance of the Bonds, the Borrower will close on a supplemental mortgage loan on the Project (the "Supplemental Mortgage Loan") in the original principal amount of \$\_\_\_\_\_, which will be funded with the proceeds of the issuance and

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\* Preliminary; subject to change.

sale of the Series 2023C Bonds. The Supplemental Mortgage Loan is expected to bear interest at the estimated rate of \_\_\_\_% per annum. The Supplemental Mortgage Loan will be amortized over \_\_\_\_ years.

*The LIHTC Equity.* Simultaneously with the issuance of the Bonds, the Borrower will sell to the Investor Limited Partner a 99.98% ownership interest in the Borrower. Subsequent to the issuance of the Bonds, and pursuant to the terms of the sale of the ownership interest, the funding of the Federal Low Income Housing Tax Credit equity will total approximately \$13,546,169\* with an initial capital contribution of \$\_\_\_\_\_\* . The funding levels and the timing of the funding are subject to numerous adjustments and conditions which could result in the amounts funded and/or the timing or even occurrence of the funding varying significantly from the projections set forth above and neither the Issuer nor the Underwriter makes any representation as to the availability of such funds.

*Subordinate Cash Flow Loan.* The Project will also utilize a loan in the principal amount of \$1,235,187\* (the “Subordinate Cash Flow Loan”). The obligation to repay the Subordinate Cash Flow Loan will be set forth in a promissory note (the “Subordinate Cash Flow Note”) from the Borrower to \_\_\_\_\_ and will be repayable out of cash flow and other non-Project sources on the terms and conditions set forth therein. The Subordinate Cash Flow Note will be [secured by a subordinate mortgage against the Project subordinate to the Mortgage Loan][unsecured]. The Subordinate Cash Flow Note will have a term [equal to that of the Mortgage Loan][of \_\_\_\_\_ years] and will bear interest at a rate of \_\_\_\_\_% per annum, with annual principal and interest not otherwise paid, due at maturity.]

*Deferred Developer Fee.* The Project will also utilize a deferred developer fee in the amount of \$5,497,643\* as a source of funding. The deferred developer fee will be repaid through surplus cash flow received from the operation of the Project.

The sources and uses of funds to be applied under the Indenture are projected to be approximately as follows:

**Sources of Funds:\***

Bond Proceeds (Par)	\$
Bond Proceeds (Premium)	
<b>Total</b>	

**Uses of Funds:\***

Project Fund (Includes Premium)	\$
<b>Total</b>	

**Project Regulation**

The Borrower intends to rehabilitate and operate the Project as a qualified residential rental project in accordance with the provisions of Section 142(d) of the Code. Concurrently with the closing of the Mortgage Loan, the Borrower, the Issuer and the Trustee will enter into the Land Use Restriction Agreement dated as of December 1, 2023 (the “Regulatory Agreement”). Under the Regulatory Agreement, the Borrower will agree that, at all times during the Qualified Project Period, the Borrower will rent at least 100% of the units in the Project to persons whose adjusted family income (determined in accordance with the provisions of the Code) is less than 60% of the median area income (adjusted for family size). The Qualified Project Period commences on the later of the Closing Date or the first day on which at least 10% of the units are occupied and continues until the latest of (a) the date which is fifteen (15) years after the later of the Closing Date or the date on which at least ten percent (10%) of the units in the Project was first occupied, (b) the first date on which no tax-exempt private activity bonds with respect to the Project are outstanding, or (c) the date on which any assistance provided with respect to the Project under Section 8 of the National Housing Act terminates. The failure of the Borrower to comply with the Regulatory Agreement could cause interest on the Bonds to be included in gross income for federal income tax purposes. See APPENDIX D — SUMMARY OF CERTAIN PROVISIONS OF THE REGULATORY AGREEMENT.

The Project will also be encumbered by an Extended Use Agreement required by Section 42 of the Code relating to tax credits, which will (a) restrict the income levels of 100% of the units in the Project to amounts not greater than 60% of the area median income adjusted for family size, and (b) restrict the rents which may be charged

to the tenants for occupancy of units in the Project to not more than 30% of 60% of area median income, adjusted for family size.

The Project also is encumbered by an Extended Low-Income Housing Agreement recorded April 29, 2004, and as subsequently amended, restricting 15.625% of units at 30% of the area median income and 84.375% of units at 60% of the area median income.

## **CERTAIN BONDHOLDERS' RISKS**

The following is a summary of certain risks associated with a purchase of the Bonds. There are other possible risks not discussed below. The Bonds are payable from the payments to be made by the Borrower under the Loan Agreement and the Note, and from amounts on deposit in the Special Funds and the interest earnings thereon. The Borrower's obligation to make payments pursuant to the Loan Agreement and the Note are nonrecourse obligations with respect to which the Borrower and its members have no personal liability (except as otherwise provided in the Note) and as to which the Borrower and its members have not pledged any of their respective assets.

### **General**

Payment of the Bond Service Charges, and the Borrower's obligations with respect to the Bond Service Charges, will be primarily secured by and payable from Bond proceeds held in the Project Fund and moneys deposited into the Collateral Fund and the Bond Fund, including the Negative Arbitrage Account held in the Bond Fund. Although the Borrower will execute the Note to evidence its obligation to repay the Loan, it is not expected that any revenues from the Project or other amounts, except moneys in the Special Funds, will be available to satisfy that obligation. The Indenture requires the Trustee to verify, before any disbursement of funds from the Project Fund, that the sum of the funds on deposit in the Project Fund and the Collateral Fund is at least equal to the then outstanding principal amount of the Bonds. It is expected that funds on deposit in the Collateral Fund and Negative Arbitrage Account of the Bond Fund will be sufficient to pay the debt service on the Bonds.

### **Early Redemption of the Bonds**

Any person who purchases a Bond should consider the fact that the Bonds are subject to redemption, upon the occurrence of certain events. See "THE BONDS – Redemption of the Bonds" herein.

### **Limited Security for Bonds**

The Bonds are not secured by the Mortgage Loan. Investors should look exclusively to amounts on deposit in the Special Funds under the Indenture and investment earnings on each as the source of payment of debt service on the Bonds.

### **Future Determination of Taxability of the Bonds**

Failure of the Borrower to have complied with and to continue to comply with certain covenants contained in the Loan Agreement and the Regulatory Agreement could result in interest on the Bonds being taxable retroactive to the date of original issuance of the Bonds. The Bonds are not subject to redemption upon a determination of taxability and are not subject to payment of additional interest in such an event, and neither the Issuer nor the Borrower will be liable under the Bonds, the Indenture or the Loan Agreement for any such payment of additional interest on the Bonds.

### **Issuer Limited Liability**

The Bonds will not be insured or guaranteed by any governmental entity or by the Issuer or any member or program participant of the foregoing. The Bondholders will have no recourse to the Issuer in the event of an Event of Default on the Bonds. The Trust Estate for the Bonds will be the only source of payment on the Bonds.

## **Enforceability of Remedies upon an Event of Default**

The remedies available to the Trustee and the owners of the Bonds upon an Event of Default under the Indenture, the Loan Agreement, the Regulatory Agreement or any other document described herein are in many respects dependent upon regulatory and judicial actions which are often subject to discretion and delay. Under existing law and judicial decisions, the remedies provided for under such documents may not be readily available or may be limited. The various legal opinions to be delivered concurrently with the delivery of the Bonds will be qualified to the extent that the enforceability of certain legal rights related to the Bonds is subject to limitations imposed by bankruptcy, reorganization, insolvency or other similar laws affecting the rights of creditors generally and by equitable remedies and proceedings generally.

## **Secondary Markets and Prices**

No representation is made concerning the existence of any secondary market for the Bonds. The Underwriter will not be obligated to repurchase any of the Bonds, nor can any assurance be given that any secondary market will develop following the completion of the offering of the Bonds. Further, there can be no assurance that the initial offering prices for the Bonds will continue for any period of time. Furthermore, the Bonds should be purchased for their projected returns only and not for any resale potential, which may or may not exist.

## **Eligible Investments**

Proceeds of the Bonds deposited into the Project Fund and Eligible Funds received by the Trustee for deposit into the Collateral Fund are required to be invested in Eligible Investments. See “APPENDIX A – DEFINITIONS OF CERTAIN TERMS” hereto for the definition of Eligible Investments. There can be no assurance that there will not be a loss resulting from any investment held for the credit of the Project Fund or the Collateral Fund, and any failure to receive a return of the amounts so invested could affect the ability to pay the principal of and interest on the Bonds.

## **Rating Based on Eligible Investments**

The rating on the Bonds is based on the amounts in the Project Fund and the Collateral Fund being invested in Eligible Investments. If one or more of such investments fail to meet the rating standards for Eligible Investments after their acquisition and prior to maturity, such a change may result in a downgrade or withdrawal of the rating on the Bonds.

## **Subordination to Mortgage Loan Documents**

The Indenture, the Loan Agreement, the Note, and the Regulatory Agreement contain provisions regarding subordination of such documents to the Mortgage Loan Documents. No assurance can be given that such provisions will not impair the excludability of interest on the Bonds from gross income for federal income tax purposes.

## **Future Legislation; IRS Examination**

The Project, its operation and the treatment of interest on the Bonds are subject to various laws, rules and regulations adopted by the local, State and federal governments and their agencies. There can be no assurance that relevant local, State or federal laws, rules and regulations may not be amended or modified or interpreted in the future in a manner that could adversely affect the Bonds, the trust estate created under the Indenture, the Project, or the financial condition of or ability of the Borrower to comply with its obligations under the various transaction documents.

In recent years, the Internal Revenue Service (“IRS”) has increased the frequency and scope of its examination and other enforcement activity regarding tax exempt bonds. Currently, the primary penalty available to the IRS under the Code is a determination that interest on bonds is subject to federal income taxation. Such event could occur for a variety of reasons, including, without limitation, failure to comply with certain requirements imposed by the Code relating to investment restrictions, periodic payments of arbitrage profits to the United States of America,

the timely and proper use of Bond proceeds and the facilities financed therewith and certain other matters. See “TAX MATTERS” herein. No assurance can be given that the IRS will not examine the Issuer, the Borrower, the Project or the Bonds. If the Bonds are examined, it may have an adverse impact on their price and marketability.

### **Potential Impact of Pandemics or Public Health Crises**

The spread of the strain of a virus and resulting disease could alter the behavior of businesses and people in a manner that could have negative effects on global, state and local economies. There can be no assurances that the spread of a pandemic would not materially impact both local and national economies and, accordingly, have a materially adverse impact on the Project’s operating and financial viability. The effects of a pandemic could include, among other things, an increase in the time necessary to complete the construction and/or rehabilitation of the Project, suspension or delay of site inspections and other on-site meetings, interruption in the engagement of material participants in the Project, increase in the time necessary to conduct lease-up at the Project, and increased delinquencies and/or vacancies, all of which could impact the Borrower’s ability to make payments on the loans and result in a default and acceleration thereof.

### **Summary**

The foregoing is intended only as a summary of certain risk factors attendant to an investment in the Bonds. In order for potential investors to identify risk factors and make an informed investment decision, potential investors should be thoroughly familiar with this entire Official Statement and the Appendices hereto.

## **TAX MATTERS**

In the opinion of Butler Snow LLP, Bond Counsel, under existing law and assuming compliance with certain covenants described herein, interest on the Bonds is excludable from the gross income of the owners thereof for federal income tax purposes, except that no opinion is expressed as to the status of interest on any Bond for any period that a Bond is held by a “substantial user” of the facilities financed by such Bond or by or a “related person” within the meaning of Section 147(a) of the Internal Revenue Code of 1986, as amended (the “Code”). Bond Counsel is further of the opinion that, under existing law, interest on the Bonds is not an item of preference for purposes of the federal alternative minimum tax; however, such interest is taken into account in determining the annual adjusted financial statement income of applicable corporations (as defined in Section 59(k) of the Code) for the purpose of computing the alternative minimum tax imposed on corporations.

Bond Counsel is further of the opinion that the Bonds and the income therefrom shall be exempt from all state and local taxes in the State of Florida.

The Code imposes a number of requirements that must be satisfied for interest on state and local obligations to be excludable from gross income for federal income tax purposes. These requirements include limitations on the use of bond proceeds and the source of repayment of bonds, limitations on the investment of bond proceeds prior to expenditure, a requirement that excess arbitrage earned on the investment of certain bond proceeds be paid periodically to the United States, except under certain circumstance, and a requirement that information reports be filed with the IRS. The Issuer has covenanted that it will, to the extent permitted by the laws of the State, comply with the requirements of the Code in order to maintain the exclusion from gross income of interest on the Bonds for federal income tax purposes.

The opinion of Bond Counsel will assume continuing compliance with the covenants of the State pertaining to those sections of the Code which affect the exclusion from gross income of interest on the Bonds for federal income tax purposes and, in addition, will rely on representations by the State with respect to matters solely within the knowledge of the State which Bond Counsel has not independently verified. If the State should fail to comply with its covenants or if the foregoing representations should be determined to be inaccurate or incomplete, interest on the Bonds could become taxable from the date of issuance of the Bonds, regardless of the date on which the event causing such taxation occurs. Bond Counsel has not undertaken to determine (or to inform any person) whether any action taken (or not taken) or events occurring (or not occurring) after the date of issuance of the Bonds may affect the tax status of interest on the Bonds.

Except as stated above, Bond Counsel will express no opinion as to any federal, state or local tax consequences resulting from the ownership of, receipt of interest on or disposition of the Bonds.

Owners of the Bonds should be aware that (i) the ownership of tax-exempt obligations, such as the Bonds, may result in collateral federal income tax consequences to certain taxpayers, and (ii) certain other federal, state and/or local tax consequences may also arise from the ownership and disposition of the Bonds or the receipt of interest on the Bonds. Furthermore, future laws and/or regulations enacted by federal, state or local authorities may affect certain owners of the Bonds.

#### Tax Treatment of Premium

The Bonds are offered and sold to the public at a premium. The premium is the excess of the issue price over the stated redemption price at maturity and must be amortized on an actuarial basis by the owner of the Bonds from the date of acquisition of the Bonds through the maturity date thereof. The premium is not deductible for federal income tax purposes, and owners of the Bonds are required to reduce their basis in the Bonds by the amount of premium that accrued while they owned such Bonds. Owners of the Bonds (including owners that purchase a Bond other than pursuant to the initial public offering) should consult their own tax advisors as to the determination for federal income tax purposes of the amount of premium amortized each year with respect to the Bonds, the adjusted basis of the Bonds for purposes of determining the taxable gain or loss upon the sale or other disposition of the Bonds (prior to maturity and at maturity), and all other federal tax consequences and any state and local tax aspects of owning the Bonds.

#### Changes in Federal and State Tax Law

Tax legislation, administrative actions taken by tax authorities, and court decisions may cause interest on the Bonds to be subject, directly or indirectly, to federal income taxation or to be subject to state income taxation, or otherwise prevent the beneficial owners of the Bonds from realizing the full current benefit of the tax status of such interest. In addition, such legislation or actions (whether currently proposed, proposed in the future or enacted) could affect the market price or marketability of the Bonds. For example, ongoing negotiations between President Trump and the two Houses of Congress to resolve chronic budget deficits may result in the enactment of tax legislation that could significantly reduce the benefit of, or otherwise affect, the exclusion of gross income for federal income tax of interest on all state and local obligations, including the Bonds. It cannot be predicted whether or in what form any such tax legislation might be enacted or whether, if enacted, it would apply to bonds issued prior to enactment. In addition, regulatory actions are from time to time announced and proposed, and litigation is threatened or commenced which, if implemented or concluded in a particular matter, could adversely affect the market value of the Bonds. It cannot be predicted whether any such regulatory action will be implemented, how any particular litigation or judicial action will be resolved, or whether the Bonds or the market value thereof would be impacted thereby. Prospective purchasers of the bonds should consult their own tax advisors regarding any pending or proposed federal or state tax legislation, regulations or litigation, and its impact on their individual situations. The opinions expressed by Bond Counsel are based upon existing legislation and regulations as interpreted by relevant judicial and regulatory authorities as of the date of issuance and delivery of the Bonds, and Bond Counsel has expressed no opinion as of any date subsequent thereto or with respect to any pending or proposed federal or state tax legislation, regulations or litigation.

#### Information Reporting Requirement

Interest on tax-exempt obligations such as the Bonds is subject to information reporting in a manner similar to interest paid on taxable obligations. In general, such information reporting requirements are satisfied if the bondholder completes, and provides the payor with, a Form W-9, "Request for Taxpayer Identification Number and Certification," or the bondholder is one of a limited class of exempt recipients, such as corporations. Backup withholding (i.e., the requirement for the payor to deduct and withhold a tax, calculated in the manner determined under the Code, from the interest payment) may be imposed on payments made to any bondholder who fails to provide certain required information, including an accurate taxpayer identification number, to any person required to collect such information under Section 6049 of the Code. Neither compliance with this reporting requirement nor backup withholding, in and of itself, affects or alters the excludability of interest on the Bonds from gross income for federal income tax purposes or any other federal tax consequence of purchasing, holding or selling tax-exempt obligations.

THE FEDERAL TAX DISCUSSION SET FORTH ABOVE IS INCLUDED FOR GENERAL INFORMATION ONLY AND MAY NOT BE APPLICABLE DEPENDING UPON A BONDHOLDER'S PARTICULAR SITUATION. INVESTORS SHOULD CONSULT THEIR OWN TAX ADVISORS CONCERNING THE TAX IMPLICATIONS OF HOLDING AND DISPOSING OF THE BONDS UNDER APPLICABLE STATE OR LOCAL LAWS, INCLUDING THE EFFECT OF ANY PENDING OR PROPOSED LEGISLATION, REGULATORY INITIATIVES OR LITIGATION. FOREIGN INVESTORS SHOULD ALSO CONSULT THEIR OWN TAX ADVISORS REGARDING THE TAX CONSEQUENCES UNIQUE TO INVESTORS WHO ARE NOT U.S. PERSONS.

Bond Counsel's opinions are based on existing legislation and regulations as interpreted by relevant judicial and regulatory authorities as of the date of issuance and delivery of the Bonds. Such opinions are further based on Bond Counsel's knowledge of facts as of the date thereof. Bond Counsel assumes no duty to update or supplement its opinions to reflect any facts or circumstances that may thereafter come to Bond Counsel's attention or to reflect any changes in any law that may thereafter occur or become effective. Moreover, Bond Counsel's opinions are not a guarantee of result and are not binding on the IRS; rather, such opinions represent Bond Counsel's legal judgment based upon its review of existing law and in reliance upon the representations and covenants referenced above that it deems relevant to such opinions.

The IRS has an ongoing audit program to determine compliance with rules that relate to whether interest on state or local obligations is includable in gross income for federal income tax purposes. No assurance can be given whether or not the IRS will commence an audit of the Bonds. If an audit is commenced, in accordance with its current published procedures, the IRS is likely to treat the Issuer as the Taxpayer and the bondholders may not have a right to participate in such audit. Public awareness of any future audit of the Bonds could adversely affect the value of the Bonds during the pendency of the audit regardless of the ultimate outcome of the audit.

## **UNDERWRITING**

Colliers Securities LLC (the "Underwriter") has entered into a Bond Purchase Agreement to purchase all of the Bonds, if any of the Bonds are to be purchased, at the price set forth on the cover hereof. The Bond Purchase Agreement provides that the Underwriter will receive compensation for its services from the Borrower in the amount of \$\_\_\_\_\_ plus \$\_\_\_\_\_ for certain fees and expenses (not including the fees of its counsel). The obligations of the Underwriter to pay for the Bonds are subject to certain terms and conditions set forth in the Bond Purchase Agreement. The Borrower has agreed to indemnify the Underwriter and the Issuer as to certain matters in connection with the Bonds.

The Underwriter may offer and sell Bonds that it purchases to certain dealers including dealer banks and dealers depositing Bonds into investment trusts and others at prices lower than the public offering prices stated on the cover of this Official Statement. The initial public offering prices may be changed from time to time by the Underwriter.

The Underwriter does not guarantee a secondary market for the Bonds and is not obligated to make any such market in the Bonds. No assurance can be made that such a market will develop or continue. Consequently, investors may not be able to resell Bonds should they need or wish to do so for emergency or other purposes.

In addition to serving as Underwriter, Colliers Securities LLC has been designated to serve as Remarketing Agent and will receive a fee for its remarketing services in connection with the remarketing of the Bonds on the Initial Mandatory Tender Date.

## **RATING**

Moody's Investors Service, Inc., a Delaware corporation (the "Rating Agency"), has assigned to the Bonds the rating set forth on the cover page hereof. An explanation of the significance of such rating may be obtained from the Rating Agency. The rating of the Bonds reflects only the views of the Rating Agency at the time such rating was given, and neither the Issuer nor the Borrower nor the Underwriter makes any representation as to the appropriateness of the rating. There is no assurance that such rating will continue for any given period of time or that it will not be

revised downward or withdrawn entirely by the Rating Agency, if in its judgment, circumstances so warrant. Any such downward revision or withdrawal of the rating may have an adverse effect on the market price of the Bonds.

### **UNDERTAKING TO PROVIDE CONTINUING DISCLOSURE**

Prior to the issuance of the Bonds, the Borrower will execute and deliver a Continuing Disclosure Agreement pursuant to which the Borrower will agree to provide ongoing disclosure pursuant to the requirements of Rule 15c2-12 of the Securities and Exchange Commission (the “Rule”). Financial statements and other operating data will be provided at least annually to the Municipal Securities Rulemaking Board (the “MSRB”) and notices of certain events will be issued pursuant to the Rule. Information will be filed with the MSRB through its Electronic Municipal Market Access (EMMA) system, unless otherwise directed by the MSRB. A form of the Continuing Disclosure Agreement is attached hereto as APPENDIX E.

A failure by the Borrower to comply with the Continuing Disclosure Agreement will not constitute an Event of Default under the Indenture. Nevertheless, such a failure must be reported in accordance with the Rule and must be considered by a broker or dealer before recommending the purchase or sale of the Bonds in the secondary market. Consequently, such a failure may adversely affect the transferability and liquidity of the Bonds and their market price and the ability of the Issuer to issue and sell bonds in the future.

The Borrower has not previously been subject to the continuing disclosure requirements of the Rule.

### **CERTAIN LEGAL MATTERS**

Certain legal matters relating to the authorization and validity of the Bonds will be subject to an approving opinion of Butler Snow LLP, Jacksonville, Florida, as Bond Counsel. Certain legal matters will be passed upon for the Issuer by its counsel, Bradley, Garrison & Komando, P.A., Orange Park, Florida, for the Borrower by its counsel, Winthrop & Weinstine, P.A., Minneapolis, Minnesota, and for the Underwriter by its counsel, Tiber Hudson LLC, Washington, D.C. Payment of the fees of certain counsel to the transaction is contingent upon the issuance and delivery of the Bonds as described herein.

### **ABSENCE OF LITIGATION**

#### **The Issuer**

On the date of issuance of the Bonds, the Issuer will deliver certificates to the effect that, to the knowledge of the Issuer, no litigation is pending or threatened against the Issuer (i) to restrain or enjoin the issuance of the Bonds, or contesting or questioning the validity of the Bonds or the proceedings and authority under which the Bonds have been authorized and are to be issued, or the pledge or application of any money or security provided for the payment of the Bonds or (ii) which questions the validity of the Indenture, the Loan Agreement, the Regulatory Agreement or the Bonds.

#### **The Borrower**

On the date of issuance of the Bonds, the Borrower will deliver a certificate that there is no pending or, to the knowledge of the Borrower, any threatened litigation against the Borrower adversely affecting the power or authority of the Borrower to enter into the Financing Documents or that would materially adversely affect the Borrower’s obligations under the Financing Documents.

### **DISCLOSURE REQUIRED BY SECTION 517.051(1), FLORIDA STATUTES**

Rule 69W-400.003, Rules of Government Securities, promulgated by the Florida Department of Banking and Finance, Division of Securities, under Section 517.051(1), Florida Statutes (“Rule 69W-400.003”), requires the Issuer to disclose each and every default of the Issuer as to the payment of principal and interest with respect to obligations issued or guaranteed by the Issuer after December 31, 1975. Rule 69W-400.003 further provides, however, that if the



Issuer in good faith believes that such disclosures would not be considered material by a reasonable investor, such disclosures may be omitted.

The Bonds do not constitute a general debt, liability or obligation of the Issuer, but are instead secured by amounts on deposit under the Indenture and by other security discussed herein. The Bonds are not being offered on the basis of the financial strength of the Issuer. Accordingly, the Issuer, in good faith, believes that disclosure of any such default on bonds with respect to which the Issuer was merely a conduit issuer and which are secured solely by payments of the borrower under a loan agreement, lease agreement or installment sale agreement, would not be considered material by a reasonable investor in the Bonds.

### **ESCROW VERIFICATION REPORT**

Causey, Demgen & Moore P.C., certified public accountants (the “Verifier”), concurrently with the issuance of the Bonds, will deliver to the Underwriter its verification report indicating that it has verified the arithmetical accuracy of certain computations provided by the Underwriter relating to the computation of forecasted receipts of principal and interest on the obligations and certain cash deposited as security for the Bonds, and the forecasted payments of principal and interest to pay the Bonds at their redemption or maturity dates. All such computations have been based solely upon assumptions and information supplied by the Underwriter. The Verifier restricted its procedures to verifying the arithmetical accuracy of the computations described above and has not made any study or evaluation of the assumptions and information on which the computations are based, and the Verifier has not expressed any opinion on the data used, the reasonableness of the assumptions or the achievability of the forecasted outcomes.

### **FINANCIAL ADVISOR**

The Issuer has retained Public Resources Advisory Group, St. Petersburg, Florida, as financial advisor (the “Financial Advisor”) to the Issuer in connection with the preparation of the Issuer’s plan of financing and with respect to the authorization and issuance of the Bonds. The Financial Advisor has not undertaken to make an independent verification or to assume responsibility for the accuracy, completeness or fairness of the information contained in this Official Statement.

### **ADDITIONAL INFORMATION**

The summaries and explanation of, or references to, the Act, the Indenture and the Bonds included in this Official Statement do not purport to be comprehensive or definitive. Such summaries, references and descriptions are qualified in their entirety by reference to each such document, copies of which are on file with the Trustee.

The information contained in this Official Statement is subject to change without notice and no implication shall be derived therefrom or from the sale of the Bonds that there has been no change in the affairs of the Issuer from the date hereof.

The Issuer makes no representations with respect to any information in this Official Statement other than the information under the headings “THE ISSUER,” “ABSENCE OF LITIGATION — The Issuer” and “DISCLOSURE REQUIRED BY SECTION 517.051(1), FLORIDA STATUTES.”

This Official Statement is submitted in connection with the offering of the Bonds and may not be reproduced or used, as a whole or in part, for any other purpose. Any statements in the Official Statement involving matters of opinion or estimate, whether or not expressly so stated, are intended as such and not as representations of fact. This Official Statement is not to be construed as a contract or agreement between the Issuer and the owners of any of the Bonds.

[Remainder of page intentionally left blank]

This Official Statement has been duly authorized, executed and delivered by the Borrower.

**PONTE VEDRA BEACH LEASED HOUSING ASSOCIATES I, LLLP,**  
a Minnesota limited liability limited partnership

By: Ponte Veda Beach Leased Housing Associates I, LLC,  
a Minnesota limited liability company,  
as sole General Partner

By: \_\_\_\_\_  
Terrence Sween  
Vice President

## APPENDIX A

### DEFINITIONS OF CERTAIN TERMS

*Certain capitalized terms used in this Official Statement are defined below. The following is subject to all the terms and provisions of the Indenture, to which reference is hereby made and copies of which are available from the Issuer or the Trustee.*

“Act” means the Florida Housing Finance Authority Law, Sections 159.601 et seq., Florida Statutes, as amended.

“Act of Bankruptcy” means written 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 a petition in bankruptcy, insolvency, reorganization or liquidation proceedings (or similar proceedings) have been instituted by or against the Borrower; provided that, if in the case of an involuntary proceeding, such proceeding is not dismissed within 90 days after commencement thereof.

“Additional Payments” means the amounts required to be paid by the Borrower pursuant to the Loan Agreement.

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

“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 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, 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 \$1,000 in excess thereof.

“Authorized Official” means the Chairman or Vice Chairman of the Issuer 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 Counsel” means Butler Snow LLP, 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 holders thereof for federal income tax purposes.

“Bond Fund” means the Bond Fund created in the Indenture.

“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, Mandatory Tender or acceleration or otherwise.

“Bond Purchase Agreement” means the Bond Purchase Agreement, dated December \_\_\_\_, 2023, 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 Issuer on November \_\_\_\_, 2023.

“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, Mandatory Tender, acceleration or otherwise.

“Bonds” means the Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023A of the Issuer authorized in the Bond Resolution and the Indenture in an amount not to exceed \$5,268,000\*.

“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 Ponte Vedra Beach Leased Housing Associates I, LLLP, a limited liability limited partnership, duly organized and existing in the State of Minnesota, its successors and assigns.

“Borrower Documents” means the Financing Documents, the Equity Bridge Loan Documents, the [Subordinate Loan Documents], the Seller Loan Documents and the Mortgage Loan Documents to which the Borrower is a party.

“Business Day” means a day other than a Saturday or a Sunday, on which (a) banking institutions in the City of New York or in the city in which the principal office of the Trustee or the Remarketing Agent is located are not authorized or obligated by law or executive order to be closed, or (b) The New York Stock Exchange is not closed, and on which the United States Government makes payments of principal and interest on its Treasury obligations.

“Cash Flow Projection” means a cash flow projection prepared by an independent firm of certified public accountants, a financial advisory firm, a law firm or other independent third party 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 Rating Agency, establishing, to the satisfaction of the Rating Agency, 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 and the Administrative Expenses, in each instance, when due and payable, including, but not limited to, any cash flow projection prepared in connection with (i) the initial issuance

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\* Preliminary; subject to change.

and delivery of the Bonds, (ii) a proposed remarketing of the Bonds, as provided in the Indenture, (iii) the release of Eligible Funds from the Negative Arbitrage Account of the Bond Fund, as provided in the Indenture, (iv) the purchase, sale or exchange of Eligible Investments as provided in the Indenture and (v) the sale or other disposition by the Trustee of Eligible Investments prior to maturity at a price below par in connection with an optional redemption prior to the Initial Mandatory Tender Date.

“Chairman” means the person serving as Chairman of the Issuer.

“Closing Date” means December \_\_\_\_, 2023.

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

“Collateral Fund” means the Collateral Fund created in the Indenture.

“Compliance Monitoring Agreement” means the Compliance Monitoring Agreement, dated as of December 1, 2023, among the Issuer, the Issuer Servicer, the Trustee and the Borrower, as the same may be amended or supplemented.

“Compliance Monitoring Fee” means the fee payable by the Borrower to the Issuer Servicer pursuant to the Compliance Monitoring Agreement.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement dated as of December 1, 2023, 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 under the Indenture, the Holders of the majority in aggregate principal amount of the Outstanding Bonds.

“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 the Indenture.

“Depository” means, with respect to the Bonds, DTC, until a successor Depository shall have become such pursuant to the applicable provisions of the 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 or the Remarketing Agent means, respectively, the office of the Trustee or the Remarketing Agent at the respective Notice Address set forth in the Indenture or at such other address as may be specified in writing by the Trustee or the Remarketing Agent, as applicable.

“Determination of Taxability” means the receipt by the Trustee of (1) a copy of written notice from the Commissioner or any District Director of the Internal Revenue Service or a determination by any court of competent jurisdiction, or (2) an Opinion of Bond Counsel, in either case to the effect that interest on the Bonds is not excludable for regular federal income tax purpose under Section 103(a) of the Code from gross income of any Holders of the Bonds (other than a Holder who is a substantial user of the Project or a related person as defined in the Code).

“Dissemination Agent” means U.S. Bank Trust Company, National Association, or any successor, as Dissemination Agent under the Continuing Disclosure Agreement.

“Dissemination Agent Fee” means a portion of the Trustee’s Fee payable to U.S. Bank Trust Company, National Association, in its capacity as Dissemination Agent pursuant to 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 (including any additional amount paid by the Underwriter to the Trustee as the purchase price of the Bonds);

(b) money received by the Trustee from the proceeds of the Mortgage Loan;

(c) remarketing proceeds of the Bonds (including any additional amount paid by the Remarketing Agent to the Trustee as the remarketing price of the Bonds) received from the Remarketing Agent or any purchaser of Bonds (other than funds provided by the Borrower, the Issuer, any Affiliate of either the Borrower or the Issuer);

(d) any other amounts, including the proceeds of refunding bonds, for which 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 or 550 of the Bankruptcy Code should the Issuer or the Borrower become a debtor in proceedings commenced under the Bankruptcy Code;

(e) the proceeds of draws by the Trustee on any letter of credit provided to the Trustee for the benefit of the Borrower;

(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, subject to the provisions of the Indenture, and to the extent permitted under the laws of the State of Florida, any of the following obligations which mature (or are redeemable at the option of the Trustee without penalty) at such time or times as to enable timely disbursements to be made from the fund in which such investment is held or allocated in accordance with the terms of the Indenture:

(a) Government Obligations; and

(b) Shares or units in any money market mutual fund rated “Aaa-mf” by Moody’s (or the equivalent Highest Rating Category given by the Rating Agency for that general category of security) including mutual funds of the Trustee or its affiliates or for which the Trustee or an affiliate thereof serves as investment advisor or provides other services to such mutual fund and receives reasonable compensation therefor registered under the Investment Company Act of 1940, as amended, whose investment portfolio consist solely of direct obligations of the government of the United States of America.

“Equity Bridge Lender” means [the initial purchasers of the Series 2023B Bonds][or the underwriter of the Series 2023B Bonds, where context requires].

“Equity Bridge Loan” means the loan of proceeds of the Series 2023B Bonds from the Issuer to the Borrower.

“Equity Bridge Loan Documents” means all documents required by the Issuer and the Equity Bridge Lender in connection with the issuance of the Series 2023B Bonds and the Equity Bridge Loan.

“Event of Default” means any of the events described as an Event of Default in the Indenture or the Loan Agreement.

“Expense Fund” means the Expense Fund created in the Indenture.

“Extension Payment” means the amount due, if any, in connection with the change or extension of the Mandatory Tender Date pursuant to the Indenture and which shall be determined by a Cash Flow Projection approved in writing by the Rating Agency.

“Extraordinary Services” and “Extraordinary Expenses” mean all services rendered and all reasonable expenses properly incurred by the Trustee or the Issuer under the Indenture or the other Financing Documents, 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.

“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).

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

“Fannie Mae Commitment” means the Commitment issued by the Mortgage Lender with respect to the Mortgage Loan, as the same may be amended.

“Fee Guaranty & Environmental Indemnity” means the Fee Guaranty and Environmental Indemnity Agreement, dated as of December 1, 2023, by and among the Issuer, the Trustee and the Guarantors.

“Financing Documents” means the Indenture, the Bonds, the Loan Agreement, the Note, the Tax Agreement, the Bond Purchase Agreement, the Continuing Disclosure Agreement, the Regulatory Agreement, the Remarketing Agreement, the Guarantor Documents, the Construction Monitoring Agreement, the Issuer Servicer 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 Equity Bridge Loan Documents, the Subordinate Loan Documents, the Seller Loan Documents and the Mortgage Loan Documents.

“Force Majeure” means any of the causes, circumstances or events described as constituting Force Majeure in the Loan Agreement.

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

“Guarantor” and “Guarantors” means, individually and collectively, the General Partner, Dominion Holdings I, LLC, a Minnesota limited liability company, and Dominion Holdings II, LLC, a Minnesota limited liability company, together with their respective permitted successors and assigns.

“Guarantor Documents” means, collectively, the Fee Guaranty & Environmental Indemnity, the Guaranty of Completion, the Guaranty of Recourse Obligations, and the Operating Deficit Guaranty.

“Guaranty of Completion” means the Absolute and Unconditional Guaranty of Completion, dated as of December 1, 2023, from the Guarantors, jointly and severally, in favor of the Issuer and the Trustee.

“Guaranty of Recourse Obligations” means the Absolute and Unconditional Guaranty of Recourse Obligations, dated as of December 1, 2023, from the Guarantors, jointly and severally, in favor of the Issuer and the Trustee.

“Highest Rating Category” means, with respect to an Eligible Investment, that the Eligible Investment is rated by a Rating Agency in the highest rating given by that Rating Agency for that Rating Category, provided that such rating shall include but not be below “Aaa” or “Aaa/VMIG 1” if rated by Moody’s or “A-1+” or “AA+” if rated by S&P.

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

“Indenture” means the Trust Indenture, dated as of December 1, 2023, 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 the Borrower or any Affiliate of the Borrower and in the case of an individual is not a director, trustee, officer, member, partner, or employee of the Borrower or any Affiliate of the Borrower and in the case of an entity, does not have a member, partner, director, trustee, officer, or employee who is a director, trustee, officer or employee of any member of the Borrower or any Affiliate of the Borrower.

“Initial Interest Rate” means \_\_\_\_%.

“Initial Mandatory Tender Date” means January 1, 2027\*.

“Initial Remarketing Date” means the Initial Mandatory Tender Date, but only if the conditions for remarketing the Bonds on such date as provided in the Indenture are satisfied.

“Interest Payment Date” means (a) January 1 and July 1 of each year beginning July 1, 2024\*, (b) each Redemption Date, and (c) each Mandatory Tender Date. In the case of payment of defaulted interest, “Interest Payment Date” also means the date of such payment established pursuant to the Indenture.

“Interest Rate” means the Initial Interest Rate to but not including the Initial Mandatory Tender Date, and thereafter the applicable Remarketing Rate.

“Investor Limited Partner” means Alliant Credit Facility IV, LLC, a California limited liability company, and its permitted successors and assigns in its capacity as the Investor Member of the Borrower.

“Issuer” means the Housing Finance Authority of St. Johns County, Florida, a public body corporate and politic of the State, duly organized and existing under the laws of the State, and its successors and assigns.

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

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\* Preliminary; subject to change.



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

“Issuer Extraordinary Fees and Expenses” means the expenses and disbursements payable to the Issuer under this Indenture or the other Financing Documents 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 the Loan Agreement.

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

“Issuer Indemnified Party” or “Issuer Indemnified Parties” means the Issuer, the past, present and future members of the Issuer, executives, employees and agents, individually and collectively.

“Issuer Ordinary Fees and Expenses” means collectively, the Issuer’s (i) one (1) time initial issuance fee payable to the Issuer on or before the Closing Date in the amount of [\_\_\_\_], (ii) the annual fee of the Issuer, payable by the Borrower in the amount of 25 basis points (0.25%) of the outstanding principal amount of the Bonds (calculated on the Business Day prior to any reduction on such payment date) payable in semiannual installments in arrears on each [\_\_\_\_] 1 and [\_\_\_\_] 1, commencing [\_\_\_\_] 1, 202[\_\_\_\_], (iii) the Compliance Monitoring Fee, and (iv) the Issuer Short-Term Prepayment Fee.

“Issuer Servicer” means AmeriNat®, a Minnesota limited liability company, or any other servicer appointed by the Issuer to service the Loan on behalf of Issuer and to monitor the Development.

“Issuer Servicer Agreement” means the Construction Loan Servicing Agreement, dated as of December 1, 2023, by and among the Issuer, the Trustee, the Borrower and the Issuer Servicer.

“Issuer Servicer’s Fee” means “means the following fees and expenses: [(a) payable directly by the Borrower to the Issuer Servicer: (i) during construction of the Project, an on-site inspection fee of \$[186.00] per hour for services rendered, but not to exceed \$1,844.00 per disbursement, (ii) during construction of the Project, an in-house review fee of \$186.00 per hour for services rendered, (iii) a fee for extraordinary services rendered of \$186.00 per hour, and (iv) a fee for providing financial monitoring services in the amount of \$2,000 (subject to annual increases of 3%) payable in semiannual installments in advance on each [January] 1 and [July] 1.]

“Issuer Short-Term Prepayment Fee” means the applicable fee in the following schedule determined based on the original principal amount of the Bonds and the length of time between the date of issuance of the Bonds and the prepayment, in full, or final maturity of all of the Bonds; provided, however, such fee shall not be less than \$20,000, which fee is payable on the prepayment date:

Prepayment Date		
18 months or less	24 months or less but longer than 18 months	36 months or less but longer than 24 months
0.31%	0.24%	0.18%

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

“Loan Agreement” means the Loan Agreement dated as of even date with the 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.

“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 the Loan Agreement.

“Local Time” means Eastern time (daylight or standard, as applicable).

“Mandatory Tender” means a tender of Bonds required by the Indenture.

“Mandatory Tender Date” means the latest of (a) the Initial Mandatory Tender Date and (b) if the Bonds Outstanding on such date or on any subsequent Mandatory Tender Date are remarketed pursuant to Section 3.07 for a Remarketing Period that does not extend to the final maturity of the Bonds, the day after the last day of the Remarketing Period.

“Maturity Date” means \_\_\_\_\_ 1, 20\_\_\*.

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

“Mortgage Loan” means the mortgage loan to be made from the Mortgage Lender to the Borrower in the principal amount of \$16,500,000\* with respect to the Project, as described and provided for in the Fannie Mae Commitment.

“Mortgage Loan Documents” means the mortgage, the mortgage note and all other documents required by the Mortgage Lender and/or Fannie Mae in connection with the Mortgage Loan.

“National Housing Act” means the National Housing Act of 1937, as amended, and the applicable regulations thereunder.

“Negative Arbitrage Account” means the Negative Arbitrage Account of the Bond Fund created in the Indenture.

“Note” means the promissory note of the Borrower, dated as of even date with the Bonds initially issued, in the form attached to the Loan Agreement as an exhibit and in the principal amount of up to \$5,268,000\*, evidencing the obligation of the Borrower to make Loan Payments.

“Operating Deficit Guaranty” means the Absolute and Unconditional Guaranty of Operating Deficits, dated as of December 1, 2023, from the Guarantors, jointly and severally, to the Issuer and the Trustee.

“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.

“Optional Redemption Date” means January 1, 2027\*.

“Ordinary Services” and “Ordinary Expenses” mean those services normally rendered, and those expenses normally incurred, by a trustee under instruments similar to the 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, consisting of (i) a set-up and acceptance fee in the amount of \$\_\_\_\_\_ payable at closing and (ii) an annual fee payable each year beginning on \_\_\_\_\_ 1, 2024, in an amount equal to \$\_\_\_\_\_ per year; provided, however, the amount of Ordinary Trustee Fees and Expenses payable from funds held under the Indenture is limited to money withdrawn from the Expense Fund and the Borrower will be responsible for paying the remaining amount of the Ordinary Trustee Fees and Expenses pursuant to the Loan Agreement. In addition, all amounts due to the Trustee for Extraordinary Services and all Extraordinary Expenses of the Trustee will be paid as provided in the Indenture or directly by the Borrower pursuant to the Loan Agreement.

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\* Preliminary; subject to change.

“Organizational Documents” means the Amended and Restated Partnership Agreement of the Borrower dated December \_\_\_, 2023, as the same may be amended.

“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 the 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 the Indenture; and
- (d) Bonds in lieu of which others have been authenticated under the 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 in the Loan Agreement.

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

“Project” means the acquisition, rehabilitation and equipping of multifamily residential rental housing development known as Oaks at St. Johns, consisting of approximately 160 units at 2010 Nettles Lane, Ponte Vedra Beach, FL 32081.

“Project Costs” means the costs of the Project specified in the Loan Agreement.

“Project Fund” means the Project Fund created in the Indenture.

“Rating Agency” means Moody’s, S&P or any other nationally recognized securities rating agency rating the Bonds, or such rating agency’s successors or assigns, and initially means Moody’s so long as Moody’s is rating the Bonds.

“Rating Category” means one of the rating categories of the Rating Agency for the specific type and duration of the applicable Eligible Investment.

“Rebate Fund” means the Rebate Fund created in the Indenture.

“Redemption Date” means any date in the Indenture on which Bonds are to be redeemed, including (a) the Maturity Date, (b) the date of acceleration of the Bonds and (c) pursuant to the Indenture.

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

“Regular Record Date” means, with respect to any Bond, the fifth Business Day preceding each Interest Payment Date.

“Regulatory Agreement” means the Land Use Restriction Agreement dated as of December 1, 2023, among the Issuer, the Borrower, and the Trustee, as in effect on the Closing Date and as it may thereafter be amended and supplemented from time to time in accordance with its terms.

“Remarketing Agent” means Colliers Securities LLC or any successor as Remarketing Agent designated in accordance with the Indenture.

“Remarketing Agreement” means the Remarketing Agreement dated as of December 1, 2023, by and between the Borrower and the Remarketing Agent, as amended, supplemented or restated from time to time, or any agreement entered into in substitution therefor.

“Remarketing Date” means the Initial Remarketing Date and, if the Bonds Outstanding on such date or on any subsequent Remarketing Date are remarketed pursuant to the Indenture for a Remarketing Period that does not extend to the final maturity of the Bonds, the day after the last day of the Remarketing Period.

“Remarketing Period” means the period beginning on a Remarketing Date and ending on the last day of the term for which Bonds are remarketed pursuant to the Indenture or the final Maturity Date of the Bonds, as applicable.

“Remarketing Proceeds Account” means the Remarketing Proceeds Account of the Bond Fund created in the Indenture.

“Remarketing Rate” means the interest rate or rates established pursuant to the Indenture and borne by the Bonds then Outstanding from and including each Remarketing Date to, but not including, the next succeeding Remarketing Date or the final Maturity Date of the Bonds, as applicable.

“Reserved Rights” of the Issuer means (a) the right of the Issuer to amounts payable to it pursuant to the Loan Agreement, (b) all rights which the Issuer or its members, directors, officers, officials, agents or employees may have under the 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 members, directors, officers, officials, agents or employees; (c) the right of the Issuer to receive notices, reports or other information, make determinations and grant approvals under the Indenture 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) all other money received or to be received by the Trustee in respect of repayment of the Loan, including without limitation, all money and investments in the Bond Fund, (c) any money and investments in the Special Funds, and (d) all income and profit from the investment of the foregoing money. The term “Revenues” does not include any money or investments in the Rebate Fund.

“S&P” means S&P Global Ratings, 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 and the Remarketing Agent.

“Secretary” means the person serving as the Secretary of the Issuer, or, in his or her absence, the acting or assistant secretary of the Issuer.

“Seller” means, collectively, Gainesville Leased Housing Associates (TIC-I) III, LLC, Gainesville Leased Housing Associates (TIC-II) III, LLC, and Gainesville Leased Housing Associates (TIC-III) III, LLC, each a [ ] limited liability company, in their capacity as the makers of the Seller Loan.

“Seller Loan” means the loan from the Seller to the Borrower in the principal amount of \$2,000,000.

“Seller Loan Documents” means all documents required by the Issuer and the Seller Lender in connection with the Seller Loan.

“Series 2023B Bonds” means the Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023B of the Issuer in an amount not to exceed \$14,231,667\*.

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

“Special Record Date” means, with respect to any Bond, the date established by the Trustee in connection with the payment of overdue interest or principal on that Bond.

“State” means the State of Florida.

[“Subordinate Lender” means [\_\_\_\_\_].

“Subordinate Loan” means the loan from the Subordinate Lender to the Borrower in the principal amount of \$1,235,187\*.

“Subordinate Loan Documents” means all documents required by the Issuer and the Subordinate Lender in connection with the Subordinate Loan.]

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

“Tax Agreement” means the Tax Certificate and Agreement, dated the Closing Date, executed and delivered by the Issuer and the Borrower.

“Tendered Bond” means any Bond which has been tendered for purchase pursuant to a Mandatory Tender.

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

“Trustee” means U.S. Bank Trust Company, National Association, until a successor Trustee shall have become such pursuant to the applicable provisions of the Indenture, and thereafter, “Trustee” shall mean the successor Trustee.

“Undelivered Bond” means any Bond that is required under the Indenture to be delivered to the Remarketing Agent or the Trustee for purchase on a Mandatory Tender Date but that has not been received on the date such Bond is required to be so delivered.

“Underwriter” means Colliers Securities LLC.

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\* Preliminary; subject to change.

## APPENDIX B

### SUMMARY OF CERTAIN PROVISIONS OF THE TRUST INDENTURE

*The following is a brief summary of certain provisions of the Indenture. The following summary does not purport to be complete or definitive and is subject to all the terms and provisions of the Indenture, to which reference is hereby made and copies of which are available from the Issuer or the Trustee.*

#### **Creation of Funds**

There are established by the Indenture with the Trustee the following funds and accounts to be held in trust and maintained by the Trustee under the Indenture:

- (a) the Bond Fund, and therein the Negative Arbitrage Account and the Remarketing Proceeds Account (but only at such times as money is to be deposited or held in such Accounts as provided in the 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 the Indenture. All money deposited in the funds and accounts created under the Indenture shall be used solely for the purposes set forth in the Indenture. The Trustee shall keep and maintain accurate 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 Borrower Representative, 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 the 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 under the Indenture.

#### **Bond Fund**

On the Closing Date, there shall be deposited in the Negative Arbitrage Account of the Bond Fund the amount set forth in the Indenture. Any Extension Payment received by the Trustee in connection with an extension of the Mandatory Tender Date pursuant to the Indenture shall also be deposited in the Negative Arbitrage Account.

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 Loan Agreement shall be paid on or before each Interest 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 such Bond Payment Date.

The Bond Fund (and accounts therein for which provision is made in the Indenture) and the money 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 money on deposit in the Bond Fund (other than the Negative Arbitrage Account therein), (b) next from money on deposit in the Negative Arbitrage Account of the Bond Fund, (c) next from money on deposit in the Collateral Fund and transferred as necessary to the Bond Fund and (d) thereafter, from money on deposit in the Project Fund and transferred as necessary to the Bond Fund.

Upon receipt by the Trustee of a Cash Flow Projection, the Trustee is authorized by the Indenture to release from the Negative Arbitrage Account the amount set forth in the Cash Flow Projection to or at the written direction of the Borrower.

### **Project Fund**

Upon the deposit of Eligible Funds in the Collateral Fund as provided in the Indenture, the Trustee shall disburse a corresponding amount of Bond proceeds on deposit in the Project Fund to, or at the written direction of, the Mortgage Lender, for use by the Mortgage Lender, the Equity Bridge Lender, the Subordinate Lender or the Seller Lender to make a Mortgage Loan, an Equity Bridge Loan, a Subordinate Loan or the Seller Loan, respectively, advance to the Borrower to pay Project Costs in accordance with the Loan Agreement. It is understood that a portion of the proceeds of the sale of the Bonds in the amount specified in the Indenture shall be used to pay a portion of the purchase price of the Project. As such, the Trustee is authorized to net such transfers by transferring an amount specified in the Indenture from the Project Fund to the Collateral Fund. The Trustee shall disburse funds from the Project Fund in accordance with the Loan Agreement no later than one (1) Business Day after it receives the Eligible Funds but only if (i) the Trustee receives the fully-signed and completed disbursement request by at least 2:00 PM Local Time on the Business Day immediately prior to the Business Day on which the Trustee receives the Eligible Funds and (ii) the Trustee receives the Eligible Funds with respect to such disbursement request prior to 10:30 AM Local Time on such Business Day. If the Trustee receives Eligible Funds after 10:30 AM Local Time, the disbursement shall be made on the next succeeding Business Day. Notwithstanding any provisions to the contrary, upon satisfaction of the conditions set forth in the Loan Agreement, the Trustee shall be unconditionally and irrevocably obligated to disburse funds from the Project Fund to or at the written direction of the Mortgage Lender. The Trustee shall not disburse money from the Project Fund unless and until Eligible Funds in an amount equal to or greater than the requested disbursement amount have been deposited in the Collateral Fund. In accordance with the Loan Agreement, and prior to making any disbursement, the Trustee shall determine that the aggregate account balance in (a) the Collateral Fund and (b) the Project Fund (less the amount to be disbursed in accordance with the Disbursement Request) is at least equal to the then-Outstanding principal amount of the Bonds; provided, however, to the extent money on deposit in the Project Fund is invested in Eligible Investments, the Trustee is authorized by the Indenture to make the following allocations and exchanges, which allocations and exchanges shall occur prior to the disbursement of amounts on deposit in the Project Fund to pay Project Costs: (i) allocate all or a portion of the Eligible Investments in the Project Fund, in the amount specified in the request for disbursement, to the Collateral Fund and (ii) transfer a like amount of Eligible Funds on deposit in the Collateral Fund to the Project Fund, in exchange for an allocation of a like amount of Eligible Investments held therein. Upon receipt of Eligible Funds from the Mortgage Lender, the Equity Bridge Lender, the Subordinate Lender or the Seller Lender if the Trustee is not prepared to immediately make the foregoing disbursement from the Project Fund to the Mortgage Lender, the Equity Bridge Lender, the Subordinate Lender or the Seller Lender, the Trustee shall return such Eligible Funds to the Mortgage Lender, the Equity Bridge Lender, the Subordinate Lender or the Seller Lender, as applicable.

Money in the Project Fund shall be disbursed in accordance with the provisions of the Loan Agreement and this section. To the extent money is not otherwise available to the Trustee, including money on deposit in the Bond Fund and the Collateral Fund, the Trustee shall transfer from the Project Fund to the Bond Fund sufficient money to make the necessary interest and principal payments, if any, on each Interest Payment Date without further written direction.

On any Redemption Date, the Trustee will transfer any amounts then on deposit in the Project Fund into the Bond Fund to pay Bond Service Charges on the Bonds.

Upon the occurrence and continuance of an Event of Default under the Indenture as a result of which the principal amount of the Bonds has been declared to be due and immediately payable pursuant to the Indenture, any money remaining in the Project Fund shall be promptly transferred by the Trustee to the Bond Fund.

### **Collateral Fund**

The Trustee shall deposit in the Collateral Fund all Eligible Funds received pursuant to the Loan Agreement and any other Eligible Funds received by the Trustee for deposit into the Collateral Fund. The Loan Agreement requires the Borrower to cause the Mortgage Lender or the Equity Bridge Lender, as applicable, to deposit Eligible Funds with 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 pay Project Costs.

Each deposit into the Collateral Fund shall constitute an irrevocable deposit solely for the benefit of the Holders, subject to the provisions of the Indenture.

The Trustee shall transfer money in the Collateral Fund as follows: (i) on the Mandatory Tender Date, to the Bond Fund, the amount necessary to pay the purchase price of the Bonds, to the extent amounts on deposit in the Remarketing Proceeds Account and the Negative Arbitrage Account of the Bond Fund are insufficient therefor; and (ii) on any Redemption Date or the Maturity Date of the Bonds, to the Bond Fund the amount, together with amounts on deposit in the Bond Fund, necessary to pay the principal and interest due on the Bonds on such date.

On any Redemption Date, the Trustee will transfer funds held in the Collateral Fund into the Bond Fund to pay Bond Service Charges on the Bonds.

Amounts on deposit in the Collateral Fund in excess of the amount required to pay Bond Service Charges after payment in full of the Bonds may be transferred to the Project Fund and used to pay Project Costs as provided in the Loan Agreement.

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, the principal component of the redemption price of any of the Bonds or the principal component of the tender price of any of the Bonds, all as provided in the Indenture.

### **Investment of Special Funds and Rebate Fund**

Except as otherwise set forth in this Section, moneys in the Special Funds and the Rebate Fund shall be invested and reinvested by the Trustee in Eligible Investments at the written direction of the Authorized Borrower Representative. At no time shall the Authorized Borrower Representative direct that any funds constituting gross proceeds of the Bonds be used in any manner as would constitute failure of compliance with Section 148 of the Code. Investments of moneys in the Bond Fund shall mature or be redeemable at the times and in the amounts necessary to provide moneys to pay Bond Service Charges on the Bonds. Each investment of moneys in a Project Fund shall mature or be redeemable without penalty at such time as may be necessary to make payments from the Project Fund, including on each Interest Payment Date. Any of those investments may be purchased from or sold to the Trustee, the Registrar, an authenticating agent or a paying agent, or any bank, trust company or savings and loan association affiliated with any of the foregoing. The Trustee shall sell or redeem investments credited to the Special Funds to produce sufficient moneys applicable under the Indenture to and at the times required for the purposes of paying Bond Service Charges when due as aforesaid, and shall do so without necessity for any order on behalf of the Issuer and without restriction by reason of any order. An investment made from moneys credited to the Special Funds shall constitute part of that respective Fund. All investment earnings from amounts on deposit in the Project Fund shall be credited to the Negative Arbitrage Account of the Bond Fund. All investment earnings from amounts on deposit in the Collateral Fund shall be credited to the Negative Arbitrage Account of the Bond Fund. All gains resulting from the sale of, or income from, any investment made from moneys credited to the Special Funds shall be credited to and become part of the Fund from which the investment was made. Notwithstanding the foregoing, any moneys held under the Indenture without the written direction of the Authorized Borrower Representative shall be invested in



Eligible Investments. If the Trustee is required to sell or otherwise dispose of any Eligible Investments prior to maturity at a price below par in connection with an optional redemption prior to the Initial Mandatory Tender Date, the Borrower shall, at the Borrower's expense, deliver to the Trustee (i) a Cash Flow Projection and (ii) Eligible Funds in the amount set forth in such Cash Flow Projection, if any. Following the Closing Date, at the direction of the Borrower, the Trustee is permitted to purchase, sell or exchange Eligible Investments with a Cash Flow Projection. Notwithstanding anything herein to the contrary, (i) earnings received by the Trustee with respect to Eligible Investments purchased for the purpose of paying Bond Service Charges shall be held uninvested and (ii) Bond proceeds and the deposit of Eligible Funds to the Negative Arbitrage Account pursuant to the Indenture shall be held uninvested until the Trustee has purchased, sold or exchanged Eligible Investments.

### **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 under the Indenture:

- (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 the 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, the Borrower, and the Investor Limited Partner specifying the failure and requiring that it be remedied, which notice shall be given by the Trustee at the written request of the Holders of not less than 50% in aggregate principal amount of Bonds then Outstanding; and
- (d) The occurrence and continuance of an Event of Default as defined in the Loan Agreement.

The term "default" or "failure" as used in the Indenture 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 the Indenture or in the Bonds, or (ii) a default or failure by the Borrower under the Loan Agreement, exclusive of any period of grace or notice required to constitute a default or failure an Event of Default, as provided above or in the Loan Agreement.

The Trustee and the Issuer agree that notwithstanding the provisions of the Indenture, no default under the terms of the Indenture shall constitute or be construed as resulting in a default under the Mortgage Loan Documents unless such event also constitutes a default thereunder.

### **Acceleration**

Upon the occurrence of an Event of Default described in clauses (a) and (b) under "Defaults; Events of Default" above, the Trustee shall declare, by a notice in writing delivered to the Borrower and the Investor Limited Partner, 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 clauses (a) and (b) under "Defaults; Events of Default" above, the Trustee may, and upon the written consent of Holders of Bonds representing a majority of aggregate principal amount of Bonds then Outstanding, shall declare by a notice in writing delivered to the Borrower and the Investor Limited Partner, 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 under the Indenture (after an opportunity for hearing by the Issuer and the Borrower):

(a) all sums payable under the Indenture (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.

### **Other Remedies; Rights of Holders**

With or without taking action under the section “Acceleration” above, 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 the Indenture, the Loan Agreement, the Regulatory Agreement or the Note or any other instrument providing security, directly or indirectly, for the Bonds.

If, upon the occurrence and continuance of an Event of Default, the Trustee is requested so to do in writing by the Holders of at least 50% in aggregate principal amount of Bonds Outstanding, the Trustee (subject to the provisions of the Indenture), shall exercise any rights and powers conferred by the Indenture.

No remedy conferred upon or reserved to the Trustee (or to the Holders) by the Indenture is intended to be exclusive of any other remedy. Subject to the provisions of the Indenture, each remedy shall be cumulative and shall be in addition to every other remedy given under the Indenture 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 under the Indenture, whether by the Trustee or by the Holders, shall extend to or shall affect any subsequent default or Event of Default or shall impair any remedy, right or power consequent thereon.

As the assignee of all right, title and interest of the Issuer in and to the Loan Agreement (except for the Reserved Rights), the Trustee is empowered to enforce each remedy, right and power granted to the Issuer under the Loan Agreement. In exercising any remedy, right or power under the Loan Agreement or under the Indenture, 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 the Indenture, subject to the provisions of the first paragraph of this section.

### **Rights of Holders to Direct Proceedings**

Anything to the contrary in the 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 the Indenture or any other proceedings under the Indenture; provided, that (a) any direction shall not be other than in accordance with the provisions of law and of the Indenture,

(b) the Trustee shall be indemnified as provided in the Indenture, and (c) the Trustee may take any other action which it deems to be proper and which is not inconsistent with the direction.

### **Application of Money**

After payment of any costs, expenses, liabilities and advances paid, incurred or made by the Trustee in the collection of money and to all Ordinary Trustee Fees and Expenses and fees of the Trustee for Extraordinary Services and Extraordinary Expenses (including without limitation, reasonable attorneys' fees and expenses, except as limited by law or judicial order or decision entered in any action taken under the Indenture), all money received by the Trustee, shall be applied as follows, subject to the provisions of the Indenture:

(a) Unless the principal of all of the Bonds shall have become, or shall have been declared to be, due and payable, all of such money 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 the Indenture, all of such money 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 the Indenture, and if that declaration thereafter shall have been rescinded and annulled under the provisions of the Indenture, subject to the provisions of the preceding paragraph, in the event that the principal of all of the Bonds shall become due and payable later, the money shall be deposited in the Bond Fund and shall be applied in accordance with the provisions of the Indenture.

(d) Whenever money is to be applied pursuant to the provisions of this section, such money shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of money available for application and the likelihood of additional money becoming available for application in the future. Whenever the Trustee shall direct the application of such money, 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 money is available therefor. The Trustee shall give notice of the deposit with it of any money and of the fixing of that date, all consistent with the requirements of the Indenture 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.

## **Remedies Vested in Trustee**

All rights of action (including without limitation, the right to file proof of claims) under the 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 the Indenture.

## **Rights and Remedies of Holders**

A Holder shall not have any right to institute any suit, action or proceeding for the enforcement of the Indenture, for the execution of any trust of the Indenture, or for the exercise of any other remedy under the Indenture, unless:

- (a) there has occurred and is continuing an Event of Default of which the Trustee has been notified, as provided in the Indenture, or of which it is deemed to have notice under that paragraph,
- (b) the Holders of at least 50% 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 in the Indenture or to institute the suit, action or proceeding in its own name, and shall have offered indemnity to the Trustee as provided in the Indenture, 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 the Indenture by its or their action, or to enforce, except in the manner provided in the Indenture, any remedy, right or power under the Indenture. Any suit, action or proceedings shall be instituted, had and maintained in the manner provided in the Indenture for the benefit of the Holders of all Bonds then Outstanding. Nothing in the 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.

## **Termination of Proceedings**

In case the Trustee shall have proceeded to enforce any remedy, right or power under the 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 and the Holders shall be restored to their former positions and rights under the Indenture, respectively, and all rights, remedies and powers of the Trustee shall continue as if no suit, action or proceedings had been taken.

## **Waivers of Events of Default**

Except as provided below, at any time, in its discretion, the Trustee may waive any Event of Default under the Indenture 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) at least a majority in aggregate principal amount of all Bonds then Outstanding in respect of which an Event of Default in the payment of Bond Service Charges exists, or

(b) at least 50% in aggregate principal amount of all Bonds then Outstanding, in the case of any other Event of Default.

There shall not be so waived, however, any Event of Default described in paragraph (a) or (b) under the heading "Defaults; Events of Default" above, 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 described under the heading "Acceleration" above 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 under the Indenture, respectively. No waiver or rescission shall extend to any subsequent or other Event of Default or impair any right consequent thereon.

### **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 the Indenture which shall not, in the opinion of the Issuer and Bond Counsel, 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 the 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 the 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 the 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 the 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 the Indenture, the Loan Agreement and the Bonds;
- (g) To facilitate (i) the transfer of Bonds issued by the Issuer under the 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 the 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 the Trustee;
- (j) To achieve compliance of the 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 (h) and (j) above 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 the Indenture or the Bonds.

### **Supplemental Indentures Requiring Consent of Holders**

Exclusive of Supplemental Indentures to which reference is made above 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 the Indenture, and with the consent of the Borrower if required by the Indenture, 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 the Indenture or any Supplemental Indenture or restricting in any manner the rights of the Holders. Nothing in the Indenture 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 the Indenture, receipt of the Borrower's consent to the proposed execution and delivery of the Supplemental Indenture, the Trustee shall cause notice of the proposed execution and delivery of the Supplemental Indenture to be mailed by first-class mail, postage prepaid, to all Holders of Bonds then Outstanding at their addresses as they appear on the Register at the close of business on the fifteenth day preceding that mailing.

The Trustee shall not be subject to any liability to any Holder by reason of the Trustee's failure to mail, or the failure of any Holder to receive, the notice required by this section. Any failure of that nature shall not affect the validity of the Supplemental Indenture when there has been consent thereto as provided in this section. The notice shall set forth briefly the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the Designated 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.

### **Consent of Borrower**

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

### **Opinion of Counsel**

Before the Trustee shall enter into any Supplemental Indenture, there shall have been delivered to the Trustee an Opinion of Counsel to the effect that (a) any proposed Supplemental Indenture complies with the provisions of the Indenture, and (b) it is proper for the Trustee to join in the execution of that Supplemental Indenture under the provisions of the Indenture.

### **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 under the Indenture or under the Loan Agreement, the Regulatory Agreement and the Note, then the Indenture shall cease, determine and become null and void (except for those provisions surviving by as described below in the event the Bonds are deemed paid and discharged as described below), and the covenants, agreements and obligations of the Issuer under the Indenture shall be released, discharged and satisfied.

Thereupon, and subject to the provisions of the Indenture described below, if applicable,

(a) the Trustee shall release the Indenture (except for those provisions surviving as described under the heading "Survival of Certain Provisions" below in the event the Bonds are deemed paid and discharged as described under the heading "Payment and Discharge of Bonds" below), 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,

(b) the Trustee shall release and satisfy the Note and deliver such release and satisfaction to the Borrower; and

(c) the Trustee shall assign and deliver to the Borrower any property subject at the time to the lien of the Indenture which then may be in its possession, except amounts in the Bond Fund required (i) to be paid to the Borrower under the Indenture, or (ii) to be held by the Trustee under the Indenture or otherwise for the payment of Bond Service Charges.

## **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 the Indenture, including without limitation, under the heading "Release of Indenture" above, if:

(a) the Trustee as paying agent shall have received, in trust for and irrevocably committed thereto, sufficient money, or

(b) the Trustee shall have received (i) in trust for and irrevocably committed thereto, noncallable Government Obligations; (ii) certification by an Independent public accounting firm of national reputation to the effect that the Government Obligations have such maturities or redemption dates and interest payment dates, and bear such interest, as will be sufficient together with any money 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; and (iii) an Opinion of Bond Counsel to the effect that the conditions of this section have been satisfied.

Any money held by the Trustee in accordance with the provisions of this section may be invested by the Trustee only in noncallable Government Obligations 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 money will be required for the purposes described above. To the extent that any income or interest earned by, or increment to, the investments held under this section is determined from time to time by the Trustee to be in excess of the amount required to be held by the Trustee for the purposes of this section, that income, interest or increment shall be transferred at the time of that determination in the manner provided in the Indenture for transfers of amounts remaining in the Bond Fund.

If any Bonds shall be deemed paid and discharged pursuant to this section, then within 15 days after such Bonds are so deemed paid and discharged the Trustee shall cause a written notice to be given to each Holder as shown on the Register on the date on which such Bonds are deemed paid and discharged. Such notice shall state the numbers of the Bonds deemed paid and discharged or state that all Bonds are deemed paid and discharged, set forth a description of the obligations held pursuant to subparagraph (b) of the first paragraph of this section.

## **Survival of Certain Provisions**

Notwithstanding the foregoing, any provisions of the Bond Resolution and the 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 money in trust, and repayments to the Borrower from the Bond Fund, the rebate of money to the United States in accordance with the Indenture, 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 the Indenture. The provisions of this section shall survive the release, discharge and satisfaction of the Indenture. The obligations of the Borrower to pay the Trustee its fees and expenses under the Indenture shall survive the release, discharge and satisfaction of the Indenture.



## APPENDIX C

### SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT

*The following is a summary of certain provisions of the Loan Agreement. The summary does not purport to be complete or definitive and is qualified in its entirety by reference to the Loan Agreement, a copy of which is on file with the Trustee.*

#### **The Loan**

The Issuer agrees, upon the terms and conditions in the Loan Agreement, to make the Loan to the Borrower with the proceeds received by the Issuer from the sale of the Bonds by causing such proceeds to be deposited with the Trustee for disposition as provided in the Indenture. The obligation of the Issuer to finance the Loan shall be deemed fully discharged, and the principal amount of the Bonds shall be deemed fully advanced to the Borrower under the Note, upon the deposit of the proceeds of the Bonds with the Trustee. The Loan shall be evidenced by the Note payable to the Trustee.

#### **Mortgage Loan, Equity Bridge Loan, Subordinate Loan and Seller Loan to Borrower**

To provide and secure funds for the repayment of the Loan, and to provide for the delivery of the Eligible Funds, the Borrower shall on or before December \_\_\_, 2023, obtain the Mortgage Loan from the Mortgage Lender, the Equity Bridge Loan from the Equity Bridge Lender, the Subordinate Loan from the Subordinate Lender and the Seller Loan from the Seller Lender, and enter into the Regulatory Agreement. In particular, the Borrower will promptly take all necessary actions on its part to close the Mortgage Loan and the Equity Bridge Loan and satisfy all other terms and conditions of the Fannie Mae Commitment and the requirements of the Mortgage Lender, the Equity Bridge Lender, the Subordinate Lender and the Seller Lender no later than December \_\_\_, 2023.

The Borrower represents that the Mortgage Loan will be in the maximum original principal amount specified in the Loan Agreement, the Equity Bridge Loan will be in the maximum original principal amount specified in the Loan Agreement, the Subordinate Loan will be in the maximum original principal amount specified in the Loan Agreement and the Seller Loan will be in the maximum original principal amount specified in the Loan Agreement. The Mortgage Loan will be secured on a non-recourse basis pursuant to the Mortgage Loan Documents.

The Mortgage Lender, the Equity Bridge Lender, the Subordinate Lender or the Seller Lender will deposit Eligible Funds in the amount specified in the Loan Agreement with the Trustee into the Collateral Fund to enable the Trustee to disburse an equal amount of Bond proceeds from the Project Fund as approved by the Mortgage Lender in connection with a completed and fully executed Disbursement Request in the form attached as an exhibit to the Loan Agreement. Any Bond proceeds so approved shall be disbursed to the Mortgage Lender, the Equity Bridge Lender, the Subordinate Lender or the Seller Lender to make a Mortgage Loan, an Equity Bridge Loan, a Subordinate Loan or a Seller Loan, respectively, advance to the Borrower to pay Fannie Mae-approved mortgageable costs.

#### **Disbursements from the Project Fund**

Subject to the provisions below, disbursements from the Project Fund shall be made only to pay any of the following Project Costs:

- (a) Costs incurred directly or indirectly for or in connection with the acquisition, rehabilitation, renovation, improvement and equipping of the Project, including costs incurred in respect of the Project for preliminary planning and studies; architectural, legal, engineering, accounting, consulting, supervisory and other services; labor, services and materials; and recording of documents and title work.
- (b) Premiums attributable to any surety bonds and insurance required to be taken out and maintained during the construction period with respect to the Project.

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

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

(e) Subject to the limitations set forth in the Tax Agreement, Costs of Issuance of the Bonds, including, financial, legal, accounting, printing and engraving fees, charges and expenses, and all other such fees, charges and expenses incurred in connection with the authorization, sale, issuance and delivery of the Bonds, including, without limitation, the fees and expenses of the Trustee properly incurred under the Indenture that may become due and payable during the construction period.

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

(g) Payment of interest on the Bonds.

(h) Payments to the Rebate Fund.

Disbursements from the Project Fund for the payment of Project Costs shall be made by the Trustee only to, or at the direction of, the Mortgage Lender upon satisfaction of all of the following conditions:

(i) The receipt by the Trustee of notice and instruction of a completed disbursement request (a "Disbursement Request") in the form attached as an exhibit to the Loan Agreement, signed by an Authorized Borrower Representative and providing the amount of the disbursement request (a "Disbursement Amount") and the expected date of disbursement (a "Disbursement Date").

(ii) Promptly upon receipt of a completed and fully-executed Disbursement Request, the Trustee will confirm in writing to the Mortgage Lender (A) the Disbursement Amount, (B) that the account balance of the Collateral Fund plus the account balance of the Project Fund is at least equal to the then-outstanding principal amount of the Bonds and (C) whether the Trustee has actual knowledge that an Event of Default (as determined in accordance with the Indenture) or a Determination of Taxability has occurred. If an Event of Default or a Determination of Taxability has occurred to the knowledge of the Trustee, the Trustee shall make no further disbursements from the Project Fund so long as such Event of Default or Determination of Taxability continues to exist except in accordance with the Indenture.

(iii) Upon receipt of confirmation from the Trustee of the matters described in clause (ii) above and on or before the expected Disbursement Date, the Mortgage Lender, the Equity Bridge Lender, the Subordinate Lender or the Seller Lender will transfer to the Trustee, by immediately available funds, the Eligible Funds equal to the Disbursement Amount, in the case of a transfer from the Mortgage Lender or the Equity Bridge Lender.

(iv) Upon receipt by the Trustee from the Mortgage Lender, the Equity Bridge Lender, the Subordinate Lender or the Seller Lender of the Eligible Funds in an amount equal to the Disbursement Amount, such Eligible Funds shall be deposited in the Collateral Fund as provided in the Loan Agreement. In the event that the amount of the Eligible Funds received by the Trustee does not equal the amount of the Disbursement Request, the Trustee shall promptly return such Eligible Funds to the Mortgage Lender, the Equity Bridge Lender, the Subordinate Lender or the Seller Lender, as applicable. In the event that the Trustee is not prepared to immediately disburse funds from the Project Fund in accordance with the Disbursement Request, it shall return the Eligible Funds to the party that deposited it with the Trustee.

(v) Upon satisfaction of the conditions set forth in clauses (i) through (iv) above, the Trustee shall be unconditionally and irrevocably obligated to disburse funds from the Project Fund in accordance with the Disbursement Request. The Trustee shall disburse funds from the Project Fund in accordance with the instructions contained in the Disbursement Request (A) no later than one (1) Business Day after it receives the Eligible Funds in the event the Trustee receives the Eligible Funds with respect to such Disbursement Request prior to 10:30 AM Local Time on such Business Day or (B) on the next succeeding Business Day if the Trustee receives the Eligible Funds after 10:30 AM Local Time.

The Borrower acknowledges and agrees by the Loan Agreement that it shall submit Disbursement Requests to the Trustee no more frequently than once each calendar month and that it shall, simultaneously with the submission of each Disbursement Request to the Trustee, provide a copy of such request to the Mortgage Lender. Each such Disbursement Request shall be consecutively numbered. Proceeds of the Bonds disbursed pursuant to the provisions of this Agreement may only be used to pay those Project Costs identified in the Sources and Uses of Funds attached as an exhibit to the Loan Agreement, as it may be amended pursuant to the agreement of Fannie Mae, the Mortgage Lender and the Borrower.

The Borrower's right to request disbursements for the Project Fund is limited to the principal amount of the Loan.

The Borrower agrees that it will not request disbursement for any item not described in, or the cost for which item is other than as described in, the information statement filed by the Issuer in connection with the issuance of the Bonds as required by Section 149(e) of the Code, and in the notice of public hearing pertaining to the Bonds unless the Borrower provides to the Mortgage Lender, with a copy to the Trustee and the Issuer, an Opinion of Bond Counsel to the effect that such disbursement will not adversely affect the Federal Tax Status of the Bonds.

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

Notwithstanding any provision of the Loan Agreement or any provision of the Indenture to the contrary, the Trustee shall not disburse funds from the Project Fund unless and until the Trustee confirms that the account balance of the Collateral Fund plus the account balance of the Project Fund, less the amount of the requested disbursement from the Project Fund, is at least equal to the then-outstanding principal amount of the Bonds.

#### **Borrower Required to Pay Costs in Event Project Fund Insufficient**

If money in the Project Fund is not sufficient to pay all Project Costs, the Borrower, nonetheless, will complete the Project in accordance with the Plans and Specifications and shall pay all such additional Project Costs from its own funds. The Borrower shall pay all Costs of Issuance of the Bonds in excess of the amount permitted by the Tax Agreement. The Borrower shall not be entitled to any reimbursement for any such additional Project Costs or payment of Costs of Issuance from the Issuer, the Trustee or any Holder; nor shall it be entitled to any abatement, diminution or postponement of any Loan Payments or other amounts to be paid under the Loan Agreement.

#### **Completion Date**

The Borrower shall notify the Issuer and the Trustee of the Completion Date by the delivery of a Completion Certificate signed by the Authorized Borrower Representative substantially in the form attached as an exhibit to the Loan Agreement. The Completion Certificate shall be delivered as promptly as practicable after the occurrence of the events and conditions referred to in paragraphs (a), (b), and (d) of the Completion Certificate and an accountant's determination has been made that the representation in the Loan Agreement is true and correct.

## **Loan Repayment; Delivery of Note**

In consideration of and in repayment of the Loan, the Borrower shall deliver or cause to be delivered to the Trustee on or before each Bond Payment Date, Loan Payments equal to the amount necessary to pay interest on and principal of the Bonds due on the next Bond Payment Date. All such Loan Payments shall be paid to the Trustee in accordance with the terms of the Note for the account of the Issuer and shall be held and disbursed in accordance with the provisions of the Indenture and the Loan Agreement.

The Borrower shall be entitled to a credit against the Loan Payments required to be made with respect to the Bonds on any date equal to the available money in the Bond Fund or transferred thereto from the Collateral Fund or the Project Fund for the payment of Bond Service Charges on that date.

To evidence the Borrower's obligations under the Loan Agreement, the Borrower shall execute and deliver the Note concurrently with the issuance and delivery of the Bonds.

Payments on the Note shall inure equally and ratably to the benefit of the Holders of all Outstanding Bonds. So long as no Event of Default has occurred and is subsisting under the Loan Agreement, payments by the Borrower on the Note shall be used by the Trustee to make a like payment of Bond Service Charges and shall constitute Loan Payments.

Upon payment in full, in accordance with the Indenture, of the Bond Service Charges on any or all Bonds, whether at maturity or otherwise, or upon provision for the payment thereof having been made in accordance with the provisions of the Indenture, (a) the Note shall be deemed fully paid, the obligations of the Borrower thereunder shall be terminated, and the Note shall be surrendered by the Trustee to the Borrower, and shall be canceled by the Borrower, or (b) an appropriate notation shall be endorsed thereon evidencing the date and amount of the principal payment (or prepayment) equal to the Bonds so paid, or with respect to which provision for payment has been made, and the Note shall be surrendered by the Trustee to the Borrower for cancellation if all Bonds shall have been paid (or provision made therefor) and canceled as aforesaid. Unless the Borrower is entitled to a credit under express terms of the Loan Agreement or the Note, all payments on the Note shall be in the full amount required thereunder.

## **Eligible Funds**

In consideration of and as a condition to the disbursement of Bond proceeds in the Project Fund to pay Project Costs, and to secure the Borrower's obligation to make Loan Payments, the Borrower shall direct the Mortgage Lender, the Equity Bridge Lender, the Subordinate Lender and the Seller Lender to deliver or cause to be delivered to the Trustee on or before each such disbursement Eligible Funds equal to the amount of the proposed disbursement from the Project Fund. All such amounts shall be paid to the Trustee for the benefit of the Holders and shall be held in the Collateral Fund and disbursed in accordance with the provisions of the Indenture. Upon receipt of Eligible Funds and satisfaction of the other conditions set forth in the Loan Agreement, the Trustee shall be unconditionally and irrevocably obligated to disburse an equal amount of funds in the Project Fund to, or at the direction of, the Mortgage Lender as provided in the Loan Agreement. In no event may funds held in the Collateral Fund be used to pay Project Costs.

## **Optional Prepayment**

Provided no Event of Default shall have occurred and be continuing, at any time and from time to time, the Borrower may deliver money to the Trustee in addition to Loan Payments or Additional Payments required to be made as a prepayment, in whole or in part, of the Loan and direct the Trustee to use the money so delivered for the purpose of purchasing Bonds, in accordance with the Indenture. Pending application for those purposes, any money so delivered shall be held by the Trustee in a special account in the Bond Fund and delivery of such money shall not operate to abate or postpone Loan Payments or Additional Payments otherwise becoming due or to alter or suspend any other obligations of the Borrower under the Loan Agreement.

## **Borrower's Obligations Upon Tender of Bonds**

If any Tendered Bond is not remarketed on any Mandatory Tender Date and a sufficient amount is not available in the Collateral Fund, the Negative Arbitrage Account of the Bond Fund and the Project Fund as provided in the Indenture for the purpose of paying the purchase price of such Bond, the Borrower will cause to be paid to the Trustee by the applicable times provided in the Indenture, an amount equal to the amount by which the principal amount of all Bonds tendered and not remarketed, together with interest accrued to the Mandatory Tender Date, exceeds the amount otherwise available pursuant to the Indenture.

## **Option to Terminate**

The Borrower shall have the option to cancel or terminate the Loan Agreement at any time when (a) the Indenture shall have been released in accordance with its provisions, and (b) sufficient money or security acceptable to the Issuer and the Trustee are on deposit with the Trustee or the Issuer, or both, to meet all Loan Payments and Additional Payments due or to become due through the date on which the last of the Bonds is then scheduled to be retired or redeemed, or, with respect to Additional Payments to become due, provisions satisfactory to the Trustee and the Issuer are made for paying such amounts as they come due. Such option shall be exercised by the Authorized Borrower Representative, on behalf of the Borrower, giving the Issuer and the Trustee five days' notice in writing of such cancellation or termination and such cancellation or termination shall become effective at the end of such notice period. The provisions of this section shall not be deemed to permit a prepayment of the Note other than in accordance with its terms.

## **Events of Default**

Each of the following shall be an Event of Default under the Loan Agreement:

(a) The Borrower shall fail to pay any Loan Payment on or prior to the date on which that Loan Payment is due and payable to the extent amounts on deposit in the Bond Fund, including amounts transferred from the Collateral Fund and the Project Fund are insufficient to pay the Bond Service Charges due on the next Bond Payment Date;

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

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

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

(e) There shall occur an “Event of Default” (as defined in the Indenture) by the Borrower or an event of default beyond applicable notice and cure periods under the Regulatory Agreement.

Notwithstanding the foregoing, if, by reason of Force Majeure, the Borrower is unable to perform or observe any agreement, term or condition above which would give rise to an Event of Default under subsection (b) above, the Borrower shall not be deemed in default during the continuance of such inability. However, the Borrower shall promptly give notice to the Trustee and the Issuer of the existence of an event of Force Majeure and shall use commercially reasonable efforts to remove the effects thereof; provided that the settlement of strikes or other industrial disturbances shall be entirely within its discretion.

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

(1) acts of God; strikes, lockouts or other industrial disturbances; acts of terrorism or of public enemies; orders or restraints of any kind of the government of the United States of America or of the State or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; civil disturbances; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; tornados; storms; droughts; floods; arrests; restraint of government and people; explosions; breakage, malfunction or accident to facilities, machinery, transmission pipes or canals; partial or entire failure of utilities; shortages of labor, materials, supplies or transportation; or

(2) any cause, circumstance or event not reasonably within the control of the Borrower.

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

### **Remedies on Default**

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

(a) If acceleration of the principal amount of the Bonds has been declared pursuant to the Indenture, the Trustee shall declare all Loan Payments to be due and payable together with any other amounts payable by the Borrower under the Loan Agreement and the Note whereupon the same shall become immediately due and payable;

(b) The Trustee may exercise any or all or any combination of the remedies specified in the Loan Agreement or any other Financing Document;

(c) The Issuer or the Trustee may have access to, inspect, examine and make copies of the books, records, accounts and financial data of the Borrower pertaining to the Project; or

(d) The Issuer or the Trustee may pursue all remedies now or hereafter existing at law or in equity to collect all amounts then due and thereafter to become due under the Loan Agreement and the Regulatory Agreement and the Note or to enforce the performance and observance of any other obligation or agreement of the Borrower under those instruments.

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

discharged in accordance with the provisions of the Indenture, shall be paid as provided in the Indenture for transfers of remaining amounts in the Bond Fund.

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

#### **No Remedy Exclusive**

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

#### **No Waiver**

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

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## APPENDIX D

### SUMMARY OF CERTAIN PROVISIONS OF THE REGULATORY AGREEMENT

*The following is a summary of certain provisions of the Regulatory Agreement. The summary does not purport to be complete or definitive and is qualified in its entirety by reference to the Regulatory Agreement, a copy of which is on file with the Trustee.*

The Issuer, the Borrower and the Trustee will enter into a Land Use Restriction Agreement (the “Regulatory Agreement”) in order to set forth certain terms and conditions relating to the rehabilitation and operation of the Project. All capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Indenture and the Regulatory Agreement.

#### **Residential Rental Property**

The Borrower represents, covenants, warrants and agrees that:

(a) (i) The Project will be acquired and constructed for the purpose of providing “qualified residential rental property” as such phrase is used in Section 142(d) of the Code, (ii) the Borrower shall own the entire Project for federal tax purposes, and (iii) the Project shall be owned, managed and operated as a multifamily residential rental property comprised of a building or structure or several buildings or structures containing similarly constructed units, together with any functionally related and subordinate facilities and no other facilities, in accordance with Section 142(d) of the Code and Sections 1.103-8(b)(4) and 1.103-8(a)(3) of the Regulations (as modified by Section 142(d) of the Code), and in accordance with such requirements as may be imposed thereby on the Project from time to time.

(b) The Project will be comprised of one or more similarly constructed units, each of which will contain separate and complete facilities for living, sleeping, eating, cooking and sanitation for an individual or a family, including a living area, a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, refrigerator and sink.

(c) None of the residential rental units in the Project will at any time be (i) utilized on a transient basis, (ii) rented for lease periods of less than six (6) months, or (iii) will be used as a hotel, motel, dormitory, fraternity or sorority house, rooming house, nursing home, hospital, sanitarium, rest home or trailer court or trailer park, or health club or recreational facility (other than health and/or recreational facilities that are available only to tenants and their guests without charge for their use and that are customarily found in Multifamily rental housing projects), and (iv) none of the occupants of such units shall be provided services customarily found in hotels such as room service for food and beverages, maid service, furnishing and laundering of linens or valet service.

(d) All of the residential rental units in the Project will be rented or available for rent on a continuous basis to members of the general public (other than units occupied by persons permitted pursuant to subsection (i) below) and the Borrower will not give preference to any particular class or group in renting the residential rental units in the Project, except to the extent that units are required to be leased or rented to Low-Income Tenants. Low-Income Tenants will have equal access to and enjoyment of all common facilities of the Project. The Borrower will not discriminate against children of any age when renting the residential rental units in the Project.

(e) The Land consists of a parcel of real property or parcels of real property that are contiguous except for the interposition of a road, street, stream or similar property, and the Project comprises buildings, structures and facilities that are proximate and financed pursuant to a common plan,

(f) Less than 25% of the Net Proceeds of the Bonds will be used (directly or indirectly) to acquire the Land.



(g) None of the Net Proceeds of the Bonds will be used to acquire any property (or an interest therein) unless the first use of such property is pursuant to such acquisition (within the meaning of Section 147(d)(1) of the Code); provided, however, that proceeds of the Bonds may be used to finance the acquisition of property (or an interest therein) where the “first use” of such property is not pursuant to such acquisition if rehabilitation expenditures with respect to such building equal or exceed fifteen percent (15%) of the portion of the cost of acquiring such building (and equipment) financed with proceeds of the Bonds. For purposes of this paragraph, the term “rehabilitation expenditures” has the same meaning given such term in section 147(d)(3) of the Code and, thus, does not include, among other things, any expenditures incurred more than two years after the later of the date the Bonds were issued, or the date on which the property was acquired, or any expenditures attributable to the enlargement of an existing building nor any expenditures described within Section 47(c)(2)(B) of the Code. Expenditures to rehabilitate a building include expenditures to rehabilitate equipment or to replace equipment having substantially the same function, but only if the equipment was part of an integrated operation contained in the building prior to its acquisition by the Borrower. References to equipment in parenthesis refer only to equipment which is functionally related and subordinate to and is purchased with an existing building.

(h) No proceeds of the Bonds shall be used directly or indirectly to provide any airplane, skybox or other private luxury box, health club facility (other than the normal and customary workout facility available to all tenants), facility used for gambling or store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(i) The Borrower or any related person (within the meaning of the Code) shall not occupy any of the residential rental units in the Project; provided, however, that the Borrower or a related person may occupy a residential rental unit in a building or structure that contains five or more residential rental units if the Borrower or a related person is a resident manager or other necessary employee (e.g., maintenance and security personnel).

(j) In the case of a “mixed-use” project wherein part of the building or structure, together with any facilities functionally related and subordinate thereto, contains one or more similarly constructed residential rental units that in the aggregate, meet the Low-Income Tenant occupancy requirements of the Regulatory Agreement (the “residential rental units”) and the rest of the building is devoted to use unrelated to such units (the “nonqualifying property”), the term “residential rental project” shall mean only the residential rental units and the other portions of the Project allocable to such units, including the allocable portion of the property benefiting both the residential rental units and the nonqualifying property (e.g., the common elements), and all property benefiting only the residential rental units. The allocation of the costs of the common elements shall be made according to a method that properly reflects the proportionate benefit derived, directly or indirectly, by the residential rental units and the nonqualifying property.

(k) If the Project is receiving Section 8 assistance, the Borrower will comply with all Section 8 requirements in administering these restrictions.

(l) No portion of the Project will at any time be owned or used by a cooperative housing corporation;

(m) The Project consists of one or more discrete edifices or other man made construction, each consisting of an independent foundation, outer walls and roof, all of which are (i) owned by the same person for federal tax purposes, (ii) located on a common tract of land or two or more tracts of land which are contiguous except for being separated only by a road, street, stream or similar property, and (iii) financed by the Loan or otherwise pursuant to a common plan of financing, and which will consist entirely of:

(1) Units which are similar in quality and type of construction and amenities;

(2) Facilities functionally related and subordinate in purpose and size to property described above, e.g., parking areas, swimming pool, exercise room and other recreational facilities (none of which may be unavailable to any person because such person is a Low-Income Tenant)

and other facilities which are reasonably required for the Project, e.g., heating and cooling equipment, trash disposal equipment or units for residential managers or maintenance personnel;

(n) that during the Term of the Regulatory Agreement, the Project will not include a unit in a building where all units in such building are not also included in the Project;

(o) that during the Term of the Regulatory Agreement, the Borrower will not convert the Project to condominium ownership;

(p) within thirty (30) days of the Completion Date, the Borrower shall prepare and submit to Authority and the Trustee a certificate in recordable form for purposes of the calculation of the commencement and termination of the Qualified Project Period, if applicable;

(q) that the Borrower shall not discriminate on the basis of race, religion, color, age, sex, marital status, familial status, disability or national origin in the lease, use or occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project; provided, however, that nothing in the Regulatory Agreement shall be deemed to preclude the Borrower from discrimination based on income or reported tenant problems relating to the applying tenant or tenants in renting units set aside for Low-Income Tenants in compliance with the requirements of the Code and the Regulatory Agreement; notwithstanding the foregoing, the Borrower shall not be precluded from discrimination based on age and familial status so long as the Borrower complies with all requirements imposed by or pursuant to the federal fair housing law and regulations of the Department of Housing and Urban Project (24 CFR) issued pursuant to Title VI, the Fair Housing Act, the Rehabilitation Act, the Age Discrimination Act or Executive Order 11063, and similar state laws and regulations; and

(r) that the Borrower shall submit an annual report to the Secretary of the Department of Treasury as required by Section 142(d)(7) of the Code and deliver a copy thereof to Authority and to the Trustee.

The requirements of this section shall terminate at the end of the Qualified Project Period, except as otherwise described in the section "Term" below.

### **Low Income Tenants**

The Borrower represents, warrants and covenants as follows:

(a) At all times during the Qualified Project Period, not less than forty percent (100%) of the completed residential rental units shall be occupied or held available for occupancy by Low-Income Tenants.

(b) At all times during the Qualified Project Period, all of the residential rental units in the Project will be rented as a residential dwelling, on a continuous basis and may not be used or converted to owner-occupied housing or other residential or business use. For purposes of this requirement, a building or structure will not be deemed to be held for rental use if it contains less than five units, any unit of which is occupied by the owner of the residential rental units.

(c) The determination of whether the income of a resident of a residential rental unit exceeds the applicable income limit shall be made at the time of initial occupancy and annually thereafter on the basis of the current income of the resident. For purposes of paragraphs (a) and (b) of this section, a residential rental unit occupied by an individual or family who at the commencement of the occupancy of such unit is a Low-Income Tenant shall be counted as occupied by a Low-Income Tenant during such individual's or family's tenancy in such unit, even though such individual or family ceases to be a Low-Income Tenant. However, the preceding sentence shall cease to apply to any Low-Income Tenant whose income under the most recent determination exceeds one hundred forty percent (140%) of the applicable income limit if after such determination, but before the next determination, any residential rental unit of comparable or smaller size in the same building (as defined for purposes of the low income housing tax credit in Section 42 of the

Code) is occupied by a new resident whose income exceeds the applicable income limit. In addition, a unit that was occupied by a Low-Income Tenant shall be counted as occupied by a Low-Income Tenant until it is reoccupied for a period in excess of thirty-one (31) days, at which time the residential rental unit shall be considered to be occupied by a Low-Income Tenant only if the individual or family then occupying the residential rental unit satisfies the definition of a Low-Income Tenant.

(d) A development which certifies 100% of its units as low-income shall perform one annual income recertification effective upon the first anniversary of any household's move-in or initial certification. No additional income recertification shall be required by the Authority; however, annual determination of student status shall be required for households comprised entirely of students. Should the annual income recertification of such households result in non-compliance with income occupancy requirements, the next available unit must be rented to a qualifying household in order to ensure continuing compliance of the Project.

(e) The form of lease to be used by the Borrower in renting any unit in the Project to a person who is intended to be a Low-Income Tenant shall (i) provide for termination of the lease and consent by such person to immediate eviction for failure to qualify as a Low-Income Tenant as a result of any material misrepresentation made by such person with respect to the income certification, and (ii) subject to paragraph (d) above, require that the tenant of the unit certify the income of the residents of the unit annually and at any time as the Borrower may reasonably request. The form of lease for the residential rental units to be utilized by the Borrower in renting all dwelling units in the Project shall be subject to the Authority's approval. The lease for the residential rental units must comply with all applicable Section 8 requirements if the Project is receiving a subsidy pursuant to Section 8 of the United States Housing Act of 1937.

## **Term**

Subject to the rights of the Authority and the Trustee to indemnification by the Borrower pursuant to the Regulatory Agreement, which shall survive the termination thereof, the Regulatory Agreement shall remain in full force and effect until the "Term of this Agreement," which shall be the later of (i) the payment in full of the Bonds (or any bonds refunding the Bonds), or (ii) the expiration of the Qualified Project Period, it being expressly agreed and understood that the provisions of the Regulatory Agreement may survive the termination of the Loan Agreement, if repayment of the Loan occurs prior to the later of such events. Upon the termination of the Regulatory Agreement, upon request of any party thereto, the Authority, the Trustee, the Borrower and any successor party thereto shall execute a recordable document prepared by the Authority or its counsel further evidencing such termination.

Notwithstanding the preceding paragraph, the restrictions and requirements contained in the Regulatory Agreement shall, except as otherwise provided therein as to the Borrower and subject to the provisions of the last sentence in this paragraph, automatically terminate in the event of involuntary noncompliance caused by fire, seizure, requisition, foreclosure or transfer of title by deed in lieu of foreclosure to an entity other than the Borrower or a related person (within the meaning of the Code) to the Borrower, change in a federal law or an action of a federal authority after the date the Bonds are issued which prevents compliance with the covenants expressed therein, or condemnation or similar event (as determined by the Authority upon the advice of Qualified Bond Counsel), but only if, within a reasonable period, either (i) all Bonds are paid, redeemed, retired or cancelled in full, or (ii) amounts received as a consequence of such event are used to provide a project that meets and is subject to the requirements of the Code and applicable Regulations thereunder. In such event, upon the request of the Borrower and at the expense of the Borrower, the parties to the Regulatory Agreement shall execute an appropriate document in recordable form prepared by the Authority or its counsel to evidence such automatic termination, but the failure to execute or record such document shall not affect the automatic termination. This paragraph shall not apply (and the restrictions contained in the Regulatory Agreement shall thereafter apply) to the Project in the event that, subsequent to any involuntary noncompliance as described in this paragraph but prior to the expiration of the Qualified Project Period, an obligor on the acquired purpose investment (as defined in Section 1.148-1(b) of the Regulations) or a related person (as defined in Section 1.103-10(e) of the Regulations) obtains an ownership interest in the Project for tax purposes.

Notwithstanding any other provisions of the Regulatory Agreement, the entire Regulatory Agreement, or any of the provisions or sections thereof, may be terminated with the written consent of the Authority, the Trustee, or its

assigns and the Borrower if there shall have been received an opinion of Qualified Bond Counsel that such termination will not adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

The Trustee's obligations under the Regulatory Agreement terminate at such time as the Bonds are no longer outstanding.

### **Transfer of Project; Covenants to Run with the Land**

(a) The Borrower shall not (i) enter into a voluntary sale, lease (other than leases of rental units to tenants), exchange, assignment, conveyance, transfer or other disposition (collectively, a "Disposition") of all or substantially all of the Project or (ii) allow itself to be terminated for federal income tax purposes or (iii) so long as any Bonds remain Outstanding, place any mortgage lien, assignment of leases and rents or security interests on or pertaining to the Project, without in each instance the prior written consent of the Authority. The Authority shall not unreasonably withhold its written consent to a Disposition, as long as the requirements of this section are fully satisfied. It is expressly agreed that, in connection with determining whether to grant or withhold such consent, the Authority may (but is not obligated to), among other things: (1) consider the creditworthiness of the party to whom such Disposition will be made and such party's management ability with respect to the Project; (2) consider whether or not the security for repayment of the Loan and other payment obligations under the Loan Agreement, and the performance of the covenants and other obligations under the Regulatory Agreement (without regard to whether any Bonds are outstanding) or the Authority's ability to enforce its rights, remedies and recourses with respect to such security or performance will be impaired in any way or to any degree by the proposed Disposition; (3) require that the Authority be reimbursed for all reasonable costs and expenses incurred by the Authority in connection with investigating the creditworthiness and management ability of the party to whom such Disposition will be made and in determining whether the Authority's security will be impaired by the proposed Disposition; (4) require the payment of all payment obligations of the Borrower under the Loan Agreement, including but not limited to accrued obligations not yet payable and, in the event of a Disposition in connection with a redemption of the Bonds prior to the termination of the Qualified Project Period, the Compliance Monitoring Fee; (5) require the payment of the Authority's attorneys' fees and expenses in connection with such Disposition; (6) require the express, unconditional assumption of all payment obligations and all performance obligations under the Regulatory Agreement, the Loan Agreement, the Environmental Indemnity and the Guaranty of Recourse Obligations (each as defined in the Indenture) relating to the Project and any other document, agreement or instrument evidencing or securing the Borrower's obligations under the Loan Agreement by the party to whom such Disposition will be made (with or without the release of the transferor Borrower from liability for such obligations), which assumption shall be in form and substance satisfactory to the Authority and its counsel, and require the recording of such assumption document; (7) require the execution of modification agreements, supplemental mortgage documents, financing statements and such other documents, agreements and instruments as the Authority or their counsel may require, (8) require endorsements to any existing Authority or Trustee title insurance policies insuring the Authority's or the Trustee's liens and security interests covering the Project, and (9) require an opinion of Qualified Bond Counsel to the effect that the transfer will not adversely affect the excludability of the interest on the Bonds from the gross income of the holders thereof for federal income tax purposes. The Authority may, in its discretion, release the Borrower from liability under the Regulatory Agreement and the Loan Agreement and may limit any such release from liability to events and occurrences arising after such Disposition, whether or not the Authority has knowledge of prior events or occurrences creating such liability at the time of the Disposition.

(b) The restrictions contained in subsection (a) above shall not be applicable to any of the following: (i) any transfer pursuant to or in lieu of a foreclosure or any exercise of remedies (including, without limitation, foreclosure, deed in lieu of foreclosure or comparable conversion of the Loan under the Lender Mortgage); provided, however, that neither the Borrower nor any related person (within the meaning of the Code) to the Borrower shall acquire any interest in the Project during the remainder of the Qualified Project Period; (ii) any sale, transfer, assignment, encumbrance or addition of partnership interests in the Borrower, provided such sale, transfer, assignment, encumbrance or addition does not constitute a change in ownership of the Project which would adversely affect the excludability from gross income, for federal income tax purposes of the interest payable on the Bonds; (iii) grants of utility-related easements and governmental easements, shown on the title policy approved by the Authority and any other easement and use agreements which may be consented to by the Authority; (iv) service-related leases or easements, such as laundry service leases or television cable easements, and easements related to the construction of the Project over portions of the Project, provided, however, the same are granted in the ordinary course of business

in connection with the operation of the Project as contemplated by the Regulatory Agreement; (v) grants of other easements and entry into other use agreements which may be consented to by the Authority and the Majority Owner; (vi) leases of apartment units to tenants, including Low-Income Tenants, in accordance with the requirements of the Loan Agreement and the Regulatory Agreement and leases of commercial space; (vii) any sale or conveyance to a condemning governmental authority as a direct result of a condemnation or a governmental taking or a threat thereof; (viii) the placing of a subordinate mortgage lien, assignment of leases and rents or security interests on or pertaining to the Project if made expressly subject and subordinate to the Regulatory Agreement, the Loan documents and provided that such subordinate mortgage lien, assignment of leases and rents or security interests is permitted by the Bond Mortgage; (ix) any change in allocations or preferred return of capital, depreciation or losses or any final adjustment in capital accounts (all of which may be freely transferred or adjusted by the Borrower pursuant to the Borrower's creation documents); or (x) the placing of a mortgage lien, assignment of leases and rents or security interests on or pertaining to the Project after the payment (or provision for payment in accordance with the Indenture) of all Bonds and the release of the Bond Mortgage.

(c) The covenants, reservations and restrictions set forth in the Regulatory Agreement shall be deemed covenants running with the Land and, except as provided in the section "Term" above and this section, shall pass to and be binding upon the Borrower's heirs, assigns, and successors in title to the Land or the Project; provided, however, that upon the termination of the Regulatory Agreement in accordance with the terms thereof, said covenants, reservations and restrictions shall expire. Except as provided in the section "Term" above and this section, each and every contract, deed or other instrument thereafter executed covering or conveying the Land or the Project or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments. If a portion or portions of the Project are conveyed, all such covenants, reservations and restrictions shall run to each portion of the Project.

(d) In connection with any Disposition under paragraph (a) above or any transfer or other action addressed in subsection (b)(ii) above other than a transfer of limited partnership interests, the Authority, the Trustee and the Majority Owner shall be entitled to require the Borrower to cause an opinion of Bond Counsel to be delivered to them to the effect that the proposed transfer of the Project will not adversely effect the exclusion of interest on the Bonds from the federal gross income of the holders thereof.

### **Remedies; Enforceability**

If a violation of any of the provisions of the Regulatory Agreement occurs or is attempted, the Authority and its successor and assigns, after expiration of any applicable cure period, may institute and prosecute any proceeding at law or in equity to abate, prevent or enjoin any such violation or attempted violation, to compel specific performance hereunder, or to recover monetary damages caused by such violation or attempted violation. The provisions of the Regulatory Agreement are imposed upon and made applicable to the Land and shall run with the Land and shall be enforceable against the Borrower or any other person or entity that has or had an ownership interest in the Project at the time of such violation or attempted violation. No delay in enforcing the provisions of the Regulatory Agreement as to any breach or violation shall impair, damage or waive the right of any party entitled to enforce the provisions thereof or to obtain relief against or recover for the continuation or repetition of such breach or violation or similar breach or violation thereof at any later time or times. Notwithstanding anything to the contrary in the Regulatory Agreement, with the exception of the obligations of the Borrower to the Authority and the Trustee set forth therein, the liability of the Borrower thereunder is and shall be limited solely to the interest of the Borrower in the Project, it being specifically understood and agreed that neither the Borrower nor the partners comprising the Borrower, if any, shall have any personal liability with respect to the obligations of the Borrower set forth therein, and that any party seeking to enforce personal liability against the Borrower or the partners comprising the Borrower, if any, shall look only to said interest of the Borrower for the satisfaction of such liability. The Authority and the Trustee agree that cure of any violation or default by any limited partner of the Borrower shall be deemed to be a cure by the Borrower and shall be accepted on the same basis as if made by the Borrower.

### **Amendments**

The Regulatory Agreement shall not be amended, revised, or terminated except by a written instrument, executed by the parties, and duly recorded in the Office of the Clerk of the Circuit Court for St. Johns County, Florida.

The Authority's consent to any such amendment, revision or termination shall be given only in accordance with the Indenture.

**[Fannie Mae Rider**

The terms and provisions set forth in the Fannie Mae Rider attached to the Regulatory Agreement are by reference into the Regulatory Agreement.]

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## APPENDIX E

### FORM OF CONTINUING DISCLOSURE AGREEMENT

**\$5,268,000\***

**Housing Finance Authority of St. Johns County, Florida  
Multifamily Housing Revenue Bonds  
(Oaks at St. John), Series 2023A**

This Continuing Disclosure Agreement, dated as of December 1, 2023 (this “Continuing Disclosure Agreement”), is executed and delivered by Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “Borrower”), and U.S. Bank Trust Company, National Association, as dissemination agent (the “Dissemination Agent”), for the above-captioned bonds (the “Bonds”). The Bonds are being issued pursuant to a Trust Indenture, dated as of December 1, 2023 (the “Indenture”), between the Housing Finance Authority of St. Johns County, Florida (the “Issuer”) and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”). The Dissemination Agent and the Borrower covenant and agree as follows:

**Section 1. Purpose of this Continuing Disclosure Agreement.** This Continuing Disclosure Agreement is being executed and delivered by the Borrower and the Dissemination Agent for the benefit of the holders of the Bonds and in order to assist the Participating Underwriter in complying with the Rule (defined below). The Borrower and the Dissemination Agent acknowledge that the Issuer has undertaken no responsibility with respect to any reports, notices or disclosures provided or required under this Continuing Disclosure Agreement, and has no liability to any person, including any holder of the Bonds or Beneficial Owner, with respect to any such reports, notices or disclosures.

**Section 2. Definitions.** In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Continuing Disclosure Agreement unless otherwise defined in this Section 2, the following capitalized terms shall have the following meanings:

“*Annual Report*” shall mean any Annual Report provided by the Borrower pursuant to, and as described in, Sections 3 and 4 of this Continuing Disclosure Agreement.

“*Audited Financial Statements*” means, in the case of the Borrower, the annual audited financial statements prepared in accordance with generally accepted accounting principles, if any.

“*Beneficial Owner*” shall mean any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

“*Disclosure Representative*” shall mean the administrator of the Project or his or her designee, or such other person as the Borrower shall designate in writing to the Dissemination Agent from time to time.

“*Dissemination Agent*” shall mean U.S. Bank Trust Company, National Association, acting in its capacity as Dissemination Agent hereunder, or any successor Dissemination Agent designated in writing by the Borrower and which has filed with the Trustee a written acceptance of such designation.

“*Listed Events*” shall mean any of the events listed in Section 5(a) of this Continuing Disclosure Agreement.

“*MSRB*” means the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the Securities Exchange Act of 1934. All documents provided to the MSRB shall be in an electronic format and accompanied by identifying information, as prescribed by the MSRB. Initially, all document submissions to the MSRB pursuant to this Continuing Disclosure Agreement shall use the MSRB’s Electronic Municipal Market Access (EMMA) system at [www.emma.msrb.org](http://www.emma.msrb.org).

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\* Preliminary; subject to change.

“*Participating Underwriter*” means Colliers Securities LLC, and its successors and assigns.

“*Rule*” means Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

### **Section 3. Provision of Annual Reports.**

(a) The Borrower will, or will cause the Dissemination Agent to, not later than 180 days following the end of the Borrower’s fiscal year, commencing with the fiscal year ending on December 31, 2024, provide to the MSRB an Annual Report which is consistent with the requirements described below. No later than 15 Business Days prior to said date, the Borrower will provide the Annual Report to the Dissemination Agent. In each case, the Annual Report may be submitted as a single document or as separate documents comprising a package and may cross reference other information, provided that the audited financial statements for the prior calendar year of the Borrower may be submitted separately from the balance of the Annual Report.

(b) If by 15 Business Days prior to the date specified in subsection (a) for providing the Annual Report to the MSRB, the Dissemination Agent has not received a copy of the Annual Report, the Dissemination Agent will contact the Disclosure Representative to determine if the Borrower is in compliance with subsection (a).

(c) If the Dissemination Agent is unable to verify that an Annual Report has been provided to the MSRB by the date required in subsection (a), the Dissemination Agent will send in a timely manner a notice to the MSRB in substantially the form attached as Exhibit B to this Continuing Disclosure Agreement.

(d) The Dissemination Agent will file a report with the Borrower certifying that the Annual Report has been provided pursuant to this Continuing Disclosure Agreement, stating the date it was provided.

**Section 4. Content of Annual Reports.** The Borrower’s Annual Report will contain or incorporate by reference the financial information with respect to the Project, provided at least annually, of the type included in Exhibit A hereto, which Annual Report may, but is not required to, include Audited Financial Statements. If the Borrower’s Audited Financial Statements are not available by the time the Annual Report is required to be filed, the Annual Report will contain unaudited financial statements, and the Audited Financial Statements will be filed in the same manner as the Annual Report when and if they become available.

Any or all of the items described in Exhibit A may be incorporated by reference from other documents, including official statements of debt issues with respect to which the Borrower is an “Obligated Person” (as defined by the Rule), which have been filed with the MSRB. The Borrower will clearly identify each such other document so incorporated by reference.

Each annual report submitted hereunder shall be in readable portable document format (“PDF”) or other acceptable electronic form.

### **Section 5. Reporting of Listed Events.**

(a) This Section 5 shall govern the giving of notices of the occurrence of any of the following events (each, a “Listed Event”):

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults, if material;
- (iii) Unscheduled draws on debt service reserves reflecting financial difficulty;
- (iv) Unscheduled draws on credit enhancements reflecting financial difficulty;
- (v) Substitution of credit or liquidity providers, or their failure to perform;



(vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;

(vii) Modifications to rights of holders of the Bonds, if material;

(viii) Bond calls, if material, and tender offers;

(ix) Defeasances;

(x) Release, substitution or sale of property securing repayment of the Bonds, if material;

(xi) Rating changes;

(xii) Bankruptcy, insolvency, receivership or similar event of the Borrower. For purposes of this clause (xii), any such event shall be considered to have occurred when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the Borrower in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Borrower, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Borrower;

(xiii) The consummation of a merger, consolidation, or acquisition involving the Borrower or the sale of all or substantially all of the assets of the Borrower, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;

(xiv) Appointment of a successor or additional trustee or paying agent or the change of the name of a trustee or paying agent, if material;

(xv) Incurrence of a financial obligation of the Borrower, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the Borrower, any of which affect security holders, if material;

(xvi) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the Borrower, any of which reflect financial difficulties; and

(xvii) The Project's being placed in service for purposes of qualifying the property for low income housing tax credits. Notice of the Project's being placed in service from the Borrower to the Dissemination Agent shall be in the form attached as Exhibit D hereto or such other form as may be approved by the Dissemination Agent. Notice of the Project being placed in service from the Dissemination Agent to the Municipal Securities Rulemaking Board shall be in the form attached as Exhibit C hereto or such other form as may be approved by the Dissemination Agent.

For purposes of clauses (xv) and (xvi) of this Section 5(a), "financial obligation" is as contemplated by Exchange Act Release No. 34-83885; File No. S7-01-17 (the "Adopting Release").

(b) Whenever the Borrower obtains knowledge of the occurrence of a potential Listed Event, the Borrower shall, within five (5) Business Days of obtaining such knowledge and in any event no more than seven (7) Business Days after the occurrence of such event, determine if such event is in fact a Listed Event that is required by the Rule to be disclosed and provide the Dissemination Agent with notice and instructions pursuant to subsections (c) or (d) below.

(c) If the Borrower has determined that a Listed Event is required to be disclosed, then the Borrower shall prepare a written notice describing the Listed Event and provide the same to the Dissemination Agent along with instructions to file the same pursuant to subsection (e) below.

(d) If the Borrower determines that an event is not required to be disclosed as a Listed Event then the Borrower shall so notify the Dissemination Agent in writing and instruct the Dissemination Agent not to report the occurrence pursuant to Section 5(e) hereof.

(e) If the Dissemination Agent has been provided with a written notice describing a Listed Event pursuant to subsection (c) of this Section 5 or otherwise, and is instructed by the Borrower to report the occurrence of such Listed Event, the Dissemination Agent shall, within three (3) Business Days of its receipt of such written notice and in any event no more than ten (10) Business Days after the occurrence of the Listed Event, provided that the Borrower has complied with the notice requirements set forth in subsection (b), file the notice with the MSRB and send a copy to the Borrower. The foregoing notwithstanding, (i) the Borrower is solely responsible for instructing the Dissemination Agent to provide notice to the MSRB no more than ten (10) Business Days after the occurrence of a Material Event; and (ii) notice of a Material Event described in Sections 5(a)(viii) and (ix) hereof need not be given under this Section 5(e) any earlier than the notice (if any) of the underlying event is given to the Holders of affected Bonds pursuant to the Indenture.

**Section 6. Amendment; Waiver.** Notwithstanding any other provision of this Continuing Disclosure Agreement, the Borrower and the Dissemination Agent may amend this Continuing Disclosure Agreement (and the Dissemination Agent will agree to any amendment so requested by the Borrower unless such amendment adversely affects its rights, duties, protections, immunities, indemnities or standard of care, as determined by the Dissemination Agent) and any provision of this Continuing Disclosure Agreement may be waived, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions described under paragraph (a) under “Provision of Annual Reports,” “Contents of Annual Reports” or paragraph (a) under “Reporting of Listed Events,” it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law or change in the identity, nature or status of an Obligated Person (as defined in the Rule) with respect to the Bonds or the type of business conducted;

(b) The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment or waiver either (i) is approved by the Holders of the Bonds in the same manner as provided in the Indenture for amendments to the Indenture with the consent of Holders or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Holders or Beneficial Owners of the Bonds.

In the event of any amendment or waiver of a provision of this Continuing Disclosure Agreement, the Borrower will describe such amendment in the next Annual Report and will include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or, in the case of a change of accounting principles, on the presentation) of financial information being presented by the Borrower. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change will be given in the same manner as for a Listed Event under Section 5(e) hereof and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

**Section 7. Default.** In the event of a failure of the Borrower or the Dissemination Agent to comply with any provision of this Continuing Disclosure Agreement and such failure to comply continues beyond a period of thirty (30) days following written notice to the Borrower, the Borrower or any Holder or Beneficial Owner of the Bonds may, take such actions as may be necessary and appropriate, including seeking specific performance by court order,

to cause the Borrower or the Dissemination Agent, as the case may be, to comply with its obligations under this Continuing Disclosure Agreement. A default under this Continuing Disclosure Agreement will not be deemed an Event of Default under the Indenture or the Loan Agreement, and the sole remedy under this Continuing Disclosure Agreement in the event of any failure of the Borrower or the Dissemination Agent to comply with this Continuing Disclosure Agreement will be an action to compel performance.

**Section 8. Beneficiaries.** This Continuing Disclosure Agreement will inure solely to the benefit of the Borrower, the Dissemination Agent, the Participating Underwriter and Holders from time to time of the Bonds and will create no rights in any other person or entity.

**Section 9. Additional Information.** Nothing in this Continuing Disclosure Agreement shall be deemed to prevent the Borrower from disseminating any other information, using the means of dissemination set forth in this Continuing Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Continuing Disclosure Agreement. If the Borrower chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Continuing Disclosure Agreement, the Borrower shall have no obligation under this Continuing Disclosure Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

**Section 10. Duties, Immunities and Liabilities of Dissemination Agent.**

(a) Article VI of the Indenture is hereby made applicable to this Continuing Disclosure Agreement as if this Continuing Disclosure Agreement were (solely for this purpose) contained in the Indenture and the Dissemination Agent shall be entitled to the same protections, limitations from liability and indemnities afforded the Trustee thereunder. The Dissemination Agent shall have only such duties as are specifically set forth in this Continuing Disclosure Agreement. The Dissemination Agent's obligation to deliver the information at the times and with the contents described herein shall be limited to the extent the Borrower has provided such information to the Dissemination Agent as required by this Continuing Disclosure Agreement. The Dissemination Agent shall have no duty with respect to the content of any disclosures or notice made pursuant to the terms hereof. The Dissemination Agent shall have no duty or obligation to review or verify any information, disclosures or notices provided to it by the Borrower and shall not be deemed to be acting in any fiduciary capacity for the Issuer, the Holders of the Bonds or any other party. The Dissemination Agent shall have no responsibility for the Borrower's failure to report to the Dissemination Agent a Listed Event or a duty to determine the materiality thereof. The Dissemination Agent shall have no duty to determine, or liability for failing to determine, whether the Borrower has complied with this Continuing Disclosure Agreement. The Dissemination Agent may conclusively rely upon Certifications of the Borrower at all times.

The obligations of the Borrower under this Section 11 shall survive resignation or removal of the Dissemination Agent and defeasance, redemption or payment of the Bonds.

The Dissemination Agent shall have no obligation to make disclosure concerning the Bonds, the Project or any other matter except as expressly set out herein. The fact that the Dissemination Agent or affiliate thereof has or may have any banking, fiduciary or other relationship with the Borrower or any other party in connection with the Project or otherwise, apart from the relationship created by this Continuing Disclosure Agreement, shall not be construed to mean that the Dissemination Agent or affiliate thereof has knowledge or notice of any event or condition relating to the Bonds or the Project except in its respective capacities under this Continuing Disclosure Agreement.

No provision of this Continuing Disclosure Agreement shall require or be construed to require the Dissemination Agent to interpret or provide an opinion concerning any information disclosed hereunder.

The Borrower hereby agrees to compensate the Dissemination Agent for the services provided and the expenses incurred pursuant to this Continuing Disclosure Agreement, in an amount to be agreed upon from time to time hereunder, and to reimburse the Dissemination Agent upon its request for all reasonable expenses, disbursements and advances incurred by the Dissemination Agent hereunder (including any reasonable compensation and expenses of counsel) except any such expense, disbursement or advance that may be attributable to Dissemination Agent's negligence or willful misconduct.

No provision of this Continuing Disclosure Agreement shall require the Dissemination Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights of powers.

(b) The Dissemination Agent may, from time to time, consult with legal counsel (either in-house or external) of its own choosing in the event of any disagreement or controversy, or question or doubt as to the construction of any of the provisions hereof or its respective duties hereunder, and shall not incur any liability and shall be fully protected in acting in good faith upon the advice of such legal counsel. The reasonable fees and expenses of such counsel shall be payable by the Borrower.

(c) All documents, reports, notices, statements, information and other materials provided to the MSRB under this Continuing Disclosure Agreement shall be provided in an electronic format and accompanied by identifying information as prescribed by the MSRB.

**Section 11. Notices.** All notices, requests, demands or other communications to or upon the respective parties hereto shall be deemed to have been duly given or made when delivered personally or by mail (including electronic mail) to the party to which such notice, request, demand or other communication is required or permitted to be given or made under this Continuing Disclosure Agreement and addressed as set forth below or telecopied to the telecopier number of the recipient, with confirmation of transmission, indicated below:

*If to the Borrower:*

Ponte Vedra Beach Leased Housing Associates I, LLLP  
c/o Dominion Development & Acquisition, LLC  
375 Northridge Road, Suite 500  
Atlanta, GA 30350  
Attention: Terrence Sween  
Email: tsween@dominiuminc.com

*If to the Dissemination Agent:*

U.S. Bank Trust Company, National Association  
60 Livingston Avenue, 3rd Floor  
EP-MN-WS3C  
St. Paul, MN 55107  
Attention: Martha Earley  
Email: martha.earley@usbank.com

**Section 12. Governing Law.** This Continuing Disclosure Agreement shall be governed by the laws of the State of Florida.

**Section 13. Termination of this Continuing Disclosure Agreement.** The Borrower or the Dissemination Agent may terminate this Continuing Disclosure Agreement by giving written notice to the other party at least 30 days prior to such termination. The Dissemination Agent shall be fully discharged at the time any such termination is effective. The Borrower's and the Dissemination Agent's obligations under this Continuing Disclosure Agreement shall terminate upon the legal defeasance, prior redemption, tender, conversion or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the Borrower shall give notice of such termination in a filing with the MSRB.

**Section 14. Counterparts.** This Continuing Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Continuing Disclosure Agreement by their proper and duly authorized officers the day and year first above written.

**PONTE VEDRA BEACH LEASED HOUSING ASSOCIATES I, LLLP,**  
a Minnesota limited liability limited partnership

By: Ponte Veda Beach Leased Housing Associates I, LLC,  
a Minnesota limited liability company,  
as sole General Partner

By: \_\_\_\_\_  
Terrence Sween  
Vice President

[Signatures continued on next page]

[Dissemination Agent Signature Page to Continuing Disclosure Agreement]

**U.S. BANK TRUST COMPANY, NATIONAL  
ASSOCIATION**, as Dissemination Agent

By: \_\_\_\_\_  
Authorized Officer

**EXHIBIT A**

**ANNUAL REPORT**

**\$5,268,000\***

**Housing Finance Authority of St. Johns County, Florida  
Multifamily Housing Revenue Bonds  
(Oaks at St. John), Series 2023A**

**CUSIP: \_\_\_\_\_**

**Annual report for the period ending December 31, \_\_\_\_\_**

**THE PROJECT**

Name of the Project:	Oaks at St. John
Address:	2010 Nettles Lane, Ponte Vedra Beach, FL 32081
Number of Units:	160

**INFORMATION ON THE BONDS**

Original principal amount of Bonds:	
Outstanding principal amount of Bonds:	

**OPERATING HISTORY OF THE PROJECT**

The tables set forth below offer a summary of the operating results of the Project for fiscal year ended December 31, 20\_\_, as derived from the Borrower's audited financial statements [or unaudited financial statements].

<b>Financial Results for Fiscal Year Ending December 31, _____</b>	
Revenues	
Operating Expenses <sup>1</sup>	
Net Operating Income	
Debt Service on the Bonds	
Net Income (Loss)	
Debt Service Coverage Ratio	

<sup>1</sup> Excludes depreciation and other non-cash expenses.

<b>Occupancy Results for Fiscal Year Ending December 31, _____</b>	
Physical Occupancy	_____ %
Economic Occupancy <sup>1</sup>	_____ %

<sup>1</sup> The physical occupancy rate is the proportion of units that are occupied or leased by tenants. The economic occupancy rate is the proportion of the gross potential rent that is actually collected. As such, the economic occupancy takes into consideration items such as model units, employee units, discounted units, rent incentives, loss to lease and bad debt expense.

\* Preliminary; subject to change.

## **AUDITED FINANCIAL STATEMENTS**

\_\_\_\_\_ Attached

\_\_\_\_\_ Audited financial statements of the Borrower for the period ending December 31, 20\_\_ are not yet completed; therefore, no audited financial statements of the Borrower are being filed herewith. Unaudited financial statements for such period are attached in lieu of audited financial statements. Audited financial statements will be filed when available.

\_\_\_\_\_ No audited financial statements of the Borrower were prepared for the period ending December 31, 20\_\_; therefore, no audited financial statements of the Borrower are being filed herewith. Unaudited financial statements for such period are attached in lieu of audited financial statements.



**EXHIBIT B**

**NOTICE OF FAILURE TO  
FILE ANNUAL DISCLOSURE REPORT**

Name of Issuer: Housing Finance Authority of St. Johns County, Florida  
Name of Bond Issue: Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023A  
Name of Borrower: Ponte Vedra Beach Leased Housing Associates I, LLLP  
CUSIP: \_\_\_\_\_  
Date of Issuance: December \_\_\_\_, 2023

NOTICE IS HEREBY GIVEN that the above-referenced borrower (the “Borrower”) has not provided an Annual Report with respect to the above-named Bonds as required by its Continuing Disclosure Agreement. The undersigned has been informed by the Borrower that it anticipates that Annual Report will be filed by \_\_\_\_\_.

DATED: \_\_\_\_\_

**U.S. BANK TRUST COMPANY, NATIONAL  
ASSOCIATION,**  
as Dissemination Agent

By: \_\_\_\_\_  
Authorized Officer

cc: Borrower

**EXHIBIT C**

**NOTICE TO MUNICIPAL SECURITIES RULEMAKING BOARD OF  
PROJECT PLACED IN SERVICE**

Name of Issuer: Housing Finance Authority of St. Johns County, Florida  
Name of Bond Issue: Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023A  
Name of Borrower: Ponte Vedra Beach Leased Housing Associates I, LLLP  
Name of Project: Oaks at St. John  
Address of Project: 2010 Nettles Lane, Ponte Vedra Beach, FL 32081  
Date of Issuance: December \_\_\_\_, 2023

NOTICE IS HEREBY GIVEN as per the requirements of the Continuing Disclosure Agreement, dated as of December 1, 2023, between the above-referenced borrower (the “Borrower”) and U.S. Bank Trust Company, National Association, as Dissemination Agent, that the Borrower has certified that the above-referenced project (the “Project”) is complete and placed in service by the Borrower as evidenced by a certificate from the Borrower confirming that the Project is placed in service for purposes of Section 42 of the Code.

Dated:

**U.S. BANK TRUST COMPANY, NATIONAL  
ASSOCIATION,**  
as Dissemination Agent

By: \_\_\_\_\_  
Authorized Officer

cc: Borrower

**EXHIBIT D**

**FORM OF NOTICE OF PLACED IN SERVICE**

**\$5,268,000\***

**Housing Finance Authority of St. Johns County, Florida  
Multifamily Housing Revenue Bonds  
(Oaks at St. John), Series 2023A**

The undersigned hereby provides notice to U.S. Bank Trust Company, National Association, a national banking association, as dissemination agent (the "Dissemination Agent") that the multifamily rental housing facility known as Oaks at St. John (the "Project") has been placed in service in accordance with the Trust Indenture, dated as of December 1, 2023, between the Housing Finance Authority of St. Johns County, Florida (the "Issuer") and U.S. Bank Trust Company, National Association, a national banking association, as trustee (the "Trustee"), pursuant to which the above-captioned bonds were issued, as further evidenced by the attached Certificate of Occupancy.

**PONTE VEDRA BEACH LEASED HOUSING ASSOCIATES I, LLLP,**  
a Minnesota limited liability limited partnership

By: Ponte Vedra Beach Leased Housing Associates I, LLC,  
a Minnesota limited liability company,  
as sole General Partner

By: \_\_\_\_\_  
Terrence Sween  
Vice President

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\* Preliminary; subject to change.

**ATTACHMENT**  
**Certificate of Occupancy**

**APPENDIX F**

**FORM OF BOND COUNSEL OPINION**

*Set forth below is the proposed form of the opinion letter of Butler Snow LLP, Bond Counsel. It is preliminary and subject to change prior to the delivery of the Bonds.*

[to be provided]

**EXHIBIT J**  
**SERIES 2023B BOND PURCHASE AGREEMENT**  
**(see attached)**

**Second Draft**  
**November 13, 2023**

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**BOND PURCHASE AGREEMENT**

**BY AND BETWEEN**

**HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA,**  
**as Issuer,**

**PONTE VEDRA BEACH LEASED HOUSING ASSOCIATES I, LLLP,**  
**as Borrower,**

**AND**

**COLLIERS SECURITIES LLC,**  
**as Underwriter**

**Dated December \_\_, 2023**

**\$\_\_\_\_\_**  
**Housing Finance Authority of St. Johns County, Florida**  
**Multifamily Housing Revenue Bonds**  
**(Oaks at St. John Project)**  
**Series 2023B**

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This instrument drafted by:  
Ballard Spahr LLP (BWJ)  
2000 IDS Center  
80 South 8<sup>th</sup> Street  
Minneapolis, Minnesota 55402

**BOND PURCHASE AGREEMENT**

\$ \_\_\_\_\_

**Housing Finance Authority of St. Johns County, Florida  
Multifamily Housing Revenue Bonds  
(Oaks at St. John Project)  
Series 2023B**

December \_\_, 2023

Housing Finance Authority of St. Johns County, Florida  
St. Augustine, Florida

Ponte Vedra Beach Leased Housing Associates II, LLLP  
c/o Dominion Development & Acquisition, LLC  
2905 Northwest Boulevard, Suite 150  
Plymouth, Minnesota 55441

Ladies and Gentlemen:

Colliers Securities LLC (the “Underwriter”), on its own behalf and not as your fiduciary, hereby offers to enter into this Bond Purchase Agreement (this “Bond Purchase Agreement”) with the Housing Finance Authority of St. Johns County, Florida (the “Issuer”), a public body corporate and politic in accordance with the Florida Housing Finance Authority Law, Part IV of Chapter 159, Florida Statutes, as amended and Ordinance Number 80-7 enacted by the Board of County Commissioners (the “Board”) of St. Johns County, Florida (the “County”) on February 26, 1980, as amended and Resolution 80-25 adopted by the Board on March 11, 1980 (collectively, the “Act”), and any successors and assigns, and Ponte Vedra Beach Leased Housing Associates I, LLLP (the “Borrower”), a Minnesota limited liability limited partnership. This offer is made subject to the Issuer’s and the Borrower’s acceptance on or before 11:00 a.m., Eastern Time, of the date hereof, and, upon such acceptance, this Bond Purchase Agreement shall be in full force and effect in accordance with its terms and shall be binding upon the Issuer, the Borrower and the Underwriter.

The Issuer is authorized to issue the above-captioned Multifamily Housing Revenue Bonds (Oaks at St. John Project), Series 2023B (the “Series 2023B Bonds”) pursuant to the Act and pursuant to a resolution of the Board of Commissioners of the Issuer adopted on December \_\_, 2023 (the “Bond Resolution”). The Series 2023B Bonds shall be as described in and shall be issued pursuant to a Trust Indenture, dated as of December 1, 2023 (the “2023B Indenture”), by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “2023B Trustee”). Capitalized terms used herein but not defined herein shall have the meanings assigned thereto in the 2023B Indenture, as the context requires.

Simultaneously with the issuance of the Series 2023B Bonds, there will be executed and delivered a Loan Agreement, dated as of December 1, 2023 (the “2023B Loan Agreement”), between the Issuer and the Borrower, pursuant to which the Issuer will loan the proceeds of the Series 2023B Bonds to the Borrower (the “2023B Loan”), to be used in order to: (i) finance a portion of the costs necessary for the acquisition and rehabilitation of an existing 160-unit affordable multifamily rental housing development and functionally related facilities, located at 210 Nettles Lane in Ponte Vedra Beach, Florida (the “Project”); (ii) fund capitalized interest to the initial Mandatory Tender Date of July 1, 2026 (the “Mandatory Tender Date”); and (iii) pay fees, expenses and costs incurred in connection with the authorization, issuance and sale of the Series 2023B Bonds.



Payment of the principal of the Series 2023B Bonds, the premium, if any, and the interest thereon will be special limited obligations of the Issuer and will be payable exclusively from payments under the 2023B Loan Agreement. The Series 2023B Bonds shall not constitute an obligation, either general or special, of the State of Florida (the “State”) or any agency, subdivision, or local government thereof, and neither the State nor any agency, subdivision or local government thereof shall be liable thereon. Neither the faith, revenues, credit nor taxing power of the State or any agency, subdivision or local government thereof shall be pledged to the payment of the principal or interest on the Series 2023B Bonds. The Series 2023B Bonds are payable, as to principal and interest, solely out of the Trust Estate (as defined in the 2023B Indenture), which is the sole asset of the Issuer pledged therefor, and then only to the extent provided in the 2023B Indenture. The Issuer has no taxing power.

No recourse shall be had for the payment of the principal of, premium, if any, or interest on the Series 2023B Bonds against any past, present, or future officer, director, counsel, advisor, employee, contractor, consultant, executive director, program manager, 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, counsel, advisors, employees, contractors, consultants, executive directors, program managers, or agents, as such, has been expressly waived and released as a condition of any consideration for the execution and issuance of the Series 2023B Bonds.

The Series 2023B Bonds will be secured by the (i) Pledge and Security Agreement (Borrower), dated as of December 1, 2023 (the “Borrower Pledge Agreement”), executed by the Borrower in favor of the 2023B Trustee, (ii) Pledge and Security Agreement (General Partner), dated as of December 1, 2023 (the “General Partner Pledge Agreement”), executed by Ponte Vedra Beach Leased Housing Associates I, LLC, a Minnesota limited liability company (the “General Partner”), in favor of the 2023B Trustee, and (iii) Guaranty Agreement, dated as of December 1, 2023 (the “Guaranty”), from Dominium Holdings I, LLC and Dominium Holdings II, LLC (together, the “Guarantor”), with respect to the Series 2023B Bonds, for the benefit of the 2023B Trustee.

The Borrower will be required to operate the Project in compliance with a Regulatory Agreement and Declaration of Restrictive Covenants, dated as of December 1, 2023 (the “2023B Regulatory Agreement”), between the Issuer, the Borrower, and the 2023B Trustee, with respect to the Series 2023B Bonds.

Simultaneously with the issuance of the Series 2023B Bonds, the Issuer is also issuing its (i) Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023A (the “Series 2023A Bonds”), in the original aggregate principal amount of \$6,880,000\*, and (ii) Multifamily Housing Revenue Bonds (Oaks at St. John) Series 2023C (the “Series 2023C Bonds”), in the principal amount of \$4,330,000\*, the aggregate proceeds of which will be used to make loans to the Borrower to finance a portion of the cost of the Borrower’s acquisition, rehabilitation and equipping of the Project.

## **SECTION 1. Purchase and Sale of the Series 2023B Bonds**

On the basis of the representations, warranties and agreements contained herein, but subject to the terms and conditions herein, the Underwriter hereby agrees to purchase from the Issuer, and the Issuer hereby agrees to sell to the Underwriter, all, but not less than all, of the Series 2023B Bonds for a purchase price of \$\_\_\_\_\_. Each series of the Series 2023B Bonds shall bear interest at the rate and mature on the date as provided in Schedule I hereto, and have such other terms as provided in the 2023B Indenture and described in the 2023B Limited Offering Memorandum. The Borrower agrees to pay to the Underwriter, as compensation for its services, an underwriting fee equal to \$\_\_\_\_\_ with respect to the Series 2023B Bonds (the “Underwriting Fee”). The Underwriting Fee, plus an additional \$\_\_\_\_\_ to

reimburse the Underwriter for certain fees and expenses related to the Series 2023B Bonds, shall be due and payable in immediately available funds on the Closing Date (defined below), solely and exclusively from funds provided by the Borrower.

The Issuer will deliver, or cause to be delivered, the Series 2023B Bonds to or for the account of the Underwriter against payment of the purchase price therefor by wire transfer of immediately available funds to the 2023B Trustee (the “Closing”) at or prior to 12:00 p.m., Central Time, on December \_\_\_, 2023, or at such other time not later than seven days thereafter as the Underwriter, the Borrower and the Issuer shall mutually agree (the “Closing Date”). One Bond of each series will be delivered, registered in the name of Cede & Co. to the 2023B Trustee as agent for The Depository Trust Company on or prior to the Closing Date. The Series 2023B Bonds may be in printed, engraved, typewritten or photocopied form, and each such form shall constitute a “definitive” form.

The Borrower and the Issuer acknowledge that the Underwriter, without regard to priority, may allocate the Series 2023B Bonds between customer orders and orders that could be considered to be from “related accounts” for purposes of MSRB Rule G-11. The Issuer and the Borrower hereby agree to the Underwriter’s allocation of the Series 2023B Bonds to the orders that the Underwriter received during the order period for the Series 2023B Bonds, regardless of priority between customer accounts and those accounts that could be considered “related accounts.”

## **SECTION 2. 2023B Preliminary Limited Offering Memorandum and 2023B Limited Offering Memorandum**

(a) The Borrower has delivered or will deliver to the Underwriter, without charge, in such quantities as the Underwriter has requested or may hereafter reasonably request, copies of the Preliminary Limited Offering Memorandum, dated \_\_\_\_\_, 2023, prepared with respect to the Series 2023B Bonds (the “2023B Preliminary Limited Offering Memorandum”), and the final 2023B Limited Offering Memorandum, dated the date hereof, prepared with respect to the Series 2023B Bonds (the “2023B Limited Offering Memorandum”), and any amendments or supplements thereto. The Borrower will be responsible for any costs associated with printing and mailing the 2023B Preliminary Limited Offering Memorandum and the 2023B Limited Offering Memorandum.

(b) The Issuer and the Borrower acknowledge that the Underwriter is required to comply with the requirements of Rule 15c2-12 of the Securities Exchange Act of 1934, as amended (the “Rule”), in connection with the offer and sale of the Series 2023B Bonds and each agrees to cooperate (at the sole cost and expense of the Borrower) with the Underwriter so as to enable the Underwriter to comply with the Rule. To this end, the Borrower has delivered to the Underwriter the 2023B Preliminary Limited Offering Memorandum with respect to the Series 2023B Bonds that the Borrower deemed final as of its respective date, except for the omission of no more than the following information: offering price(s), interest rate(s), accreted values, yield to maturity, selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, ratings and other terms of the Series 2023B Bonds depending on such matters and the identity of the underwriter(s), all with respect to the issuance and sale of the Series 2023B Bonds (collectively, “Permitted Omissions”). The Borrower deems the 2023B Preliminary Limited Offering Memorandum, as of its date, final within the meaning of the Rule, except for Permitted Omissions. The Borrower expects, for the benefit of the Holders of the Series 2023B Bonds, to enter into a Continuing Disclosure Agreement (as defined herein) with respect to the Series 2023B Bonds, by which the Borrower will undertake to provide continuing disclosure in accordance with the Rule. The Borrower, its partners and all entities affiliated with the Borrower and its partners have complied with all of their previous continuing disclosure obligations under the Rule, if any (except to the extent described in the 2023B Preliminary Limited Offering Memorandum and the 2023B Limited Offering Memorandum).

(c) The Borrower and any other “issuers” within the meaning of the Rule, agrees to deliver to the Underwriter, at such addresses as the Underwriter shall specify, as many copies of the 2023B Limited Offering Memorandum as the Underwriter shall reasonably request as necessary to comply with paragraph (b)(4) of the Rule and with Rule G-32 and all other applicable rules of the Municipal Securities Rulemaking Board (the “MSRB”). The Borrower agrees to deliver such 2023B Limited Offering Memorandum within seven (7) Business Days after the date of this Bond Purchase Agreement.

(d) The Borrower has authorized the delivery of the 2023B Preliminary Limited Offering Memorandum and the execution and delivery of the 2023B Limited Offering Memorandum. The Issuer hereby consents to, and the Borrower hereby approves, the use by the Underwriter of the 2023B Preliminary Limited Offering Memorandum and the 2023B Limited Offering Memorandum in connection with the public offering of the Series 2023B Bonds by the Underwriter.

(e) The Borrower will supply sufficient quantities of the 2023B Limited Offering Memorandum to enable the Underwriter (i) to send a single copy of the 2023B Limited Offering Memorandum with any confirmation that requests payment for a Bond, and in any event within seven (7) business days after the date hereof, and to any potential customer upon request until the earlier of (A) 90 days after the End of the Underwriting Period (as defined below) or (B) the time when the 2023B Limited Offering Memorandum is available to any person from a nationally recognized municipal securities information repository, but in no case less than 25 days following the End of the Underwriting Period, and (ii) to comply with any applicable rules of the Municipal Securities Rulemaking Board. The Underwriter agrees to promptly file the 2023B Limited Offering Memorandum with a nationally recognized municipal securities information repository. The “End of the Underwriting Period” means the later of the delivery of the Series 2023B Bonds by the Issuer to the Underwriter or when the Underwriter no longer retains (directly or as a syndicate member) an unsold balance of the Series 2023B Bonds for sale to the public, provided that the “End of the Underwriting Period” will be deemed to be the Closing Date unless the Underwriter otherwise notifies the Issuer and the Borrower in writing prior to such date that there is an unsold balance of the Series 2023B Bonds.

(f) If, during the period from the date hereof and ending on the earlier of (i) 90 days after the End of the Underwriting Period or (ii) the time when the 2023B Limited Offering Memorandum is available to any person from a nationally recognized municipal securities information repository, but in no case less than 25 days following the End of the Underwriting Period, any event occurs as a result of which the 2023B Limited Offering Memorandum for the Series 2023B Bonds as then amended or supplemented might include an untrue statement of material fact, or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the Issuer, if such event relates to the information included in the 2023B Limited Offering Memorandum under the captions “THE ISSUER” and “NO LITIGATION – The Issuer” (solely as the information under such caption relates to the Issuer) (collectively, the “Issuer Portion”) and the Issuer has actual knowledge of such event, or the Borrower shall promptly notify the Underwriter thereof and shall (in either case, at the sole cost and expense of the Borrower), upon the request of the Underwriter, prepare and deliver to the Underwriter, as many copies of an amendment or supplement which will correct such statement or omission as the Underwriter may reasonably request. For the purposes of this Bond Purchase Agreement and the transactions contemplated herein, unless otherwise notified in writing by the Underwriter on or before Closing, the Issuer may assume that the “End of the Underwriting Period” for purposes of the Rule shall be the date of Closing.

(g) The Borrower and the Underwriter each acknowledge that the Issuer has furnished for inclusion in the 2023B Limited Offering Memorandum only the statements and information appearing therein in the Issuer Portion, and all other information contained in the 2023B Limited Offering Memorandum has been furnished by parties other than the Issuer, which other information has not been

independently verified by the Issuer, its board members, its directors, its executive directors, its program managers, its contractors, its consultants, its employees, its agents or its counsel.

(h) The Issuer and the Underwriter agree to cooperate with the Borrower to minimize any expenses incurred in connection with the preparation and distribution of any amendments or supplements to the 2023B Preliminary Limited Offering Memorandum, the 2023B Limited Offering Memorandum and/or any remarketing memoranda required by the foregoing provisions.

### **SECTION 3. Issuer's Representations and Agreements**

The Issuer represents, covenants and agrees with, the Underwriter and the Borrower that:

(a) The Issuer is a public body corporate and politic created in accordance with the Act. The Issuer has the power and authority to carry out and consummate the transactions contemplated by the Issuer Documents.

(b) The 2023B Indenture, the 2023B Loan Agreement, and the 2023B Regulatory Agreement (collectively, the "Issuer Documents") have been duly authorized, and once executed and delivered by the Issuer (assuming due authorization and execution by the other parties thereto), will each be in full force and effect.

(c) By official action of the Issuer prior to or concurrently with the acceptance hereof, the Issuer has consented to the distribution of the 2023B Preliminary Limited Offering Memorandum and the 2023B Limited Offering Memorandum and authorized and approved the execution and delivery of the Issuer Documents and the consummation by the Issuer of the transactions contemplated thereby.

(d) To the Issuer's actual knowledge, there is no litigation pending against (as to which the Issuer has received service of process) or overtly threatened in writing directly against the Issuer or any of its board members in their capacities as such to restrain or enjoin the issuance or sale of the Series 2023B Bonds or the execution and delivery of the Series 2023B Bonds or the Issuer Documents, or in any way affecting or questioning the authority for or the validity of the Series 2023B Bonds or the Issuer Documents, or the existence or power of the Issuer to use the proceeds from the sale of the Series 2023B Bonds as described in the 2023B Loan Agreement.

(e) The Series 2023B Bonds, when delivered in accordance with the 2023B Indenture and paid for by the Underwriter on the Closing Date as provided in this Bond Purchase Agreement, will have been duly authorized, executed, and delivered by the Issuer and will be valid and binding special limited obligations of the Issuer payable solely from the revenues and other property pledged and assigned for such payment as provided in the 2023B Indenture.

(f) All meetings of the board of directors of the Issuer at which action was taken in connection with the Issuer Documents and the Series 2023B Bonds were duly and legally called and held meetings, and were open to the public at all times, and notice of the time and place of each such meeting was given as required by law.

(g) At the request and expense of the Borrower, the Issuer agrees to cooperate with the Underwriter and its counsel in an endeavor to qualify the Series 2023B Bonds for offering and sale under the securities or "Blue Sky" laws of such jurisdictions of the United States of America (the "United States") as the Underwriter may request; provided, however, the Issuer will not authorize the sale of the Series 2023B Bonds in any jurisdiction that requires the Issuer to qualify

to transact business or consent to the service of process in any such jurisdiction, other than the State.

(h) The Issuer Portion of the 2023B Preliminary Limited Offering Memorandum has been “deemed final” as of its date by the Issuer for purposes of the Rule, except for the permitted omissions described in paragraph (b)(1) of the Rule, if any.

(i) The Issuer Portion in the 2023B Preliminary Limited Offering Memorandum did not and does not make any untrue statement of a material fact or omit to state a material fact with respect to the Issuer necessary to make the statements made with respect thereto, in light of the circumstances under which they were made, not misleading.

(j) To the knowledge of the Issuer, the execution and delivery by the Issuer of the Issuer Documents and compliance with the provisions on the Issuer’s part contained therein will not conflict with or constitute a material breach of or default under any law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Issuer is a party or is otherwise subject, nor will any such execution, delivery, adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the properties or assets of the Issuer under the terms of any such law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument, except as provided by the Issuer Documents.

The execution and delivery of this Bond Purchase Agreement by the Issuer shall constitute a representation to the Underwriter that the representations contained in this Section are true as of the date hereof.

#### **SECTION 4. Representations, Warranties and Agreements of the Borrower.**

The Borrower represents, warrants, covenants and agrees with the Issuer and the Underwriter as follows:

(a) The Borrower (i) is duly organized and existing as a limited liability limited partnership under the laws of the State of Minnesota and authorized to do business in the State of Florida, (ii) has full legal right, power and authority to own its properties and to conduct its business as described in the 2023B Limited Offering Memorandum and to enter into and to carry out and consummate the transactions contemplated by the Borrower Documents (defined below) and the 2023B Limited Offering Memorandum, and (iii) is duly qualified to do such business and is in good standing wherever such qualification and/or standing are required, including the State.

(b) The General Partner is duly organized and existing as a limited liability company under the laws of the State of Minnesota, has full legal right, power and authority to own its properties and to conduct its business as described in the 2023B Limited Offering Memorandum and to enter into and to carry out and consummate the transactions contemplated by the Borrower Documents and the 2023B Limited Offering Memorandum, and is duly qualified to do such business and is in good standing wherever such qualification and/or standing are required, including the State.

(c) The Borrower has full legal right, power and authority to enter into: (i) the 2023B Loan Agreement; (ii) the 2023B Regulatory Agreement; (iii) the Borrower Pledge Agreement; (iv) the Continuing Disclosure Agreement, dated as of December 1, 2023 (the “Continuing Disclosure Agreement”), between the Borrower and U.S. Bank Trust Company, National Association, as

dissemination agent (the “Dissemination Agent”); (v) the Remarketing Agreement, dated as of December 1, 2023 (the “Remarketing Agreement”), between the Borrower and Colliers Securities LLC, as remarketing agent; and (vi) this Bond Purchase Agreement (collectively, the “Borrower Documents”).

(d) By all necessary action, the Borrower and the General Partner, as applicable, have duly authorized and adopted the Borrower Documents and approved the execution and delivery of the Borrower Documents, and the performance by the Borrower and the General Partner, as applicable, of the obligations in connection with the issuance of the Series 2023B Bonds on their part contained in the Borrower Documents and the consummation by them of all other transactions contemplated by the 2023B Indenture, the 2023B Limited Offering Memorandum and the Borrower Documents in connection with the issuance of the Series 2023B Bonds.

(e) On the Closing Date, the Borrower Documents will constitute the valid, legal and binding obligations of the Borrower and the General Partner, as applicable (assuming due authorization, execution and delivery by the respective other parties thereto, where necessary), enforceable in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws of general applicability affecting the enforcement of creditors’ rights and to general principles of equity, regardless of whether such enforceability is considered in equity or in law.

(f) At the time of the Borrower’s acceptance hereof and at all times subsequent thereto during the period up to and including the Closing Date, the 2023B Preliminary Limited Offering Memorandum and the 2023B Limited Offering Memorandum do not and will not contain any untrue or misleading statement of a material fact, or any omission or alleged omission of a material fact necessary to be stated therein in order to make the statements made therein, in light of the circumstances under which they were made, not misleading; provided the Borrower makes no representation as to information in the 2023B Preliminary Limited Offering Memorandum and the 2023B Limited Offering Memorandum under the headings “THE ISSUER,” “TAX MATTERS,” “THE 2023B TRUSTEE,” “NO LITIGATION – The Issuer,” and “UNDERWRITING.”

(g) As of the date hereof, neither the Borrower nor the General Partner is in any material respect in violation of, breach of or default under any applicable law of the State of Minnesota or of any state in which the Borrower or the General Partner is authorized to do business or of the United States, or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Borrower or the General Partner or any of their respective activities, properties or assets, or any indenture, mortgage, deed of trust, resolution, note agreement (including, without limitation, the Borrower Documents) or other agreement or instrument to which the Borrower or the General Partner is a party or by which the Borrower or the General Partner or any of their respective property or assets is bound, which violation or breach of or default would have a material adverse effect upon the transactions contemplated by this Bond Purchase Agreement, and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute such a default or event of default under any such instruments; and the execution and delivery of the Borrower Documents, and compliance with the provisions on the Borrower’s or the General Partner’s part contained therein, do not and will not conflict with or constitute on the part of the Borrower or the General Partner a violation or breach of or default under any law of the State of Minnesota or of any state in which the Borrower or the General Partner is authorized to do business or of the United States, or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Borrower or the General Partner or any of their respective activities, properties or assets, or any indenture, mortgage, deed of trust, resolution, note agreement (including, without limitation, the Borrower Documents) or other agreement or instrument to which the Borrower or the General Partner is a party or by which the Borrower or the General Partner or any of their respective property or assets is bound which violation, breach or default would have a

material adverse effect upon the transactions contemplated by this Bond Purchase Agreement, nor will any such execution, delivery or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower or the General Partner or under the terms of any such law, regulation or instrument, except as provided by the Series 2023B Bonds or the Borrower Documents.

(h) All consents, approvals, authorizations, and orders of or filings or registrations with any governmental authority, board, agency or commission of any state or of the United States having jurisdiction required in connection with, or the absence of which would materially adversely affect, the execution and delivery by the Borrower of the Borrower Documents or the performance by the Borrower of its obligations thereunder have been obtained or made and are in full force and effect or will be timely obtained.

(i) As of the date hereof, there is no action, suit, proceeding, inquiry or investigation of which the Borrower has been notified, at law or in equity, before or by any judicial or administrative court or governmental agency or body, state, federal or other, pending or, to the best knowledge of the Borrower, threatened against the Borrower or the General Partner, affecting the existence of the Borrower or the General Partner or the titles of their respective officers executing this Bond Purchase Agreement to their respective offices, or contesting or affecting as to the Borrower or the General Partner, as applicable, the validity or enforceability of the Series 2023B Bonds, any Borrower Document or the execution and delivery or adoption by the Borrower of any Borrower Document, or in any way contesting or challenging the completeness or accuracy of the 2023B Limited Offering Memorandum or the powers of the Borrower or the General Partner or their respective authority with respect to the Borrower Documents or the consummation of the transactions contemplated hereby or thereby; nor, to the best knowledge of the Borrower, is there any basis for any such action, suit, proceeding, inquiry or investigation, wherein an unfavorable decision, ruling or finding would materially adversely affect the Borrower's or the General Partner's financial condition or operations or the validity of the authorization, execution, delivery or performance by the Borrower or the General Partner, as applicable, of any Borrower Document.

(j) The Borrower will furnish such information, execute such instruments and take such other action in cooperation with the Underwriter as the Underwriter may reasonably request in order (i) to qualify the Series 2023B Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriter may designate and (ii) to determine the eligibility of the Series 2023B Bonds for investment under the laws of such states and other jurisdictions, and will use its best efforts upon the reasonable request of the Underwriter to continue such qualifications in effect so long as required for the distribution of the Series 2023B Bonds; provided, however, that the Borrower shall not be required to register as a dealer or broker of securities or execute a general or special consent to service of process or qualify to do business in any jurisdiction where it is not now so subject.

(k) Any certificate signed by the Borrower and delivered to the Underwriter or the Issuer pursuant to the 2023B Indenture or the Borrower Documents shall be deemed a representation and warranty by the Borrower to the Underwriter and the Issuer as to the statements made therein as of the date thereof.

(l) The Borrower will not take or omit to take any action, which action or omission will adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Series 2023B Bonds under the Internal Revenue Code of 1986, as amended.

(m) The Borrower shall honor all other covenants contained in the Borrower Documents.

(n) All permits, licenses and other authorizations necessary for the ownership, acquisition, rehabilitation, and equipping of the Project in the manner contemplated by the 2023B Limited Offering Memorandum and the Borrower Documents have been obtained or will be obtained by the time required, and said ownership, acquisition, rehabilitation, and equipping are not in conflict with any zoning or similar ordinance applicable to the Project.

The execution and delivery of this Bond Purchase Agreement by the Borrower shall constitute a representation to the Underwriter that the representations and warranties contained in this Section 4 are true as of the date hereof.

## **SECTION 5. Indemnification**

### **(A) *By the Borrower:***

(1) The Borrower agrees to pay, defend, protect, indemnify, and hold each of the Bond Counsel, the Underwriter, co-Underwriter's Counsel, the 2023B Trustee, the Issuer, its counsel, the State and each of their respective directors, executive directors, officers, members, employees, counsel, advisors, consultants and agents, and each person, if any, who controls any of the foregoing within the meaning of Section 15 of the Securities Act of 1933, as amended, or Section 20 of the Securities Exchange Act of 1934, as amended (each an "Indemnified Party" and all collectively referred to herein as the "Indemnified Parties") harmless for, from, and against any and all losses, causes of action (whether in contract, tort, or otherwise), claims, costs, damages, demands, judgments, liabilities, suits, and expenses (including, without limitation, costs of investigation, and attorneys' fees and expenses) of every kind, character, and nature whatsoever (individually and collectively, the "Liabilities") directly or indirectly arising from or relating to any untrue or misleading statement of a material fact regarding the Borrower or the Borrower's operations contained in the 2023B Preliminary Limited Offering Memorandum and the 2023B Limited Offering Memorandum or alleged untrue or misleading statement regarding the Borrower or the Borrower's operations or caused by any omission or alleged omission from the 2023B Preliminary Limited Offering Memorandum and the 2023B Limited Offering Memorandum of any material fact necessary to be stated therein regarding the Borrower or the Borrower's operations in order to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(2) The Borrower further agrees to pay, defend, protect, indemnify, and hold each of the Issuer, the State and each of its directors, officers, executive directors, members, employees, counsel, advisors, consultants and agents (each an "Issuer Indemnified Party" and collectively the "Issuer Indemnified Parties") harmless for, from and against any and all Liabilities directly or indirectly arising from or relating to the Series 2023B Bonds, the 2023B Loan, the 2023B Loan Agreement, the Project, the 2023B Indenture, or any document related to the issuance and sale of the Series 2023B Bonds, including, but not limited to, the following:

- (i) any injury to or death of any person or damage to property in or upon the Project or growing out of or connected with the use, non-use, condition, or occupancy of the Project or any part thereof;
- (ii) violation of any agreement, covenant, or condition of the Borrower Documents;
- (iii) violation of any agreement, contract, or restriction relating to the Project;



(iv) violation of any law, ordinance, or regulation affecting the Project or any part thereof or the ownership, occupancy, or use thereof;

(v) the issuance and sale of the Series 2023B Bonds or any of them; and

(vi) any statement, information, or certificate furnished by the Borrower to the Issuer which is misleading, untrue, incomplete, or incorrect in any respect.

(3) The Borrower also agrees to pay, defend, protect, indemnify, and hold harmless each of the Issuer Indemnified Parties for, from, and against any and all Liabilities directly or indirectly arising from or relating to (a) any errors or omissions of any nature whatsoever contained in any legal proceedings or other official representation or inducement made by or to the Issuer or the State pertaining to the Series 2023B Bonds, and (b) any fraud or misrepresentations or omissions contained in the proceedings of the Issuer or the State relating to the issuance of the Series 2023B Bonds or pertaining to the financial condition of the Borrower which, if known to the Underwriter, might be considered a factor in such person's decision to purchase the Series 2023B Bonds; provided, however, nothing in this subsection shall be deemed to provide the Issuer with indemnification for any omissions or misstatements of the Issuer contained in the Issuer Portion of the 2023B Limited Offering Memorandum.

(4) Paragraphs (2) and (3) above are intended to provide indemnification to each Issuer Indemnified Party for his or her active or passive negligence or misconduct; provided, however, that nothing in paragraphs (2) and (3) above shall be deemed to provide indemnification to any Issuer Indemnified Party with respect to any Liabilities arising from the fraud, gross negligence, or willful misconduct of such Issuer Indemnified Party.

(5) Any party entitled to indemnification hereunder shall notify the Borrower of the existence of any claim, demand, or other matter to which the Borrower's indemnification obligation applies, and shall give the Borrower a reasonable opportunity to defend the same at its own expense and with counsel satisfactory to the Indemnified Party; provided that the Indemnified Party shall at all times also have the right to fully participate in the defense. If the Indemnified Party is advised in an opinion of counsel that there may be legal defenses available to it which are different from or in addition to those available to the Borrower or if the Borrower shall, after receiving notice of the Borrower's indemnification obligation, as the case may be, and within a period of time necessary to preserve any and all defenses to any claim asserted, fails to assume the defense or to employ counsel for that purpose satisfactory to the Indemnified Party, the Indemnified Party shall have the right, but not the obligation, to undertake the defense of, and to compromise or settle the claim or other matter on behalf of, for the account of, and at the risk of, the Borrower. The Borrower shall be responsible for the counsel fees, costs, and expenses of the Indemnified Party in conducting its defense.

(6) The Indemnified Parties and the Issuer Indemnified Parties, other than the Issuer, shall be considered to be intended third party beneficiaries of this Bond Purchase Agreement for purposes of paragraphs (1) - (5) of this Section 5A. The provisions of paragraphs (1) - (5) of this Section 5(A). shall be in addition to all liability that the Borrower may otherwise have and shall survive any termination of this Bond Purchase Agreement, the offering and sale of the Series 2023B Bonds, and the payment or provision for payment of the Series 2023B Bonds.

(B) *By the Underwriter:*

(1) To the same extent as the foregoing indemnity from the Borrower to the Issuer and the Underwriter, the Underwriter agrees to indemnify and hold harmless the Issuer, the Borrower and each person, if any, who controls (as such term is defined in Section 15 of the 1933 Act) the Issuer and the Borrower but only with reference to (a) the price and yield of the Series 2023B Bonds stated on the cover page of the 2023B Limited Offering Memorandum, (b) the optional redemption dates and prices for the Series 2023B Bonds, (c) the last paragraph of the cover of the 2023B Limited Offering Memorandum, (d) the information under the heading “UNDERWRITING” in the 2023B Limited Offering Memorandum, which information has been furnished by the Underwriter specifically for use in preparation thereof, and (e) allegations or determinations that the Underwriter itself has violated the agreement set forth in Section 3(c) hereof, the 1933 Act, the 1934 Act, or any applicable state blue sky law in the offer or sale of the Series 2023B Bonds. In no case shall the Underwriter be responsible for any amount in excess of the underwriting fee applicable to the Series 2023B Bonds purchased by it pursuant to this Bond Purchase Agreement. In case any such claim shall be presented in writing or any action shall be brought against the Issuer or the Borrower for which indemnity may be sought from the Underwriter on account of its agreement contained in this Section, the Underwriter shall have the rights and duties given to the Borrower in the above paragraph and the Issuer, the Borrower shall have the rights and duties given by the above paragraph to the persons therein referred to as controlling persons.

(2) No recourse shall be had against the Underwriter for loss, damage, liability, cost or expense (whether direct, indirect or consequential) of the Issuer or the Borrower arising out of or in defending, prosecuting, negotiating or responding to any inquiry, questionnaire, audit, suit, action, or other proceeding brought or received from the Internal Revenue Service in connection with the Series 2023B Bonds or otherwise relating to the tax treatment of interest on the Series 2023B Bonds.

(3) Paragraph (1) of this Section 5(B) is intended to provide indemnification to each Indemnified Party and each Obligated Entity Indemnified Party for his or her active or passive negligence or misconduct; provided, however, that nothing in paragraph (1) above shall be deemed to provide indemnification to any Indemnified Party or any Obligated Entity Indemnified Party with respect to any Liabilities arising from the fraud, gross negligence, or willful misconduct of such Indemnified Party, or the fraud, or willful misconduct of such Obligated Entity Indemnified Party.

(4) Any party entitled to indemnification under this Bond Purchase Agreement shall notify the Underwriter of the existence of any claim, demand, or other matter to which the Underwriter’s indemnification obligation applies, and shall give the Underwriter a reasonable opportunity to defend the same at its own expense and with counsel reasonably satisfactory to the Indemnified Party or the Obligated Entity Indemnified Party, as the case may be; provided that the Indemnified Party or the Obligated Entity Indemnified Party, as the case may be, shall at all times also have the right to fully participate in the defense. If the Indemnified Party or the Obligated Entity Indemnified Party, as the case may be, is advised in an opinion of counsel that there may be legal defenses available to it which are different from or in addition to those available to the Underwriter or if the Underwriter shall, after receiving notice of the Underwriter’s indemnification obligation and within a period of time necessary to preserve any and all defenses to any claim asserted, fails to assume the defense or to employ counsel for that purpose reasonably satisfactory to the Issuer Indemnified Party or the Obligated Entity Indemnified Party, as the case may be, the Issuer Indemnified Party or the Obligated Entity

Indemnified Party, as the case may be, shall have the right, but not the obligation, to undertake the defense of, and to compromise or settle the claim or other matter on behalf of, for the account of, and at the risk of, the Underwriter. The Underwriter shall be responsible for the counsel fees, costs, and expenses of the Issuer Indemnified Party or the Obligated Entity Indemnified Party, as the case may be, in conducting its defense.

(5) The Indemnified Parties, other than the Issuer, and the Obligated Entity Indemnified Parties, other than the Borrower shall be considered to be intended third party beneficiaries of this Bond Purchase Agreement for purposes of paragraphs (1) to (4) above. The provisions of paragraphs (1) to (4) of this Section 5(B) shall be in addition to all liability which the Underwriter may otherwise have and shall survive any termination of this Bond Purchase Agreement, the offering and sale of the Series 2023B Bonds, and the payment or provision for payment of the Series 2023B Bonds.

(C) *Contribution to Indemnification.* While the Borrower and the Underwriter both understand and agree that the provisions of this Section 5(C) do not in any way bind the Issuer and the Issuer Indemnified Parties and such provisions shall have no effect whatsoever on any other section contained herein other than Sections 5(A) and 5(10B) above, in order to provide for just and equitable contribution in circumstances in which the indemnity provided for in Sections 5(A) or 5(B) is for any reason held to be unavailable, the Borrower and the Underwriter agree that each shall contribute proportionately to the aggregate Liabilities to which the Borrower and the Underwriter may be subject, so that the Underwriter is responsible for that portion represented by the percentage that the fees paid by the Borrower to the Underwriter in connection with the issuance and sale of the Series 2023B Bonds bears to the aggregate offering price of the Series 2023B Bonds, with the Borrower responsible for the balance; provided, however, that in no case shall the Underwriter be responsible for any amount in excess of the fees paid by the Borrower to the Underwriter in connection with the issuance and sale of the Series 2023B Bonds except for any amount due to and/or the result of the fraud, gross negligence or intentional misconduct of the Underwriter.

(D) The indemnification hereunder shall be in addition to, and shall not limit, any indemnity granted by the Borrower pursuant to the 2023B Loan Agreement, the 2023B Regulatory Agreement or any other document.

## **SECTION 6. Closing**

At 11:00 a.m., Central Time, on the Closing Date, or at such time on such earlier or later date as shall be agreed upon in writing by the Issuer, the Borrower and the Underwriter, the Issuer shall direct the 2023B Trustee to deliver the Series 2023B Bonds to the Underwriter through the facilities of The Depository Trust Company (“DTC”), New York, New York, in definitive form, duly executed and authenticated by the 2023B Trustee. Subject to the terms and conditions hereof, the Issuer shall deliver at the offices of Butler Snow LLP in Jacksonville, Florida, or at such other place as may be mutually agreed upon by the Issuer, the Borrower and the Underwriter, the Issuer Documents and the Borrower Documents, and the Underwriter shall accept delivery of the Series 2023B Bonds, the Issuer Documents, and the Borrower Documents and pay the purchase price for the Series 2023B Bonds by wire transfer, to the 2023B Trustee, in immediately available federal funds, for the account of the Issuer or as the Issuer shall direct. As a condition precedent to such acceptance, the Underwriter shall have received the Underwriting Fee by wire transfer in immediately available federal funds to the order of the Underwriter, in such manner as shall be agreed upon by the Borrower and the Underwriter. If the Underwriter shall make such request, the applicable Bonds shall be made available to the Underwriter one business day before the Closing at the offices of DTC for purposes of inspection and packaging. The ownership of one fully registered Bond of each series in the aggregate principal amount of the respective series of Bond,

each bearing a proper, duly assigned CUSIP number will be issued initially in the name of Cede & Co., as nominee of DTC.

## **SECTION 7. Closing Conditions of the Underwriter**

The obligation of the Underwriter to purchase the Series 2023B Bonds and the obligation of the Issuer to sell the Series 2023B Bonds to the Underwriter shall be subject to the following conditions precedent:

(a) A certificate of the Issuer, signed by an authorized signatory of the Issuer, dated the date of the Closing, in the form attached hereto as Exhibit A.

(b) A certificate of the Borrower, signed by an authorized representative of the Borrower, dated the date of the Closing, to the effect that (A) the representations, warranties and agreements of the Borrower contained in this Bond Purchase Agreement and in the Borrower Documents are true and correct in all material respects as of the date of the Closing; (B) no litigation to which the Borrower is a party is pending or, to the knowledge of the Borrower, threatened, (1) seeking to restrain or enjoin the issuance or delivery of any of the Series 2023B Bonds or the collection of revenues or other security pledged under the 2023B Indenture, (2) in any way contesting or affecting any authority for the issuance of the Series 2023B Bonds or the validity of the Series 2023B Bonds, the resolution adopted by the governing body of the Borrower approving the issuance of the Series 2023B Bonds, the 2023B Indenture or any of the Borrower Documents, or (3) in any way contesting the existence or powers of the Borrower; (C) no event affecting the Borrower has occurred since the date of the 2023B Limited Offering Memorandum that should be disclosed in the 2023B Limited Offering Memorandum, for the purpose for which it is to be used or which should be disclosed therein in order to make the statements and information therein not misleading in any material respect; (D) the information in the 2023B Preliminary Limited Offering Memorandum and the 2023B Limited Offering Memorandum relating to the Borrower, the Project, and the proposed operation of the Project is true and correct in all material respects, and the information under the heading "RISK FACTORS" is a fair description of the risk factors related to the Project; (E) all resolutions and other actions required to be approved or taken by or on behalf of the Borrower authorizing and approving the transactions described or contemplated in this Bond Purchase Agreement or in the 2023B Limited Offering Memorandum, the execution of or approval of the respective forms of, as the case may be, this Bond Purchase Agreement, the 2023B Indenture, the Borrower Documents and the Series 2023B Bonds have been duly approved by the Borrower, are in full force and effect and have not been modified, amended or repealed; and (F) the Borrower is a limited liability limited partnership organized and validly existing under the laws of the State of Minnesota, is duly authorized to conduct its business in the State with full power and authority to own its properties and conduct its business.

(c) A certificate of the General Partner, signed by an authorized representative of the General Partner, dated the date of the Closing, to the effect that (A) the representations, warranties and agreements of the General Partner contained in this Bond Purchase Agreement and in the General Partner Pledge Agreement are true and correct in all material respects as of the date of the Closing; (B) no litigation to which the General Partner is a party is pending or, to the knowledge of the General Partner, threatened, (1) in any way contesting or affecting the General Partner Pledge Agreement, or (3) in any way contesting the existence or powers of the General Partner; (C) no event affecting the General Partner has occurred since the date of the 2023B Limited Offering Memorandum that should be disclosed in the 2023B Limited Offering Memorandum, for the purpose for which it is to be used or which should be disclosed therein in

order to make the statements and information therein not misleading in any material respect; (D) the information in the 2023B Preliminary Limited Offering Memorandum and the 2023B Limited Offering Memorandum relating to the General Partner is true and correct in all material respects; (E) all resolutions and other actions required to be approved or taken by or on behalf of the General Partner authorizing and approving the transactions described or contemplated in this Bond Purchase Agreement and the General Partner Pledge Agreement and the execution and delivery of the General Partner Pledge Agreement has been duly approved by the Borrower, is in full force and effect and has not been modified, amended or repealed; and (F) the General Partners is a limited liability company organized and validly existing under the laws of the State of Minnesota, is duly authorized to conduct its business in the State with full power and authority to own its properties and conduct its business.

(d) A certificate of Alliant Credit Facility IV, LLC (the “Investor Limited Partner”), a California limited liability company and affiliate of Walker & Dunlop Affordable Equity (“Walker Dunlop”), signed by an authorized representative of the Investor Limited Partner, dated the date of the Closing, to the effect that (A) no litigation is pending or to its knowledge threatened, (1) in any way contesting or affecting the Investor Limited Partner, or (2) in any way contesting the existence or powers of the Investor Limited Partner; (B) no event affecting the Investor Limited Partner has occurred since the date of the 2023B Limited Offering Memorandum that should be disclosed in the 2023B Limited Offering Memorandum, for the purpose for which it is to be used or which should be disclosed therein in order to make the statements and information therein not misleading in any material respect; (C) the information relating to the Investor Limited Partner under the headings “THE INVESTOR LIMITED PARTNER” as related solely to the Investor Limited Partner, and “APPENDIX A – THE BORROWER, THE PROJECT, THE GUARANTOR, AND THE MANAGER – THE BORROWER – Investor Limited Partner” (collectively, the “Investor Limited Partner Portion”) of the 2023B Preliminary Limited Offering Memorandum and the 2023B Limited Offering Memorandum is true and correct in all material respects; (D) all resolutions and other actions required to be approved or taken by or on behalf of the Investor Limited Partner authorizing and approving the transactions described or contemplated in this Bond Purchase Agreement and the Amended and Restated Agreement of Limited Liability Limited Partnership; (E) the Investor Limited Partner is a limited liability company organized and validly existing under the laws of the State of California with full power and authority to own its properties and conduct its business in the State of Florida.

(e) A certificate of the Guarantor, signed by authorized representative(s) of the Guarantor, dated the date of the Closing, to the effect that (A) no litigation is pending or to its knowledge threatened, (1) in any way contesting or affecting the Guaranty, or (3) in any way contesting the existence or powers of the Guarantor; (B) no event affecting the Guarantor has occurred since the date of the 2023B Limited Offering Memorandum that should be disclosed in the 2023B Limited Offering Memorandum, for the purpose for which it is to be used or which should be disclosed therein in order to make the statements and information therein not misleading in any material respect; (C) the information under the headings “SUMMARY INFORMATION – The Guarantor,” “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2023B BONDS – Guaranty,” “THE GUARANTOR,” and “APPENDIX A – THE BORROWER, THE PROJECT, THE GUARANTOR AND THE MANAGER – THE GUARANTOR” (collectively, the “Guarantor Portion”) of the 2023B Preliminary Limited Offering Memorandum and the 2023B Limited Offering Memorandum is true and correct in all material respects; (D) all resolutions and other actions required to be approved or taken by or on behalf of the Guarantor authorizing and approving the transactions described or contemplated in this Bond Purchase Agreement and the Guaranty and the execution and delivery of the Guaranty

has been duly approved by the Guarantor, are in full force and effect and have not been modified, amended or repealed; (E) the Guarantor is a limited liability company organized and validly existing under the laws of the State of Minnesota with full power and authority to own its properties and conduct its business.

(f) The Issuer and the Underwriter shall have received the legal opinion of Bond Counsel, in substantially the form set forth in Appendix F of the 2023B Limited Offering Memorandum, and the Underwriter shall have received a supplemental opinion of Bond Counsel dated the Closing Date with respect to the 2023B Limited Offering Memorandum and addressed to the Underwriter and the Issuer in substantially the form set forth in Exhibit B hereto. **[ISSUER'S COUNSEL OPINION TO BE ADDED IF REQUIRED BY ALL PARTIES TO THE TRANSACTION]**

(g) No default or event of default (as defined in any of the Issuer Documents or Borrower Documents) shall have occurred and be continuing, and no event shall have occurred and be continuing which, with the lapse of time or the giving of notice or both, would constitute such a default or event of default.

(h) No material adverse change shall have occurred, nor shall any development involving a prospective material and adverse change in, or affecting the affairs, business, financial condition, results of operations, prospects or properties (including the Project) of, the Issuer, the Borrower or the General Partner have occurred between the date hereof and the Closing Date.

(i) On or prior to the Closing Date, all actions required to be taken as of the Closing Date in connection with the Series 2023B Bonds, the Issuer Documents and the Borrower Documents by the Issuer and the Borrower shall have been taken, and the Issuer and the Borrower shall each have performed and complied with all agreements, covenants and conditions required to be performed or complied with by the Issuer Documents and Borrower Documents, and the Borrower shall deliver a certificate to such effect insofar as the foregoing actions, agreements, covenants and conditions apply to the Borrower, and each of such agreements shall be in full force and effect and shall not have been amended, modified or supplemented, except as has been agreed to by the Underwriter.

(j) Each of the Issuer Documents and Borrower Documents shall have been executed and delivered by each of the respective parties thereto, all such documents shall be in forms exhibited to Underwriter on this date with only such changes as the Underwriter may approve, and each of the Issuer Documents and Borrower Documents shall be in full force and effect.

(k) None of the events referred to in Section 8 of this Bond Purchase Agreement shall have occurred.

(l) The Underwriter and the Issuer shall have received the opinion of counsel to the Borrower covering the opinions identified in Exhibit C hereto. The Borrower hereby authorizes and directs its counsel to render such opinion to and for the benefit of the Issuer and the Underwriter.

(m) The Underwriter shall have received an opinion of its counsel as to the Series 2023B Bonds in form and substance satisfactory to the Underwriter.

(n) The Underwriter shall have received a copy of a tax compliance certificate executed by the Borrower and the Issuer, dated the Closing Date, with respect to the facts, estimates and circumstances and reasonable expectations pertaining to Section 148 of the Code to support the conclusion that, among other things, none of the Series 2023B Bonds will be an “arbitrage bond.”

(o) The Underwriter shall have received a closing certificate from the 2023B Trustee in a form acceptable to the Underwriter.

(p) The Underwriter shall have received evidence of the creation and perfection of the various security interests purported to be created by the Borrower Documents.

(q) The Underwriter shall have received a compilation of financing statements (“UCC Search”) on file with the Secretary of State of Minnesota or other relevant jurisdictions indicating that the security interests created by the documents herein referenced will have priority, upon execution, satisfactory to the Underwriter.

(r) Each initial purchaser from the Underwriter shall execute and deliver to the Issuer an Investor Letter in substantially the form attached to the 2023B Limited Offering Memorandum as Appendix H.

(s) The Underwriter shall have received such additional legal opinions, certificates, proceedings, instruments and other documents as the Underwriter or Bond Counsel may reasonably request.

(t) A certificate of good standing of the Borrower, the general partner, and their organizational documents, each certified by the proper authorities of the State and the State of Minnesota, as applicable, and dated within thirty days of the Closing Date.

(u) A copy of written actions of the manager of the general partner of the Borrower and the Board of Governors of the Guarantor, certified by the secretary and approving of the Borrower’s execution, delivery and performance of the Borrower Documents and the Guarantor’s execution, delivery and performance of the Guaranty.

(v) Evidence satisfactory to the Underwriter that the Series 2023 Bonds, the Subordinate Bonds, and the Series 2023D Bonds have been issued by the Issuer.

If any conditions to the obligations of the Underwriter or Issuer contained in this Bond Purchase Agreement are not satisfied and the satisfaction of such conditions shall not be waived by the Underwriter and the Issuer, then, at the option of the Underwriter and the Issuer, (i) the Closing Date shall be postponed for such period, not to exceed seven (7) days, as may be necessary for such conditions to be satisfied or (ii) without limiting the generality of Section 8 of this Bond Purchase Agreement, the obligations of the Underwriter and Issuer under this Bond Purchase Agreement shall terminate, and neither the Underwriter nor Issuer shall have any further obligations or liabilities under this Bond Purchase Agreement.

All of the legal opinions, certificates, proceedings, instruments and other documents mentioned above or elsewhere in this Bond Purchase Agreement shall be deemed to be in compliance with the provisions of this Bond Purchase Agreement if, but only if, they are in form and substance reasonably satisfactory to the Underwriter, the Borrower and the Issuer.

## **SECTION 8. Termination**

The Underwriter may terminate its obligations under this Bond Purchase Agreement by written notice to the Issuer and the Borrower if, at any time subsequent to this date and on or prior to the Closing Date:

(A) legislation is enacted by, or favorably reported out of committee to, either House of the Congress of the United States of America, or a decision by a court of the United States of America shall be rendered, or a regulation or ruling shall be issued or proposed by or on behalf of the Treasury Department, the Internal Revenue Service, or any other agency of the Federal government having jurisdiction, or a release or communication (such as a press release) shall be issued by the Treasury Department, the Internal Revenue Service of the United States, or any other agency of the Federal government having jurisdiction, with respect to Federal taxation upon interest received on obligations of the character of the Series 2023B Bonds, which, in the reasonable judgment of the Underwriter, materially adversely affects the market for the Series 2023B Bonds or the sale, at the contemplated offering prices, by the Underwriter of such Series 2023B Bonds; or

(B) a stop order, ruling, regulation, proposed regulation or statement by or on behalf of the Securities and Exchange Commission is issued or made to the effect that the issuance, offering, sale or distribution of obligations of the character of the Series 2023B Bonds is in violation of any provisions of the Securities Act of 1933 or of the Trust Indenture Act of 1939; or

(C) the Congress of the United States of America shall enact a law, or a bill shall be favorably reported out of committee of either House, or a decision by a court of the United States of America shall be rendered, or a ruling, regulation, proposed regulation or statement by or on behalf of the Securities and Exchange Commission or any other agency of the Federal government having jurisdiction of the subject matter shall be made, to the effect that securities of the Issuer or of any similar public body are not exempt from the registration, qualification or other requirements of the Securities Act of 1933 or the Trust Indenture Act of 1939; or

(D) the United States of America has become engaged in hostilities (other than such as exist on the date of this Bond Purchase Agreement) which have resulted in a declaration of war or a national emergency which, in the reasonable judgment of the Underwriter, adversely affects the market for the Series 2023B Bonds or the sale, at the contemplated offering prices, by the Underwriter of the Series 2023B Bonds; or

(E) there shall be in force a general suspension of trading on the New York Stock Exchange, the NYSE Amex Equities or any other major exchange, the effect of which on the financial markets of the United States is such, in the reasonable judgment of the Underwriter, that would materially adversely affect the market price of, or market for, the Series 2023B Bonds; or

(F) a general banking moratorium shall have been declared by federal, New York, or State authorities; or

(G) an event occurs which in the reasonable judgment of the Underwriter (1) makes untrue or incorrect in any material respect, as of the time of such event, any statement or information contained in the 2023B Limited Offering Memorandum or which is not reflected in the 2023B Limited Offering Memorandum but should be reflected therein in order to make the statements and information contained therein not misleading in any material respect and/or (2) adversely affects the market for the Series 2023B Bonds or the sale, at the contemplated offering prices, by the Underwriter of the Series 2023B Bonds; or



(H) economic, market or other conditions occur or exist or escalate which, in the reasonable judgment of the Underwriter, render the Series 2023B Bonds incapable of being sold on terms acceptable to the Underwriter; or

(I) any suit, proceeding, litigation or other action shall be commenced, or, if commenced prior to the date hereof, shall be continuing or have been adjudicated, which, in any event, in the reasonable judgment of the Underwriter, may affect the delivery of the Series 2023B Bonds; or

(J) a default has occurred with respect to the obligations of, or proceedings have been instituted under the federal bankruptcy laws or any similar state laws by or against, any state of the United States or any city located in the United States having a population in excess of 500,000 persons or against any entity issuing obligations for or on behalf of such a city or state, which in the reasonable opinion of the Underwriter adversely affects the market price or marketability of the Series 2023B Bonds; or

(K) the sovereign debt rating of the United States is downgraded by any major credit rating agency or a payment default occurs on United States Treasury obligations, which in the reasonable opinion of the Underwriter adversely affects the market price or marketability of the Series 2023B Bonds; or

(L) there shall exist any event or circumstance that either makes untrue any statement of a material fact in the 2023B Limited Offering Memorandum (other than any statement provided by the Underwriter) or is not reflected in the 2023B Limited Offering Memorandum but should be reflected therein in order to make the statements therein, in light of the circumstances under which they were made, not misleading and, in either such event, the Issuer refuses to permit the 2023B Limited Offering Memorandum to be supplemented to supply such statement or information, or the effect of the 2023B Limited Offering Memorandum as so supplemented is, in the reasonable judgment of the Underwriter, to materially adversely affect the market price or marketability of the Series 2023B Bonds; or

(M) there shall have occurred any material adverse change in the affairs of the Issuer, financial or otherwise, except as otherwise disclosed in the 2023B Limited Offering Memorandum, that, in the Underwriter's reasonable judgment, will materially adversely affect the market for the Series 2023B Bonds or the ability of the Underwriter to enforce contracts for the sale of the Series 2023B Bonds; or

(N) a material disruption in commercial banking, securities settlement, payment, or clearance services affecting any municipal securities shall have occurred that would make it impracticable for the Underwriter to market the Series 2023B Bonds on the terms and in the manner contemplated by the 2023B Limited Offering Memorandum.

## **SECTION 9. Expenses**

The Underwriter shall be under no obligation to pay, and the Borrower hereby agrees to pay, any expenses incident to the performance of the Issuer's and the Borrower's obligations hereunder, including, but not limited to, (a) the costs of printing and preparation for printing or other reproduction for distribution and use in connection with the public offering of the Series 2023B Bonds such number of copies as may be requested by the Underwriter of the 2023B Preliminary Limited Offering Memorandum, the 2023B Limited Offering Memorandum, the 2023B Indenture, the Bond Resolution and the blue sky survey, as well as any delivery costs incurred in connection with the distribution of the foregoing documents; (b) the cost of preparing the definitive Bonds; (c) the fees and disbursements of Bond

Counsel in connection with the authorization and issuance of the Series 2023B Bonds; the fees and expenses of Issuer's counsel; the fees and expenses of the 2023B Trustee and its counsel; any application or administrative fee of the Issuer; and the fees and disbursements of the Issuer's program manager and any other experts or consultants retained by the Issuer; (d) the Underwriting Fee as set forth in Section 1; (e) the fees and expenses of counsel to the Underwriter; (f) the expenses relating to the meals, transportation, lodging, and entertainment incidental to implementing this Bond Purchase Agreement; and (g) all other expenses in connection with the public offer and sale of the Series 2023B Bonds. The Issuer shall have no obligation to pay any fees, expenses or costs associated with or resulting from the issuance and delivery of the Series 2023B Bonds. The Borrower shall pay for any expenses incurred on behalf of the Issuer Indemnified Parties which are incidental to implementing this Bond Purchase Agreement.

## **SECTION 10. Notices**

All communications under this Bond Purchase Agreement shall be in writing and, except as otherwise provided, shall be delivered at, or mailed by certified or registered mail, return receipt requested, or telegraphed with such telegraph to be confirmed in writing, mailed in accordance with the preceding provisions, to the following addresses:

- (a) if to the Underwriter: Colliers Securities LLC  
90 South Seventh Street, Suite 4300  
Minneapolis, Minnesota 55402  
Attention: Frank J. Hogan, Senior Vice President
- with a copy to: Ballard Spahr LLP  
80 South 8<sup>th</sup> Street, Suite 2000  
Minneapolis, Minnesota 55402  
Attention: Benjamin W. Johnson, Esq.  
and  
Fabyanske Westra Hart & Thomson P.A.  
333 South Seventh Street, Suite 2600  
Minneapolis, Minnesota 55402  
Attention: Rory O. Duggan, Esq.
- (b) if to the Borrower: Ponte Vedra Beach Leased Housing Associates I, LLLP  
c/o Dominion Development & Acquisition, LLC  
2905 Northwest Boulevard, Suite 150  
Plymouth, Minnesota 55441  
Attention: Terry Sween, Project Partner
- with a copy to: Winthrop & Weinstine, P.A.  
225 South Sixth Street, Suite 3500  
Minneapolis, Minnesota 55402  
Attention: Neil Mahoney, Esq.
- (c) if to the Issuer: Housing Finance Authority of St. Johns County  
200 San Sebastian View, Suite 2300  
St. Augustine, Florida 32084  
Attention: \_\_\_\_\_

with a copy to its general counsel: Bradley, Garrison & Komando, P.A.  
1279 Kingsley Avenue, Suite 118  
Orange Park, Florida 32073  
Attention: Rich Komando, Esq.

#### **SECTION 11. Parties in Interest**

This Bond Purchase Agreement is made solely for the benefit of the Issuer, the Issuer Indemnified Parties, the Borrower and the Underwriter (including any successor or assignees of the Underwriter), and, except as provided in Section 5 hereof, no other party or person shall acquire or have any right hereunder or by virtue hereof.

#### **SECTION 12. Amendments**

This Bond Purchase Agreement may not be amended without the written consent of the Issuer, the Borrower and the Underwriter.

#### **SECTION 13. Survival of Representations and Warranties**

The representations and warranties of the Borrower and the representations of the Issuer shall not be deemed to have been discharged, satisfied or otherwise rendered void by reason of the Closing and regardless of any investigations made by or on behalf of the Underwriter (or statements as to the results of such investigations) concerning such representations and statements of the Issuer and the Borrower and regardless of delivery of and payment for the Series 2023B Bonds.

#### **SECTION 14. Execution in Counterparts**

This Bond Purchase Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

#### **SECTION 15. No Prior Agreements**

This Bond Purchase Agreement supersedes and replaces all prior negotiations, agreements and understandings between the parties hereto in relation to the sale of Bonds for the Issuer.

#### **SECTION 16. Effective Date**

This Bond Purchase Agreement shall become effective and binding upon the respective parties hereto upon the execution of the acceptance hereof by the Issuer and the Borrower and shall be valid and enforceable as of the time of such acceptance.

#### **SECTION 17. Governing Law and Venue**

This Bond Purchase Agreement shall be governed by and construed in accordance with the laws and judicial decisions of the State, without reference to any choice of law principles except as such laws may be preempted by any federal rules, regulations and laws applicable to the Issuer. The parties hereto expressly acknowledge and agree that any judicial action to interpret or enforce the terms of this Bond Purchase Agreement against the Issuer shall be brought and maintained in the Superior Court of the State of Florida, in and for the County of St. Johns, the United States District Court in and for the District of

Florida, or any United States Bankruptcy Court in any case involving or having jurisdiction over the Borrower or the Project.

#### **SECTION 18. Underwriter Not Acting as Advisor or Fiduciary**

The Issuer and the Borrower each acknowledge and agree that (i) the purchase and sale of the Series 2023B Bonds pursuant to this Bond Purchase Agreement is an arm's-length commercial transaction among the Issuer, the Borrower, and the Underwriter, (ii) in connection therewith and with the discussions, undertakings and procedures leading up to the consummation of such transaction, the Underwriter is and has been acting solely as a principal and is not acting as the agent, advisor, or fiduciary of the Issuer or the Borrower, (iii) the Underwriter has not assumed individually or collectively an advisory or fiduciary responsibility in favor of the Issuer or the Borrower with respect to the offering contemplated hereby or the discussions, undertakings and procedures leading thereto (irrespective of whether the Underwriter has advised or provided other services or is currently advising or providing other services to the Issuer or the Borrower on other matters) and the Underwriter has no obligation to the Issuer or the Borrower with respect to the offering contemplated hereby except the obligations expressly set forth in this Bond Purchase Agreement and (iv) the Issuer and the Borrower have consulted their own legal, financial and other advisors to the extent they deem appropriate in connection with the offering of the Series 2023B Bonds.

#### **SECTION 19. Establishment of Issue Price for the Series 2023B Bonds**

(a) The Underwriter agrees to assist the Issuer in establishing the issue price of the Series 2023B Bonds and shall execute and deliver to the Issuer at Closing an "issue price" or similar certificate, together with the supporting pricing wires or equivalent communications, substantially in the form attached hereto as Exhibit D, with such modifications as may be appropriate or necessary, in the reasonable judgment of the Underwriter, the Issuer and Bond Counsel, to accurately reflect, as applicable, the sales price or prices or the initial offering price or prices to the public of the Series 2023B Bonds.

(b) Except as otherwise set forth in Schedule I attached hereto, the Issuer will treat the first price at which 10% of each maturity of the Series 2023B Bonds (the "10% test") is sold to the public as the issue price of that maturity. At or promptly after the execution of this Bond Purchase Agreement, the Underwriter shall report to the Issuer and Bond Counsel the price or prices at which it has sold to the public each maturity of Bonds. For purposes of this Section, if Bonds mature on the same date but have different interest rates, each separate CUSIP number within that maturity will be treated as a separate maturity of the Series 2023B Bonds.

(c) The Underwriter confirms that it has offered the Series 2023B Bonds to the public on or before the date of this Bond Purchase Agreement at the offering price or prices (the "initial offering price"), or at the corresponding yield or yields, set forth in Schedule I attached hereto, except as otherwise set forth therein. Schedule I also sets forth, as of the date of this Bond Purchase Agreement, the maturities, if any, of the Series 2023B Bonds for which the 10% test has not been satisfied and for which the Issuer and the Underwriter agree that the restrictions set forth in the next sentence shall apply, which will allow the Issuer to treat the initial offering price to the public of each such maturity as of the sale date as the issue price of that maturity (the "hold-the-offering-price rule"). So long as the hold-the-offering-price rule remains applicable to any maturity of the Series 2023B Bonds, the Underwriter will neither offer nor sell unsold Bonds of that maturity to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:

- (1) the close of the fifth (5th) business day after the sale date; or

(2) the date on which the Underwriter has sold at least 10% of that maturity of the Series 2023B Bonds to the public at a price that is no higher than the initial offering price to the public.

The Underwriter will advise the Issuer and Bond Counsel after the close of the fifth (5<sup>th</sup>) business day after sale date whether it has sold 10% of that maturity of the Series 2023B Bonds to the public at a price that is no higher than the initial offering price to the public.

(d) The Underwriter confirms that:

(i) any selling group agreement and any third-party distribution agreement relating to the initial sale of the Series 2023B Bonds to the public, together with the related pricing wires, contains or will contain language obligating each dealer who is a member of the selling group and each broker-dealer that is a party to such third-party distribution agreement, as applicable, to (A) comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the Underwriter, (B) promptly notify the Underwriter of any sales of Series 2023B Bonds that, to its knowledge, are made to a purchaser who is a related party to an underwriter participating in the initial sale of the Series 2023B Bonds to the public (each such term being used as defined below), and (C) acknowledge that, unless otherwise advised by the dealer or broker-dealer, the Underwriter shall assume that each order submitted by the dealer or broker-dealer is a sale to the public.

(ii) any selling group agreement relating to the initial sale of the Series 2023B Bonds to the public, together with the related pricing wires, contains or will contain language obligating each dealer that is a party to a third-party distribution agreement to be employed in connection with the initial sale of the Series 2023B Bonds to the public to require each broker-dealer that is a party to such third-party distribution agreement to comply with the hold-the-offering-price rule, if applicable, if and for so long as directed by the Underwriter or the dealer and as set forth in the related pricing wires.

(e) In making the representations set forth in this section, the Underwriter will rely on (i) in the event a selling group has been created in connection with the initial sale of the Series 2023B Bonds to the public, the agreement of each dealer who is a member of the selling group to comply with the requirements for establishing issue price of the Series 2023B Bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable, as set forth in a selling group agreement and the related pricing wires, and (ii) in the event that a third-party distribution agreement was employed in connection with the initial sale of the Series 2023B Bonds to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the requirements for establishing issue price of the Series 2023B Bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the Series 2023B Bonds, as set forth in the third-party distribution agreement and the related pricing wires. The Underwriter shall not be liable for the failure of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a third-party distribution agreement, to comply with its corresponding agreement to comply with the requirements for establishing issue price of the Series 2023B Bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the Series 2023B Bonds.

(f) The Underwriter acknowledges that sales of any Series 2023B Bonds to any person that is a related party to an underwriter participating in the initial sale of the Series 2023B Bonds to the public (each such term being used as defined below) shall not constitute sales to the public for purposes of this section. Further, for purposes of this section:

(i) “public” means any person other than an underwriter or a related party,

(ii) “underwriter” means (A) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Series 2023B Bonds to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Series 2023B Bonds to the public (including a member of a selling group or a party to a third-party distribution agreement participating in the initial sale of the Series 2023B Bonds to the public),

(iii) a purchaser of any of the Series 2023B Bonds is a “related party” to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (A) more than 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (B) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (C) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other), and

(iv) “sale date” means the date of execution of this Bond Purchase Agreement by all parties.

## **SECTION 20. Electronic Signatures**

The parties agree that the electronic signature of a party to this Bond Purchase Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Bond Purchase Agreement. For purposes hereof: (i) “electronic signature” means a manually signed original signature that is then transmitted by electronic means or a digital signature of an authorized representative of any party provided by AdobeSign or DocuSign (or such other digital signature provider as specified by such party) in English and (ii) “transmitted by electronic means” means sent in the form of a facsimile or sent via the internet as a portable document format (“pdf”) or other replicating image attached to an electronic mail or internet message, then such signature is a valid and binding signature of the authorized representative of such party.

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

If the foregoing is in accordance with your understanding of the Bond Purchase Agreement, please sign and return to us the enclosed duplicate copies hereof, whereupon it will become a binding agreement among the Issuer, the Borrower and the Underwriter in accordance with its terms.

**COLLIERS SECURITIES LLC**

By: \_\_\_\_\_  
Frank J. Hogan, Senior Vice President

(Signature page to Bond Purchase Agreement – Housing Finance Authority of St. Johns County, Florida  
Multifamily Housing Revenue Bonds (Oaks at St. John Project), Series 2023B)



**HOUSING FINANCE AUTHORITY OF ST. JOHNS  
COUNTY, FLORIDA**

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

(Signature page to Bond Purchase Agreement – Housing Finance Authority of St. Johns County, Florida  
Multifamily Housing Revenue Bonds (Oaks at St. John Project), Series 2023B)

**PONTE VEDRA BEACH LEASED HOUSING  
ASSOCIATES I, LLLP,**  
a Minnesota limited liability limited partnership

By: PONTE VEDRA BEACH LEASED HOUSING  
ASSOCIATES I, LLC,  
a Minnesota limited liability company,  
its General Partner

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

(Signature page to Bond Purchase Agreement – Housing Finance Authority of St. Johns County, Florida  
Multifamily Housing Revenue Bonds (Oaks at St. John Project), Series 2023B)

**SCHEDULE I**

**AMOUNT, MATURITY, INTEREST RATE AND PRICE**

\$ \_\_\_\_\_

**Housing Finance Authority of St. Johns County, Florida  
Multifamily Housing Revenue Bonds  
(Oaks at St. John Project)  
Series 2023B**

<u>Principal Amount</u>	<u>Initial Mandatory Tender Date</u>	<u>Maturity Date</u>	<u>Interest Rate to Initial Mandatory Tender Date</u>	<u>Price</u>
\$	July 1, 2026	July 1, 2028	%	100.00%

**Redemption of Bonds**

The Series 2023B Bonds are subject to redemption and prepayment upon request by the Borrower to the 2023B Trustee on any Business Day, on and after January 1, 2026, in whole or in part, and by lot within any Stated Maturity, at a Redemption Price equal to the principal amount thereof, without premium, plus accrued interest thereon to the date fixed for redemption.

**Other Redemption**

The Series 2023B Bonds may be subject to other mandatory redemption provisions as set forth in the 2023B Indenture.

**EXHIBIT A**

**FORM OF CERTIFICATE OF ISSUER**

[To be provided by Bond Counsel]

**EXHIBIT B**

**SUPPLEMENTAL OPINION OF BOND COUNSEL**

[To be provided Bond Counsel]

**EXHIBIT C**

**BORROWER'S COUNSEL OPINION**

[To be provided by Borrower's Counsel]

**EXHIBIT D**

**FORM OF ISSUE PRICE CERTIFICATE**

[To be provided by Bond Counsel]

DMFIRM #409752747 v4/521147.00/00414048

**EXHIBIT K**  
**PRELIMINARY LIMITED OFFERING MEMORANDUM**  
**(see attached)**



## PRELIMINARY LIMITED OFFERING MEMORANDUM DATED \_\_\_\_\_, 2023

NEW ISSUE  
BOOK ENTRY ONLY

UNRATED

In the opinion of Butler Snow LLP, Bond Counsel to the Issuer, under existing law and assuming compliance with certain covenants described herein, interest on the Series 2023B Bonds is excludable from the gross income of the owners thereof for federal income tax purposes, except that no opinion is expressed as to the status of interest on any Bond for any period that a Bond is held by a "substantial user" of the facilities financed by such Bond or by a "related person" within the meaning of Section 147(a) of the Internal Revenue Code of 1986, as amended (the "Code"). Bond Counsel is further of the opinion that, under existing law, interest on the Series 2023B Bonds is not an item of preference for purposes of the federal alternative minimum tax; however, such interest is taken into account in determining the annual adjusted financial statement income of applicable corporations (as defined in Section 59(k) of the Code) for the purpose of computing the alternative minimum tax imposed on corporations. In the further opinion of Bond Counsel, under the provisions of the Act, the Series 2023B Bonds and the interest thereon are exempt from all state and local taxes in Florida. See "TAX MATTERS" in this Limited Offering Memorandum.

\$ \_\_\_\_\_\*

**HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA**  
**MULTIFAMILY HOUSING REVENUE BONDS**  
**(OAKS AT ST. JOHN PROJECT)**  
**SERIES 2023B**

Dated Date: Date of Delivery

Mandatory Tender Date: July 1, 2026\*

Maturity Date: July 1, 2028\*

The Housing Finance Authority of St. Johns County, Florida (the "Issuer") is issuing its Multifamily Housing Revenue Bonds (Oaks at St. John Project), Series 2023B (the "Series 2023B Bonds"), in the original aggregate principal amount of \$ \_\_\_\_\_\*. The proceeds of the Series 2023B Bonds are being used by the Issuer in order to provide funding for a loan (the "2023B Loan") to Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the "Borrower"), in order to: (i) finance a portion of the costs necessary for the acquisition and rehabilitation of an existing 160-unit affordable multifamily rental housing development and functionally related facilities, located at 210 Nettles Lane in Ponte Vedra Beach, Florida (the "Project"); (ii) fund capitalized interest to the Mandatory Tender Date; and (iii) pay fees, expenses and costs incurred in connection with the authorization, issuance and sale of the Series 2023B Bonds. The Series 2023B Bonds are being issued by the Issuer pursuant to a resolution of the governing body of the Issuer and a Trust Indenture, dated as of December 1, 2023 (the "2023B Indenture"), between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the "2023B Trustee"). The Issuer will make the 2023B Loan pursuant to a Loan Agreement, dated as of December 1, 2023 (the "2023B Loan Agreement"), between the Issuer and the Borrower. Capitalized terms used on this front cover and not defined herein shall have the meanings granted to them in the body of this Limited Offering Memorandum.

The Series 2023B Bonds, when issued, will be special, limited obligations of the Issuer and are payable solely from payments to be made by the Borrower under the 2023B Loan Agreement and secured by the Pledge Agreements and the obligations of Dominion Holdings I, LLC ("Dominium Holdings I") and Dominion Holdings II, LLC ("Dominium Holdings II," and together with Dominion Holdings I, the "Guarantor") under the terms of a Guaranty Agreement, dated as of December 1, 2023 (the "Guaranty"), from the Guarantor to the 2023B Trustee. *The Series 2023B Bonds are not secured by or payable from any taxes, revenues or assets of the Issuer except for the Issuer's interest in the 2023B Loan Agreement (including the payments payable thereunder to the Issuer by the Borrower, but excluding the Issuer's Unassigned Rights (as defined in the 2023B Indenture) and amounts held pursuant to the 2023B Indenture as described in this Limited Offering Memorandum). The Series 2023B Bonds will not be secured by a debt service reserve fund nor a lien on the Project pursuant to a deed of trust or mortgage.* See "SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2023B BONDS" in this Limited Offering Memorandum.

Interest on the Series 2023B Bonds is payable semiannually, on each January 1 and July 1, commencing July 1, 2024\*. The Series 2023B Bonds are subject to mandatory tender for purchase, subject to satisfaction of the applicable terms and conditions set forth in the 2023B Indenture, on the Mandatory Tender Date. Under the terms of a Remarketing Agreement, dated as of December 1, 2023 (the "Remarketing Agreement"), the Borrower has named Colliers Securities LLC as remarketing agent. All Holders must tender their Bonds for purchase on the Mandatory Tender Date and on such date the Series 2023B Bonds may be remarketed at a price of par in accordance with the terms of the 2023B Indenture and the Remarketing Agreement. THIS LIMITED OFFERING MEMORANDUM DESCRIBES THE TERMS OF THE SERIES 2023B BONDS UNTIL THE MANDATORY TENDER DATE (JULY 1, 2026\*) AND MAY NOT BE RELIED UPON FOR THE TERMS OF THE SERIES 2023B BONDS AFTER SUCH MANDATORY TENDER DATE. See "THE SERIES 2023B BONDS – Mandatory Tender" this Limited Offering Memorandum. The Series 2023B Bonds are subject to optional and mandatory redemption prior to maturity as set forth herein. See "THE SERIES 2023B BONDS – Redemption" in this Limited Offering Memorandum.

THE SERIES 2023B BONDS SHALL NOT CONSTITUTE AN OBLIGATION, EITHER GENERAL OR SPECIAL, OF THE STATE OF FLORIDA (THE "STATE") OR ANY AGENCY, SUBDIVISION OR LOCAL GOVERNMENT THEREOF; AND NEITHER THE STATE NOR ANY AGENCY, SUBDIVISION OR LOCAL GOVERNMENT THEREOF SHALL BE LIABLE THEREON. NEITHER THE FAITH, REVENUES, CREDIT NOR TAXING POWER OF THE STATE OR ANY AGENCY, SUBDIVISION OR LOCAL GOVERNMENT THEREOF SHALL BE PLEDGED TO THE PAYMENT OF THE PRINCIPAL OR INTEREST ON THE SERIES 2023B BONDS. THE SERIES 2023B BONDS ARE PAYABLE, AS TO PRINCIPAL AND INTEREST, SOLELY OUT OF THE TRUST ESTATE (AS DEFINED IN THE 2023B INDENTURE), WHICH IS THE SOLE ASSET OF THE ISSUER PLEDGED THEREFOR, AND THEN ONLY TO THE EXTENT PROVIDED IN THE 2023B INDENTURE. THE ISSUER HAS NO TAXING POWER.

NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE SERIES 2023B BONDS AGAINST ANY PAST, PRESENT, OR FUTURE OFFICER, DIRECTOR, EXECUTIVE DIRECTOR, MEMBER, PROGRAM MANAGER, EMPLOYEE, COUNSEL, ADVISOR, CONTRACTOR, CONSULTANT OR AGENT OF THE ISSUER, OR OF 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, EXECUTIVE DIRECTORS, MEMBERS, PROGRAM MANAGERS, EMPLOYEES, COUNSEL, ADVISORS, CONTRACTORS, CONSULTANTS OR AGENTS, IF ANY, AS SUCH IS HEREBY EXPRESSLY WAIVED AND RELEASED AS A CONDITION OF AND CONSIDERATION FOR THE EXECUTION AND ISSUANCE OF THE SERIES 2023B BONDS.

THE SERIES 2023B BONDS ARE SUBJECT TO A SIGNIFICANT DEGREE OF RISK. THE SERIES 2023B BONDS ARE SUITABLE FOR INVESTMENT CONSIDERATION ONLY FOR THOSE PURCHASERS WHO ARE SOPHISTICATED AND EXPERIENCED IN THE FIELD OF HIGH YIELD MULTIFAMILY HOUSING BONDS. NO RATING FOR THE SERIES 2023B BONDS HAS BEEN APPLIED FOR. THE SERIES 2023B BONDS ARE OFFERED ONLY TO "QUALIFIED INSTITUTIONAL BUYERS" WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT OF 1933 WHICH DELIVER AN INVESTOR LETTER IN THE FORM SET FORTH AT APPENDIX H HERETO. SEE "NOTICE TO INVESTORS," "SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2023B BONDS" AND "RISK FACTORS" IN THIS LIMITED OFFERING MEMORANDUM.

Simultaneously with the issuance of the Series 2023B Bonds, the Issuer is also issuing its (i) Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023A (the "Series 2023A Bonds"), in the original aggregate principal amount of \$6,880,000\*, and (ii) Multifamily Housing Revenue Bonds (Oaks at St. John) Series 2023C (the "Series 2023C Bonds"), in the principal amount of \$4,330,000\*, the aggregate proceeds of which will be used to make loans to the Borrower to finance a portion of the cost of the Borrower's acquisition, rehabilitation and equipping of the Project. The Series 2023A Bonds and the Series 2023C Bonds are not being offered pursuant to this Limited Offering Memorandum. Closing on the Series 2023B Bonds is contingent on the issuance of the Series 2023A Bonds and the Series 2023C Bonds.

The Series 2023B Bonds are being issued as fully registered bonds and will be sold initially in minimum denominations of \$ \_\_\_\_\_ and increments of \$ \_\_\_\_\_ in excess thereof. The Series 2023B Bonds are issuable in fully registered form without coupons and, when issued, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"). See "APPENDIX I – BOOK-ENTRY ONLY SYSTEM" in this Limited Offering Memorandum. An investment in the Series 2023B Bonds involves a certain degree of risk related to the nature of the business of the Borrower. A prospective Bondholder is advised to read "SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2023B BONDS" AND "RISK FACTORS" in this Limited Offering Memorandum for a discussion of certain risk factors which should be considered in connection with an investment in the Series 2023B Bonds.

\_\_\_\_\_ The maturity schedule for each series of the Series 2023B Bonds is set forth on the inside front cover.

The Series 2023B Bonds are offered when, as and if issued by the Issuer, subject to prior sale, withdrawal or modification of the offer without notice, and subject to the approval of legality and certain other matters by Butler Snow LLP, Jacksonville, Florida, Bond Counsel to the Issuer. Certain legal matters will be passed upon for the Borrower by its counsel, Winthrop & Weinstine, P.A., Minneapolis, Minnesota, for the Issuer by its counsel, Bradley, Garrison & Komando, P.A., Orange Park, Florida, and for the Underwriter by its co-counsel, Ballard Spahr LLP, Minneapolis, Minnesota and Fabyanske Westra Hart & Thomson, Minneapolis, Minnesota. Certain financial advisory services will be provided to the

\*Preliminary, subject to change.

This Preliminary Limited Offering Memorandum and the information contained in this Preliminary Limited Offering Memorandum are subject to completion or amendment. These securities may not be sold nor may offers to buy be accepted prior to the time the Limited Offering Memorandum is delivered in final form. Under no circumstances shall this Preliminary Limited Offering Memorandum constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction.

Issuer by Public Resources Advisory Group, St. Petersburg, Florida. It is expected that delivery of the Series 2023B Bonds will be made through the facilities of DTC in New York, New York on or about December \_\_\_\_, 2023.



*The date of this Limited Offering Memorandum is \_\_\_\_\_, 2023*

## MATURITY SCHEDULES

\$ \_\_\_\_\_\*

**Housing Finance Authority of St. Johns County, Florida**  
**Multifamily Housing Revenue Bonds**  
**(Oaks at St. John Project)**  
**Series 2023B**

\$ \_\_\_\_\_\* \_\_\_\_\_% Series 2023B Term Bonds Due July 1, 2028\*  
(Subject to mandatory purchase on the Mandatory Tender Date (July 1, 2026\*))

Price of \_\_\_\_\_% to Yield of \_\_\_\_\_%

CUSIP: \_\_\_\_\_<sup>(1)</sup>

*\*Preliminary, subject to change.*

<sup>(1)</sup> *CUSIP is a registered trademark of the American Bankers Association (“ABA”). CUSIP Global Services (CSG) is managed on behalf of the ABA by FactSet Research Systems Inc. CUSIP data herein is provided by CSG. The CUSIP numbers listed above are being provided solely for the convenience of Holders of the Series 2023B Bonds only at the time of issuance of the Series 2023B Bonds and neither the Issuer nor the Underwriter nor the Borrower makes any representation with respect to such numbers or undertake any responsibility for their accuracy now or at any time in the future.*

*See “THE SERIES 2023B BONDS – Redemption” in this Limited Offering Memorandum for redemption provisions.*

**PICTURE OF THE PROJECT**



*Source: Google maps.*

**Issuer**

Housing Finance Authority of St. Johns County, Florida  
St. Augustine, Florida

**Issuer's Counsel**

Bradley, Garrison & Komando, P.A.  
Orange Park, Florida

**Bond Counsel to the Issuer**

Butler Snow LLP  
Jacksonville, Florida

**Issuer's Financial Advisor**

Public Resource Advisory Group  
St. Petersburg, Florida

**Structuring Agent**

RBC Capital Markets, LLC  
St. Peterburg, Florida

**Borrower**

Ponte Vedra Beach Leased Housing Associates I, LLLP  
Atlanta, Georgia

**Borrower's Counsel**

Winthrop & Weinstine, P.A.  
Minneapolis, Minnesota

**Underwriter**

Colliers Securities LLC  
Minneapolis, Minnesota

**Co-Underwriter's Counsel**

Ballard Spahr LLP  
Minneapolis, Minnesota

Fabyanske Westra Hart & Thomson P.A.  
Minneapolis, Minnesota

**2023B Trustee**

U.S. Bank Trust Company, National Association  
Saint Paul, Minnesota

**LIHTC Equity Investor**

Alliant Capital Credit Facility IV, LLC,  
an affiliate of Walker & Dunlop Affordable Equity  
Los Angeles, California

**LIHTC Equity Investor's Counsel**

Holland & Knight LLP  
Boston, Massachusetts

NO BROKER, DEALER, SALESMAN OR OTHER PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATIONS OTHER THAN THOSE CONTAINED IN THIS LIMITED OFFERING MEMORANDUM IN CONNECTION WITH THE OFFERING OF THE SERIES 2023B BONDS DESCRIBED HEREIN AND, IF GIVEN OR MADE, SUCH INFORMATION OR REPRESENTATIONS MUST NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY THE ISSUER OR THE BORROWER. NEITHER THE DELIVERY OF THIS LIMITED OFFERING MEMORANDUM NOR ANY SALE OF THE SERIES 2023B BONDS DESCRIBED HEREIN SHALL UNDER ANY CIRCUMSTANCES CREATE ANY IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE AFFAIRS OF THE BORROWER SINCE THE DATE HEREOF. THE INFORMATION CONTAINED IN THIS LIMITED OFFERING MEMORANDUM HAS BEEN OBTAINED FROM THE BORROWER AND OTHER SOURCES BELIEVED BY THE BORROWER AND UNDERWRITER TO BE RELIABLE, BUT SUCH INFORMATION IS NOT GUARANTEED AS TO ACCURACY OR COMPLETENESS AND IS NOT TO BE CONSTRUED AS A REPRESENTATION BY THE ISSUER OR THE UNDERWRITER. THIS LIMITED OFFERING MEMORANDUM DOES NOT CONSTITUTE AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY ANY SECURITIES OTHER THAN THE SERIES 2023B BONDS OFFERED HEREBY, NOR SHALL THERE BE ANY OFFER OR SOLICITATION OF SUCH OFFER OR SALE OF THE SERIES 2023B BONDS BY ANY PERSON IN ANY JURISDICTION IN WHICH IT IS UNLAWFUL FOR SUCH PERSON TO MAKE SUCH OFFER, SOLICITATION OR SALE.

NONE OF THE DIRECTORS OF THE ISSUER, ITS EXECUTIVE DIRECTORS, OFFICERS, COUNSEL, ADVISORS, AGENTS, CONTRACTORS, CONSULTANTS, PROGRAM MANAGERS OR EMPLOYEES HAVE REVIEWED THIS LIMITED OFFERING MEMORANDUM OR INVESTIGATED THE STATEMENTS OR REPRESENTATIONS CONTAINED HEREIN, EXCEPT FOR THOSE STATEMENTS, SOLELY AS THEY RELATE TO THE ISSUER SET FORTH UNDER THE CAPTIONS "THE ISSUER" AND "NO LITIGATION – THE ISSUER." EXCEPT WITH RESPECT TO THE INFORMATION CONTAINED UNDER SUCH CAPTIONS (SOLELY AS SUCH INFORMATION RELATES TO THE ISSUER), NONE OF THE DIRECTORS OF THE ISSUER, ITS EXECUTIVE DIRECTORS, OFFICERS, COUNSEL, ADVISORS, AGENTS, CONTRACTORS, CONSULTANTS, PROGRAM MANAGERS OR EMPLOYEES MAKES ANY REPRESENTATION AS TO THE COMPLETENESS, SUFFICIENCY AND TRUTHFULNESS OF THE STATEMENTS SET FORTH IN THIS LIMITED OFFERING MEMORANDUM. NONE OF THE DIRECTORS OF THE ISSUER, ITS EXECUTIVE DIRECTORS, OFFICERS, COUNSEL, ADVISORS, AGENTS, CONTRACTORS, CONSULTANTS, PROGRAM MANAGERS, EMPLOYEES OR ANY OTHER PERSON EXECUTING THE SERIES 2023B BONDS ARE OR WILL BE SUBJECT TO PERSONAL LIABILITY BY REASON OF THE ISSUANCE OF THE SERIES 2023B BONDS. THE ISSUER ASSUMES NO RESPONSIBILITY FOR THIS LIMITED OFFERING MEMORANDUM AND HAS NOT REVIEWED OR UNDERTAKEN TO VERIFY ANY INFORMATION CONTAINED IN THIS LIMITED OFFERING MEMORANDUM.

THE INFORMATION SET FORTH UNDER "THE SERIES 2023B BONDS – BOOK-ENTRY ONLY SYSTEM" AND "APPENDIX I – BOOK-ENTRY ONLY SYSTEM" HAS BEEN OBTAINED FROM THE DEPOSITORY TRUST COMPANY. ALL OTHER INFORMATION SET FORTH HEREIN HAS BEEN OBTAINED FROM THE BORROWER AND OTHER NOTED SOURCES WHICH ARE BELIEVED TO BE RELIABLE, BUT IT IS NOT GUARANTEED AS TO ACCURACY OR COMPLETENESS.

THIS LIMITED OFFERING MEMORANDUM, INCLUDING THE COVER PAGE HEREOF, IS PROVIDED FOR THE PURPOSE OF SETTING FORTH INFORMATION IN CONNECTION WITH THE ISSUANCE AND SALE OF THE SERIES 2023B BONDS. THIS LIMITED OFFERING MEMORANDUM SPEAKS ONLY AS OF ITS DATE, AND THE INFORMATION CONTAINED HEREIN IS SUBJECT TO CHANGE. THE DESCRIPTION OF THE SERIES 2023B BONDS AND THE DOCUMENTS AUTHORIZING AND SECURING THE SERIES 2023B BONDS CONTAINED HEREIN DO NOT PURPORT TO BE COMPREHENSIVE OR DEFINITIVE. ALL REFERENCES TO AND DESCRIPTION OF SUCH DOCUMENTS HEREIN ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO SUCH DOCUMENTS. COPIES OF SUCH DOCUMENTS NOT REPRODUCED IN THIS LIMITED OFFERING MEMORANDUM MAY BE OBTAINED FROM U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, AS 2023B TRUSTEE.

THE SERIES 2023B BONDS HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, NOR HAS THE 2023B INDENTURE BEEN QUALIFIED UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, IN RELIANCE UPON EXEMPTIONS CONTAINED IN SUCH ACTS. THE REGISTRATION OR QUALIFICATION OF THE SERIES 2023B BONDS IN ACCORDANCE WITH APPLICABLE PROVISIONS OF THE SECURITIES LAWS OF THE STATES, IF ANY, IN WHICH THE SERIES 2023B BONDS HAVE BEEN REGISTERED OR QUALIFIED AND THE EXEMPTION FROM REGISTRATION OR QUALIFICATION IN CERTAIN OTHER STATES CANNOT BE REGARDED AS A RECOMMENDATION THEREOF. NEITHER THESE STATES NOR ANY OF THEIR AGENCIES HAVE PASSED UPON THE MERITS OF THE SERIES 2023B BONDS OR THE ACCURACY OR COMPLETENESS OF THIS LIMITED OFFERING MEMORANDUM AND ANY REPRESENTATION TO THE CONTRARY MAY BE A CRIMINAL OFFENSE.

IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE BORROWER AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY BODY, AND NO SUCH AUTHORITIES HAVE CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS LIMITED OFFERING MEMORANDUM. ANY REPRESENTATION TO THE CONTRARY MAY BE A CRIMINAL OFFENSE.

This Limited Offering Memorandum is being furnished by the Underwriter to a limited number (35 or less) of sophisticated investors (Qualified Institutional Buyers) in minimum denominations of \$100,000 solely for the purpose of each investor's consideration of the purchase of the Series 2023B Bonds described herein, and is not to be used for any other purpose or made available to anyone not directly concerned with the decision regarding such purchase. It is not anticipated that there will be more than 35 holders of the Series 2023B Bonds.

The Underwriter has provided the following sentence for inclusion in this Limited Offering Memorandum. The Underwriter has reviewed the information in this Limited Offering Memorandum in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

The 2023B Trustee has not participated in the preparation of this Limited Offering Memorandum or any other disclosure documents relating to the Series 2023B Bonds. Except for information under the heading "THE 2023B TRUSTEE," the 2023B Trustee has or assumes no responsibility as to the accuracy or completeness of any information contained in this Limited Offering Memorandum or any other such disclosure documents.

THIS LIMITED OFFERING MEMORANDUM DESCRIBES THE TERMS OF THE SERIES 2023B BONDS UNTIL THE INITIAL MANDATORY TENDER DATE (JULY 1, 2026\*) AND MAY NOT BE RELIED UPON FOR THE TERMS OF THE SERIES 2023B BONDS AFTER SUCH MANDATORY TENDER DATE.

**CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS**

**THIS LIMITED OFFERING MEMORANDUM, INCLUDING THE APPENDICES HERETO, CONTAINS STATEMENTS WHICH SHOULD BE CONSIDERED "FORWARD-LOOKING STATEMENTS," MEANING THEY REFER TO POSSIBLE FUTURE EVENTS OR CONDITIONS. SUCH STATEMENTS ARE GENERALLY IDENTIFIABLE BY THE WORDS SUCH AS "PLAN," "EXPECT," "ESTIMATE," "BUDGET," OR SIMILAR WORDS. THE ACHIEVEMENT OF CERTAIN RESULTS OR OTHER EXPECTATIONS CONTAINED IN SUCH FORWARD-LOOKING STATEMENTS INVOLVE KNOWN AND UNKNOWN RISKS, UNCERTAINTIES, AND OTHER FACTORS WHICH MAY CAUSE ACTUAL RESULTS, PERFORMANCE OR ACHIEVEMENTS DESCRIBED TO BE MATERIALLY DIFFERENT FROM ANY FUTURE RESULTS, PERFORMANCE, OR ACHIEVEMENTS EXPRESSED OR IMPLIED BY SUCH FORWARD-LOOKING STATEMENTS. THE BORROWER DOES NOT EXPECT OR INTEND TO ISSUE ANY UPDATES OR REVISIONS TO THOSE FORWARD-LOOKING STATEMENTS IF OR WHEN ITS EXPECTATIONS, OR EVENTS, CONDITIONS OR CIRCUMSTANCES ON WHICH SUCH STATEMENTS ARE BASED, OCCUR.**

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

## NOTICE TO INVESTORS OF THE SERIES 2023B BONDS [COMMENTS FROM BOND COUNSEL TO COME]

The Series 2023B Bonds are to be initially offered and sold only to Qualified Institutional Buyers (as defined under Rule 144A of the Securities Act of 1933) executing an investor letter in the form included as “APPENDIX H – FORM OF INVESTOR LETTER”. The 2023B Indenture under which the Series 2023B Bonds will be issued contains provisions limiting transfers of the Series 2023B Bonds only to Qualified Institutional Buyers. In addition, the face of each Series 2023B Bond contains a legend to the effect that such Series 2023B Bond can only be transferred to Qualified Institutional Buyers. Each initial purchaser of any Bond or ownership interest therein will be deemed to have acknowledged, represented, warranted, and agreed with and to the Issuer, the Borrower, the Underwriter and the 2023B Trustee as follows:

(a) That the Series 2023B Bonds are special, limited obligations of the Issuer, payable solely from revenues received by the Issuer pursuant to the 2023B Loan Agreement, between the Issuer and the Borrower, as amended from time to time, and delivered to the Issuer pursuant to the 2023B Loan Agreement, and, in certain circumstances, out of amounts secured by the exercise of remedies provided in the 2023B Indenture, between the Issuer and the 2023B Trustee and the 2023B Loan Agreement. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2023B BONDS.” The Series 2023B Bonds shall never be payable out of any funds of the Issuer except the Trust Estate. THE SERIES 2023B BONDS ARE NOT OBLIGATIONS OF THE STATE OF FLORIDA (“STATE”), ANY POLITICAL SUBDIVISION THEREOF, OR ANY ENTITY OTHER THAN THE ISSUER. NONE OF THE STATE OR ANY OTHER POLITICAL CORPORATION, SUBDIVISION, OR AGENCY OF THE STATE SHALL BE OBLIGATED TO PAY THE SERIES 2023B BONDS OR THE INTEREST THEREON, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OR ANY OTHER POLITICAL SUBDIVISION OR AGENCY OF THE STATE IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, THE PREMIUM, IF ANY, OR INTEREST ON THE SERIES 2023B BONDS. THE ISSUER HAS NO TAXING POWER.

(b) That it is a Qualified Institutional Buyer and that it is purchasing the Series 2023B Bonds for its own account and not with a view to, or for offer or sale in connection with, any distribution thereof in violation of the Securities Act or other applicable securities laws.

(c) That the Series 2023B Bonds (a) have not been registered under the Securities Act and are not registered or otherwise qualified for sale under the “blue sky” laws and regulations of any state, (b) will not be listed on any stock or other securities exchange, and (c) may not be readily marketable.

(d) That such purchaser acknowledges that the Series 2023B Bonds and beneficial ownership interests therein may only be transferred to Qualified Institutional Buyers.

(e) That such purchaser acknowledges that the Issuer, the Borrower, the 2023B Trustee, the Underwriter and others will rely upon the truth and accuracy of the foregoing acknowledgments, representations and agreements.

(f) That none of the Issuer, the State, nor any of their respective directors, executive directors, program managers, counsel, agents, consultants, contractors, officers or employees takes any responsibility for, and the purchaser must not rely upon any of such parties, with respect to information appearing anywhere in this Limited Offering Memorandum, other than the information under the captions “THE ISSUER,” and “NO LITIGATION – The Issuer,” for which the Issuer is responsible and solely as such information relates to the Issuer (the “Issuer’s Portion” of the Limited Offering Memorandum). None of such parties have participated in the preparation of this Limited Offering Memorandum except with respect to the Issuer’s Portion of the Limited Offering Memorandum.

(g) That each purchaser must review this entire Limited Offering Memorandum and the Appendices hereto, including the information relating to the sources of repayment of the Series 2023B Bonds, the Project financed with proceeds of the Series 2023B Bonds, and the Borrower (including financial and operating data). The Limited Offering Memorandum is not guaranteed as to its accuracy or completeness, and is not a representation by and is not to be construed as a representation by the Underwriter.

(h) That each purchaser must be able to bear the economic risk associated with a purchase of securities such as the Series 2023B Bonds and must have the knowledge and experience in business and financial matters, including the analysis of a participation in the purchase of similar investments, necessary so as to be capable of evaluating the merits and risks of an investment in the Series 2023B Bonds on the basis of the information and review described herein.

*No dealer, salesman, or other person has been authorized to give any information or to make any representation, other than the information contained in this Limited Offering Memorandum, in connection with the offering of the Series 2023B Bonds, and, if given or made, such information or representation must not be relied upon as having been authorized by the Issuer, the Borrower, the 2023B Trustee or the Underwriter. The information in this Limited Offering Memorandum is subject to change without notice, and neither the delivery of this Limited Offering Memorandum nor any sale hereunder will, under any circumstances, create any implication that there has been no change in the affairs of the Issuer, the Borrower, the 2023B Trustee or the Underwriter since the date hereof. This Limited Offering Memorandum does not constitute an offer or solicitation in any jurisdiction in which such offer or solicitation is not authorized, or in which any person making such offer or solicitation is not qualified to do so, or to any person to whom it is unlawful to make such offer or solicitation.*



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## SUMMARY INFORMATION

*The following is a summary of certain information contained in this Limited Offering Memorandum. This summary is not comprehensive or complete and is qualified in its entirety by reference to the complete Limited Offering Memorandum. Undefined capitalized terms used below are defined in the 2023B Indenture, the 2023B Loan Agreement, or other document with respect to which the term is used in this Limited Offering Memorandum or elsewhere herein.*

**The Issuer** ..... The Housing Finance Authority of St. Johns County, Florida (the “Issuer”) is a public body corporate and politic in accordance with the Florida Housing Finance Authority Law, Part IV of Chapter 159, Florida Statutes, as amended and Ordinance Number 80-7 enacted by the Board of County Commissioners (the “Board”) of St. Johns County, Florida (the “County”) on February 26, 1980, as amended and Resolution 80-25 adopted by the Board on March 11, 1980 (collectively, the “Act”), authorized to issue the Series 2023B Bonds (as defined under the heading “The Series 2023B Bonds” below) for the purposes of, among others, financing the acquisition and rehabilitation of an affordable multifamily housing facility. See “THE ISSUER” in this Limited Offering Memorandum.

### **The Series 2023B**

**Bonds** ..... The Issuer will issue its Multifamily Housing Revenue Bonds (Oaks at St. John Project), Series 2023B (the “Bonds”), in the original aggregate principal amount of \$\_\_\_\_\_\*, in minimum denominations of \$\_\_\_\_\_ and increments of \$\_\_\_\_\_ in excess thereof. The Series 2023B Bonds will be issued under the terms of a Trust Indenture, dated as of December 1, 2023 (the “2023B Indenture”), between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “2023B Trustee”). See “THE SERIES 2023B BONDS – General” and “THE ISSUER” in this Limited Offering Memorandum.

**The Borrower** ..... Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “Borrower”) was formed on July 22, 2021 for the purpose of owning the Project. The general partner of the Borrower will be Ponte Vedra Beach Leased Housing Associates I, LLC, a Minnesota limited liability company (the “General Partner”). Ponte Vedra Beach Leased Housing Associates LP I, LLC, a Minnesota limited liability company (the “Class B Limited Partner”) will be a limited partner of the Borrower. The members of the Class B Limited Partner are Polaris Holdings I, LLC, a Minnesota limited liability company (“Polaris Holdings,” and together with the General Partner, the “Members”). The individual members of the Members, include but are not limited to, Paul R. Sween, Armand E. Brachman, Mark S. Moorhouse, Nick Andersen, and Terry Sween (collectively, the “Individual Members”). Individual Members are all employees of Dominium Development & Acquisition, LLC, a Minnesota limited liability company (“Dominium”), specializing in multifamily asset acquisition, development and management.

Simultaneously with the issuance of the Series 2023B Bonds, the Borrower expects to admit (i) Alliant Credit Facility IV, LLC (the “Investor Limited Partner”), a California limited liability company and affiliate of Walker & Dunlop Affordable Equity (“Walker Dunlop”), as a 99.989% partner in the Borrower, and (ii) Alliant Credit Facility ALP IV, LLC (the “Administrative Limited Partner”), a California limited liability company and affiliate of Walker Dunlop, as a .001% partner of the Borrower. The Borrower’s Amended and Restated Agreement of Limited Liability Limited Partnership (the “Limited Partnership Agreement”) will allow for a substitution of the Investor Limited Partner in the future without the Limited Partnership Agreement being restated. The Investor Limited Partner is not related to Dominium. See “THE INVESTOR LIMITED PARTNER” in this Limited Offering Memorandum.

The Borrower’s obligations with respect to the repayment of the Series 2023B Bonds are non-recourse to the partners of the Borrower and their property. See “THE BORROWER” and “APPENDIX A - THE BORROWER, THE PROJECT, THE GUARANTOR, AND THE MANAGER” in this Limited Offering Memorandum.

**The Guarantor(s)**.....Dominium Holdings I, LLC (“Dominium Holdings I”) and Dominium Holdings II, LLC (“Dominium Holdings II,” and together with Dominium Holdings I, the “Guarantor”) will guaranty the payment of debt service on the Series 2023B Bonds pursuant to a Guaranty Agreement, dated as of December 1, 2023 (the “Guaranty”), executed by the Guarantor in favor of the 2023B Trustee. The Guaranty is a joint and several obligation of each Guarantor. Each Guarantor is a Minnesota limited liability company. Each Guarantor is 100% owned by Polaris Holdings. Polaris Holdings is an entity that owns partnership interests in over 125 partnerships (the “Partnerships”) that own affordable projects developed by Dominium. The principals in Polaris Holdings are the principals in Dominium. As of \_\_\_\_\_, 20\_\_\_\_, (i) Dominium Holdings I had a net worth of approximately \$[200,000,000], as valued based upon agreed upon procedures for purposes of consistent valuation of illiquid assets, of which at least \$[15,000,000] was in cash and/or marketable securities, and (ii) Dominium Holdings II had a net worth in excess of \$[200,000,000], as valued based upon agreed upon procedures for purposes of consistent valuation of illiquid assets, of which at least \$[15,000,000] was in cash and/or marketable securities. As of \_\_\_\_\_, 20\_\_\_\_, (i) Dominium Holdings I had contingent debt liabilities (primarily guaranties of debt obligations) that total approximately \$[900,000,000], and (ii) Dominium Holdings II had contingent debt liabilities (primarily guaranties of debt obligations) that total approximately \$[900,000,000]. See “THE GUARANTOR” and “APPENDIX A – THE BORROWER, THE PROJECT, THE GUARANTOR, AND THE MANAGER” in this Limited Offering Memorandum.

**The Manager**.....The Project will be managed by Dominium Florida Management Services, LLC (the “Manager”). The Dominium property management affiliates including the Manager manage approximately 35,000 units of various types of housing in 22 states. See “APPENDIX A – THE BORROWER, THE PROJECT, THE GUARANTOR, AND THE MANAGER” in this Limited Offering Memorandum.

#### **Plan of Finance;**

**Use of Proceeds** .....The proceeds of the Series 2023B Bonds will be loaned to the Borrower, pursuant to the Loan Agreement, dated as of December 1, 2023 (the “2023B Loan Agreement”), between the Issuer and the Borrower. The Borrower will use proceeds of the Series 2023B Bonds in order to: (i) finance a portion of the costs necessary for the acquisition and rehabilitation of an existing 160-unit affordable multifamily rental housing development and functionally related facilities, located at 210 Nettles Lane in Ponte Vedra Beach, Florida (the “Project”); (ii) fund capitalized interest to the Mandatory Tender Date; and (iii) pay fees, expenses and costs incurred in connection with the authorization, issuance and sale of the Series 2023B Bonds. The Issuer has received a Florida state ceiling allocation for the volume cap necessary to permit the Series 2023B Bonds to be issued on a tax-exempt basis. See “THE PROJECT,” “PLAN OF FINANCE,” and “APPENDIX A – THE BORROWER, THE PROJECT, THE GUARANTOR, AND THE MANAGER” in this Limited Offering Memorandum.

#### **Other Project**

**Funding Sources** .....*Series 2023A Bonds.* Simultaneously with the issuance of the Series 2023B Bonds, the Issuer will issue its Multifamily Housing Revenue Bonds (Oaks at St. John Project), Series 2023A (the “Series 2023A Bonds”), in the approximate aggregate principal amount of \$6,880,000\*, pursuant to a Trust Indenture, dated as of December 1, 2023 (the “2023A Indenture”), by and between the Issuer and U.S. Bank Trust Company, National Association (the “2023A Trustee”). The Series 2023A Bonds have an initial mandatory tender date of July 1, 2025 (the initial “2023A Mandatory Tender Date”) with a final maturity date of July 1, 2027. The Series 2023A Bonds will bear a fixed rate of interest. *The Series 2023A Bonds are being offered pursuant to a separate offering document and are not being offered under the terms of this Limited Offering Memorandum.*

The loan of the proceeds of the Series 2023A Bonds (the “2023A Loan”) will be made to the Borrower under a Loan Agreement, dated as of December 1, 2023 (the “2023A Loan Agreement”), by and between the Issuer and the Borrower. Pursuant to the 2023A Loan

Agreement, the Borrower has agreed to make payments to the Issuer in amounts sufficient, together with interest earnings thereon, to pay the principal of and interest on the Series 2023A Bonds when due (the “Bond Service Charges”) to the extent that amounts otherwise available for such payment are insufficient therefor. The 2023A Loan will be evidenced by a promissory note in the principal amount of \$6,880,000\* (the “Note”) from the Borrower to the Issuer and endorsed to the 2023A Trustee. Simultaneously with the issuance of the Series 2023A Bonds it is expected that the Borrower will close on a mortgage loan (the “Mortgage Loan”) with Colliers Mortgage LLC (the “Mortgage Lender”), and will cause to be deposited certain proceeds of the Mortgage Loan (the “Eligible Funds”) into the Collateral Fund held by the 2023A Trustee under the 2023A Indenture allowing the 2023A Trustee to disburse a like amount of Series 2023A Bond proceeds to the Borrower to pay costs of the Project pursuant to the terms of the 2023A Indenture and the 2023A Loan Agreement. Amounts on deposit in the Collateral Fund, the Bond Fund and the Project Fund (collectively, the “Special Funds”) will be invested in Eligible Investments (as defined in the 2023A Indenture). It is anticipated that the aggregate Eligible Funds and Eligible Investments on deposit in the Project Fund and the Collateral Fund will, at all times, equal the principal amount of Series 2023A Bonds Outstanding. It is anticipated that the Bond Service Charges will be paid from amounts on deposit in the Special Funds, along with investment earnings thereon (without the need for reinvestment). At all times the Series 2023A Bonds will be secured by amounts on deposit under the 2023A Indenture, which amounts shall constitute Eligible Funds and shall be invested in Eligible Investments, and such amounts will be sufficient (along with investment earnings thereon), without the need for reinvestment, to pay all of the interest on the Series 2023A Bonds when due and to pay the principal of the Series 2023A Bonds on the earlier of any 2023A Mandatory Tender Date or any redemption date.

*Series 2023C Bonds.* Simultaneously with the closing of the Series 2023B Bonds and the Series 2023A Bonds, the Issuer will issue its Subordinate Multifamily Housing Revenue Note (Oaks at St. John Apartments), Series 2023C (the “Series 2023C Bonds”), in the original aggregate principal amount of \$4,330,000\* which will be delivered to Gainesville Leased Housing Associates (TIC-I) III, LLC, Gainesville Leased Housing Associates (TIC-II), III, LLC, and Gainesville Leased Housing Associations (TIC-III) III, LLC (collectively, the “Seller”) in partial payment of the purchase price of the Project. The Series 2023C Bonds will bear interest at 4.00% and have a final maturity date of \_\_\_\_\_, 20\_\_\_. Repayment of the Series 2023C Bonds is subordinate to repayment of the Series 2023A Bonds and the Series 2023B Bonds and certain other expenses of the Project. Repayment of the Series 2023C Bonds is secured by a **2023C Mortgage lien** on the Project that is subordinate to the mortgage lien of the Mortgage Lender to secure the Mortgage Loan and the mortgage lien to the 2023A Trustee to secure the Series 2023A Bonds. The Seller will agree, pursuant to a subordination agreement with the 2023A Trustee and the Borrower that it will exercise no remedies against the Project while the Series 2023A Bonds are outstanding, without the consent of the 2023A Trustee. *The Series 2023C Bonds are being placed directly with the Seller and are not offered by this Limited Offering Memorandum.*

See “Plan of Finance; Use of Proceeds” above and “PLAN OF FINANCE – Other Project Funding Sources” in this Limited Offering Memorandum.

#### **Initial Purchaser and**

**Transfer Restrictions.....**The Series 2023B Bonds may be purchased by buyers who qualify as a Qualified Institutional Buyer as defined in Rule 144A promulgated under the Securities Act of 1933, as amended (the “Securities Act”). All initial purchasers of the Series 2023B Bonds will be required to execute an Investor Letter substantially in the form attached to this Limited Offering Memorandum in “APPENDIX G – FORM OF INVESTOR LETTER.”

The purchase restrictions apply to initial purchases of the Series 2023B Bonds and to all subsequent sales or transfers of the Series 2023B Bonds. See “NOTICE TO INVESTORS OF THE SERIES 2023B BONDS” and “THE SERIES 2023B BONDS – Purchase and Transfer Restrictions for the Series 2023B Bonds” in this Limited Offering Memorandum.

**Payment**..... Interest will accrue on the Series 2023B Bonds at the rate set forth on the inside front cover hereof and is payable semiannually on January 1 and July 1 of each year (commencing July 1, 2024\*) (each an “Interest Payment Date”) pursuant to the procedures of The Depository Trust Company (“DTC”) so long as the Series 2023B Bonds are in book-entry form, or by check or draft of the 2023B Trustee mailed to the persons who are the registered owners of the Series 2023B Bonds as of the fifteenth day of the calendar month preceding the Interest Payment Date; provided, however, that upon written notice and instructions to the 2023B Trustee, any Bondholder of Bonds in principal amount of \$1,000,000 or more may receive payment of interest by wire transfer as provided in the 2023B Indenture. Principal of and interest on the Series 2023B Bonds will be payable at the principal corporate trust office of the 2023B Trustee. See “THE SERIES 2023B BONDS – General” in this Limited Offering Memorandum.

**Mandatory Purchase of Series 2023B Bonds** .... The Series 2023B Bonds are subject to mandatory tender on July 1, 2026\* (the “Mandatory Tender Date”), and on such date, the Bondholders are required to tender and the Borrower is required to purchase all of the Series 2023B Bonds at a purchase price equal to par plus accrued interest, if any. The Bondholders will receive from the 2023B Trustee, at least thirty (30) days but not more than forty-five (45) days before the Mandatory Tender Date, notice of the mandatory purchase and the required tender of their Bonds for purchase by the Borrower. If the Series 2023B Bonds are not optionally redeemed by the Borrower on or prior to the Mandatory Tender Date, on the Mandatory Tender Date, subject to satisfaction of conditions for remarketing set forth under the 2023B Indenture, Colliers Securities LLC (the “Remarketing Agent”) will remarket the Series 2023B Bonds on behalf of the Borrower under the terms of a Remarketing Agreement, dated as of December 1, 2023 (the “Remarketing Agreement”) if they are still outstanding on such date. See “THE SERIES 2023B BONDS – Mandatory Tender” in this Limited Offering Memorandum.

**Redemption and Prepayment**..... As more fully described herein, the Series 2023B Bonds are subject to redemption or prepayment prior to maturity, together with a payment of accrued interest, as follows: (a) optional redemption upon request of the Borrower to the 2023B Trustee on any Business Day, on or after January 1, 2026\*, in whole or in part, and by lot within any Stated Maturity, at a Redemption Price equal to the principal amount thereof, without premium, plus accrued interest thereon to the date fixed for redemption; (b) mandatory redemption in part from money remaining in the Project Fund that is transferred to the Bond Fund upon completion of the Project and payment of all costs of the Project; and (c) mandatory redemption in part from proceeds of the Pledged Capital Contributions (as defined herein) upon conditions set forth in the 2023B Indenture. See “THE SERIES 2023B BONDS – Redemption” in this Limited Offering Memorandum.

**Security for the Series 2023B Bonds**..... The Series 2023B Bonds and the interest thereon will be special limited obligations of the Issuer and will be payable exclusively from the Trust Estate (as defined in the 2023B Indenture). The Series 2023B Bonds shall not constitute an obligation, either general or special, of the State of Florida (the “State”) or any agency, subdivision, or local government thereof, and neither the State nor any agency, subdivision or local government thereof shall be liable thereon. Neither the faith, revenues, credit nor taxing power of the State or any agency, subdivision or local government thereof shall be pledged to the payment of the principal or interest on the Series 2023B Bonds. The Series 2023B Bonds are payable, as to principal and interest, solely out of the Trust Estate (as defined in the 2023B Indenture), which is the sole asset of the Issuer pledged therefor, and then only to the extent provided in the 2023B Indenture. The Issuer has no taxing power.

No recourse shall be had for the payment of the principal of or premium, if any, or interest on the Series 2023B Bonds against any past, present, or future officer, director, executive director, member, program manager, employee, counsel, advisor, contractor, consultant or agent of the Issuer, or of 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, executive directors, members, program managers, employees, counsel, advisors, contractors, consultants or agents, if any, as such is hereby expressly waived and released as a condition of and consideration for the execution and issuance of the Series 2023B Bonds.

The Series 2023B Bonds are secured by a pledge of loan repayments (“Basic Payments”) payable by the Borrower under the terms of the 2023B Loan Agreement which will be sufficient, (together with capitalized interest) if timely paid in full, to pay when due all scheduled payments of principal of, premium, if any, and interest on the Series 2023B Bonds and the Revenues (as defined in the 2023B Indenture). The Series 2023B Bonds will be secured by (a) the Pledge and Security Agreement (Borrower), dated as of December 1, 2023 (the “Borrower Pledge Agreement”) from the Borrower in favor of the 2023B Trustee, (b) the Pledge and Security Agreement (General Partner), dated as of December 1, 2023 (the “General Partner Pledge Agreement,” and together with the Borrower Pledge Agreement, the “Pledge Agreements”), from the General Partner in favor of the 2023B Trustee, and (c) a guaranty by the Guarantor of the payment of debt service on the Series 2023B Bonds under the terms of the Guaranty. Under the terms of an Assignment of Capital Contributions, dated as of December 1, 2023, from the Borrower for the benefit of the Fiscal Agent, the Borrower has granted to the Fiscal Agent an interest, subject to the terms of the Subordination Agreement (as defined below) with respect to the Borrower’s capital contributions.

In connection with the issuance of the 2023B Bonds, the 2023A Trustee and the 2023B Trustee will enter into a Subordination Agreement (Equity Bridge Loan), dated as of December 1, 2023 (the “Subordination Agreement”), whereby the 2023A Trustee acknowledges that its interest in any Pledged Capital Contributions are junior and subordinate to the rights of the 2023B Trustee. In addition, financing documents for the Series 2023B Bonds provide that the 2023B Trustee has the ability to require the Investor Limited Partner to make the Pledged Capital Contributions if the conditions in the Limited Partnership Agreement have been met. *The repayment of the Series 2023B Bonds is not secured by a debt service reserve fund nor are the repayment of the Series 2023B Bonds secured by a lien on the Project pursuant to a deed of trust or mortgage.* See “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS” in this Limited Offering Memorandum.

*Guaranty.* Payment of principal of and interest on the Series 2023B Bonds and performance by the Borrower of its obligations under the 2023B Loan Agreement with respect to the Series 2023B Bonds are fully and unconditionally guaranteed by the Guarantor under the terms of the Guaranty. Under the terms of the Guaranty, each Guarantor is also guaranteeing the purchase price of the Series 2023B Bonds on the Mandatory Tender Date. See “THE GUARANTOR” and “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2023B BONDS” in this Limited Offering Memorandum.

*Regulatory Agreement and Declaration of Restrictive Covenants.* The Project will be operated as a qualified residential rental project within the meaning of Section 142(d) of the Internal Revenue Code of 1986, as amended (the “Code”) and not less than forty percent (40%) of the completed units will be occupied by individuals whose income is sixty percent (60%) or less of area median gross income, all pursuant to the terms of a Regulatory Agreement and Declaration of Restrictive Covenants, dated as of December 1, 2023 (the “Regulatory Agreement”), between the Issuer, the Borrower, and the Trustee, with respect to the Series 2023A Bonds, the Series 2023B Bonds, and the Series 2023C Bonds. The Project will be subject to additional tenant income and rental rate requirements relating to the low income housing tax credits awarded to the Borrower. See “RENTAL HOUSING REQUIREMENTS” and “APPENDIX A – THE BORROWER, THE PROJECT, THE GUARANTOR, AND THE MANAGER – THE PROJECT – Tenant Income and Rent Limitations” in this Limited Offering Memorandum.

**Voluntary Borrower**

**Continuing Disclosure** .... Although the Series 2023B Bonds are exempt from the ongoing reporting requirements under Rule 15c2-12 (the “Rule”) promulgated by the Securities and Exchange Commission (the “SEC”), the Borrower has voluntarily agreed to comply with the provisions of the Continuing Disclosure Agreement, dated as of December 1, 2023 (the “Continuing Disclosure Agreement”), between the Borrower and U.S. Bank Trust Company, National Association, as dissemination agent. The Guarantor is not a party to the Continuing Disclosure Agreement. See “VOLUNTARY CONTINUING DISCLOSURE” and “APPENDIX G – FORM OF CONTINUING DISCLOSURE AGREEMENT” in this Limited Offering Memorandum.

**Trustee and**

**Paying Agent** ..... U.S. Bank Trust Company, National Association, in Saint Paul, Minnesota. See “THE 2023B TRUSTEE” in this Limited Offering Memorandum.

**Investment Risks** ..... An investment in the Series 2023B Bonds involves risks, including, but not limited to, those discussed under “RISK FACTORS” in this Limited Offering Memorandum.

**No Rating** ..... The Series 2023B Bonds are not rated by any national rating agency and no rating request has been made to any rating agency. See “NO RATING” in this Limited Offering Memorandum.

**[Market Study** ..... \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, has prepared a “Market Study for \_\_\_\_\_,” dated \_\_\_\_\_, 2023 (the “Market Study”). See “RISK FACTORS – Competition and Reliance on Market Study” and “APPENDIX J – MARKET STUDY” in this Limited Offering Memorandum.]

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**LIMITED OFFERING MEMORANDUM RELATING TO**

**\$\_\_\_\_\_\***

**HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA  
MULTIFAMILY HOUSING REVENUE BONDS  
(OAKS AT ST. JOHN PROJECT)  
SERIES 2023B**

**INTRODUCTION**

**General**

This Limited Offering Memorandum, which includes the cover page and appendices hereto, sets forth certain information in connection with the issuance and sale by the Housing Finance Authority of St. Johns County, Florida (the “Issuer”) of its Multifamily Housing Revenue Bonds (Oaks at St. John Project), Series 2023B (the “Bonds”), in the aggregate principal amount of \$\_\_\_\_\_\*.

The Series 2023B Bonds are being issued by the Issuer to provide funding for a loan (the “2023B Loan”) to be made by the Issuer to Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “Borrower”) in order to: (i) finance a portion of the costs necessary for the acquisition and rehabilitation of an existing 160-unit affordable multifamily rental housing development and functionally related facilities, located at 210 Nettles Lane in Ponte Vedra Beach, Florida (the “Project”); (ii) fund capitalized interest to the Mandatory Tender Date; and (iii) pay fees, expenses and costs incurred in connection with the authorization, issuance and sale of the Series 2023B Bonds. See “PLAN OF FINANCE” in this Limited Offering Memorandum. The Project will be managed by Dominium Florida Management Services, LLC (the “Manager”). See “APPENDIX A – THE BORROWER, THE PROJECT, THE GUARANTOR, AND THE MANAGER” in this Limited Offering Memorandum.

**THE SERIES 2023B BONDS ARE SUBJECT TO A SIGNIFICANT DEGREE OF RISK. THE SERIES 2023B BONDS ARE SUITABLE FOR INVESTMENT CONSIDERATION ONLY FOR THOSE PURCHASERS WHO ARE SOPHISTICATED AND EXPERIENCED IN THE FIELD OF HIGH YIELD MULTIFAMILY HOUSING BONDS. NO RATING FOR THE SERIES 2023B BONDS HAS BEEN APPLIED FOR. THE SERIES 2023B BONDS ARE OFFERED ONLY TO “QUALIFIED INSTITUTIONAL BUYERS” WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT OF 1933 WHICH DELIVER AN INVESTOR LETTER IN THE FORM SET FORTH AT APPENDIX H HERETO. SEE “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2023B BONDS” AND “RISK FACTORS” IN THIS LIMITED OFFERING MEMORANDUM. SEE “NOTICE TO INVESTORS OF THE SERIES 2023B BONDS,” “RISK FACTORS – No Rating; Lack of Secondary Market,” and “NO RATING” in this Limited Offering Memorandum.**

The Series 2023B Bonds are authorized and being issued by the Issuer pursuant to the Florida Housing Finance Authority Law, Part IV of Chapter 159, Florida Statutes, as amended and Ordinance Number 80-7 enacted by the Board of County Commissioners (the “Board”) of St. Johns County, Florida (the “County”) on February 26, 1980, as amended and Resolution 80-25 adopted by the Board on March 11, 1980 (collectively, the “Act”). The Series 2023B Bonds are issued pursuant to a Trust Indenture, dated as of December 1, 2023 (the “2023B Indenture”), between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “2023B Trustee”), and pursuant to a resolution adopted by the Board of the Issuer on December \_\_, 2023 (the “Bond Resolution”). See “APPENDIX B – SUBSTANTIALLY FINAL FORM OF THE TRUST INDENTURE” in this Limited Offering Memorandum. All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the 2023B Indenture.



The 2023B Loan will be made by the Issuer pursuant to the Loan Agreement, dated as of December 1, 2023 (the “2023B Loan Agreement”), between the Issuer and the Borrower. See “APPENDIX C – SUBSTANTIALLY FINAL FORM OF THE 2023B LOAN AGREEMENT” in this Limited Offering Memorandum. With certain exceptions relating to the payment of fees, expenses and indemnification, the Issuer will assign its rights in the 2023B Loan Agreement to the 2023B Trustee.

The Project will be operated by the Borrower as a qualified residential rental project within the meaning of Section 142(d) of the Internal Revenue Code of 1986, as amended (the “Code”) and not less than forty percent (40%) of the completed units will be occupied by individuals whose income is sixty percent (60%) or less of area median gross income, all pursuant to the terms of a Regulatory Agreement and Declaration of Restrictive Covenants, dated as of December 1, 2023 (the “Regulatory Agreement”), between the Issuer, the Borrower, and the Trustee, with respect to the Series 2023A Bonds, the Series 2023B Bonds, and the Series 2023C Bonds. The Project will be subject to additional tenant income and rental rate requirements relating to the low income housing tax credits awarded to the Borrower. See “RENTAL HOUSING REQUIREMENTS,” “APPENDIX A – THE BORROWER, THE PROJECT, THE GUARANTOR, AND THE MANAGER – THE PROJECT – Tenant Income and Rent Limitations,” and “APPENDIX D – SUBSTANTIALLY FINAL FORM OF THE Regulatory AGREEMENT” in this Limited Offering Memorandum.

The Series 2023B Bonds, when issued, will be special limited obligations of the Issuer and are payable solely from the Trust Estate (as described below), which includes payments to be made by the Borrower under the 2023B Loan Agreement, and secured by (i) the Pledge and Security Agreement (Borrower), dated as of December 1, 2023 (the “Borrower Pledge Agreement”), from the Borrower to the 2023B Trustee, (ii) the Pledge and Security Agreement (General Partner), dated as of December 1, 2023 (the “General Partner Pledge Agreement,” and together with the Borrower Pledge Agreement, the “Pledge Agreements”), and (iii) the Guaranty Agreement, dated as of December 1, 2023 (the “Guaranty”) from Dominion Holdings I, LLC (“Dominium Holdings I”) and Dominion Holdings II, LLC (“Dominium Holdings II,” and together with Dominion Holdings I, the “Guarantor”) for the benefit of the 2023B Trustee (collectively, the “Security Documents”), each as defined and described below. The Borrower and Colliers Securities LLC, as remarketing agent, will also enter into a Remarketing Agreement, dated as of December 1, 2023 (the “Remarketing Agreement”), to provide for the remarketing of the Series 2023B Bonds at a price of par on the Mandatory Tender Date (July 1, 2026\*) if they have not been optionally redeemed by the Borrower and are still outstanding on such date. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2023B BONDS” in this Limited Offering Memorandum.

Simultaneously with the issuance of the Series 2023B Bonds, the Issuer is also issuing its (i) Multifamily Housing Revenue Bonds (Oaks at St. John), Series 2023A (the “Series 2023A Bonds”), in the original aggregate principal amount of \$6,880,000\*, and (ii) Multifamily Housing Revenue Bonds (Oaks at St. John) Series 2023C (the “Series 2023C Bonds”), in the principal amount of \$4,330,000\*, the aggregate proceeds of which will be used to make loans to the Borrower to finance a portion of the cost of the Borrower’s acquisition, rehabilitation and equipping of the Project. *The Series 2023A Bonds and the Series 2023C Bonds are not being offered pursuant to this Limited Offering Memorandum. Closing on the Series 2023B Bonds is contingent on the closing of the Series 2023A Bonds and the Series 2023C Bonds.* See “PLAN OF FINANCE – Other Project Funding Sources” in this Limited Offering Memorandum.

### **Description of the Project**

The Project is located on approximately 23.9 acres at 210 Nettles Lane in Ponte Vedra Beach, Florida and the Project consists of a 160-unit affordable multifamily rental housing development. See “THE PROJECT” and “APPENDIX A – THE BORROWER, THE PROJECT, THE GUARANTOR, AND THE MANAGER – THE PROJECT” in this Limited Offering Memorandum.

## **Continuing Disclosure**

No financial or operating data concerning the Issuer is material to an evaluation of the offering of the Series 2023B Bonds or to any decision to purchase, hold, or sell the Series 2023B Bonds, and the Issuer will not provide any such information. Although the Series 2023B Bonds are exempt from the ongoing reporting requirements under Rule 15c2-12 (the “Rule”) promulgated by the Securities and Exchange Commission (the “SEC”), the Borrower has voluntarily agreed to comply with the provisions of the Continuing Disclosure Agreement, dated as of December 1, 2023 (the “Continuing Disclosure Agreement”), between the Borrower and U.S. Bank Trust Company, National Association, as dissemination agent. See “VOLUNTARY CONTINUING DISCLOSURE” and “APPENDIX G – FORM OF CONTINUING DISCLOSURE AGREEMENT” in this Limited Offering Memorandum.

## **Restrictions on Initial Purchase**

THE SERIES 2023B BONDS ARE OFFERED AND SOLD SOLELY TO NO MORE THAN 35 INSTITUTIONS THAT ARE QUALIFIED INSTITUTIONAL BUYERS AS DEFINED IN RULE 144A PROMULGATED UNDER THE SECURITIES ACT OF 1933. PURCHASERS OF THE SERIES 2023B BONDS WILL BE REQUIRED TO EXECUTE AN INVESTOR LETTER SUBSTANTIALLY IN THE FORM ATTACHED HERETO AS APPENDIX G. IT IS NOT ANTICIPATED THAT THERE WILL BE MORE THAN 35 HOLDERS OF THE SERIES 2023B BONDS. See “NOTICE TO INVESTORS OF THE SERIES 2023B BONDS” and “THE SERIES 2023B BONDS – Purchase and Transfer Restrictions for the Series 2023B Bonds” in this Limited Offering Memorandum.

## **Miscellaneous**

This Limited Offering Memorandum (including the appendices hereto) contains descriptions of, among other matters, the 2023B Indenture, the 2023B Loan Agreement, the Regulatory Agreement, the Remarketing Agreement, the Guaranty, the Continuing Disclosure Agreement, the Issuer, the Project, the Borrower, the General Partner, Class B Limited Partner, Sole Member, Members, the Guarantor and the Series 2023B Bonds. Such descriptions and information do not purport to be comprehensive or definitive. All references to documents described herein are qualified in their entirety by reference to such documents, copies of which are available for inspection at the principal corporate trust office of the 2023B Trustee.

## **THE ISSUER**

*Except for the information under this heading and “NO LITIGATION – The Issuer,” solely as such information relates to the Issuer, the Issuer has not participated in the preparation of this Limited Offering Memorandum and assumes no responsibility as to the accuracy or completeness of any information in this Limited Offering Memorandum.*

## **General**

The Issuer was created as a public body corporate and politic in accordance with the Florida Housing Finance Authority Law, Sections 159.601 et seq., Florida Statutes, as amended, and Ordinance No. 80-7 enacted by the Board of the County on February 26, 1980, as amended by Ordinance No. 80-25 enacted by the Board on March 11, 1980 (collectively, the “Act”). The Board is the principal legislative and governing body of the County, as provided by the Florida Constitution and Chapter 125, Florida Statutes. The Issuer is authorized, in furtherance of the public purposes described in the Act, to alleviate the shortage of affordable residential housing within the County, by providing funds for investment by the private sector in the construction or rehabilitation of such housing for low, moderate or middle income families or persons within the County by issuing its revenue bonds. The Issuer is also authorized to enter into such agreements which are necessary to secure the repayment of the principal of and interest on the

Series 2023B Bonds. On \_\_\_\_\_, 2023, the Issuer adopted Resolution No. 2023-\_\_\_\_, approving the issuance of the Series 2023B Bonds. [The Series 2023B Bonds remain subject to approval by the Board of the County as required under the Act and Section 147(f) of the Internal Revenue Code of 1986, as amended, which approval is anticipated to occur on \_\_\_\_\_, 2023.]

The Issuer has previously issued bonds to finance and refinance multifamily properties, however, those bonds were issued pursuant to separate trust indentures and are not secured by the Project.

The Issuer is currently composed of seven members appointed by the Board. The members of the Issuer serve for terms not exceeding four years (members continue to serve until a new appointment is made) and the current members of the Issuer and the dates on which their respective terms expire are as follows:

<b>Name</b>	<b>Office</b>	<b>Term</b>
Michael O'Donnell	Chair	February 2024
Robert Marshall	Vice Chair	February 2024
Linda DeGrande	Secretary/Treasurer	April 2026
Brian Clark	Member	February 2025
Carolina Morrow	Member	April 2026
Malinda Peebles	Member	July 2026
Erick Saks	Member	February 2025

Roberto Ortiz, Housing/Community Services Manager is the Executive Director of the Issuer. As Executive Director, he is responsible for the administration of the County's bond financed housing programs and the availability of affordable housing. Mr. Ortiz began working as the Executive Director in 2020.

Mr. Ortiz began his career with the County in 2019. He was the Senior Property Manager for a \$32 million CDBG-DR grant portfolio responsible for the new construction of two Affordable Housing Multi-Family developments in St. Johns County. Mr. Ortiz was promoted to his current position in late 2020 and is now heading the Housing and Community Development Department. Mr. Ortiz's more than 20 years of background and experience in government and the private sector provides him knowledge in executive management, budgeting, housing finance, urban planning, community and economic development, and neighborhood revitalization.

Mr. Ortiz received a dual degree in Business Management and Industrial Psychology from the University of Puerto Rico in San Juan, Puerto Rico. Mr. Ortiz is currently working toward finishing his Masters of Public Administration (MPA) degree.

The Issuer's office is located at 200 San Sebastian View, Suite 2300, St. Augustine, Florida 32084, and the Issuer's telephone number is (904) 827-6894.

The Issuer neither has nor will assume responsibility for the accuracy or completeness of any information herein which has been furnished by others.

## THE BORROWER

*The information under this heading has been provided solely by the Borrower and has not been independently verified by the Issuer, the Underwriter or any of their respective counsel, members, directors, executive directors, program managers, contractors, consultants, agents, officers or employees. No representation whatsoever as to the accuracy, adequacy or completeness of such information is made by the Issuer, the Underwriter or any of their respective counsel, members, officers or employees.*

The Borrower is Ponte Vedra Beach Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership, formed for the sole purpose of acquiring, rehabilitating and operating the Project. The Borrower's general partner is Ponte Vedra Beach Leased Housing Associates I, LLC (the "General Partner") and Class B Limited Partner is Ponte Vedra Beach Leased Housing Associates LP I, LLC (the "Class B Limited Partner"). Upon the issuance of the Series 2023B Bonds (i) each of the General Partner and Class B Limited Partner is expected to own a 0.005% interest in the Borrower, (ii) the Investor Limited Partner (defined herein) is expected to own a 99.989% interest in the Borrower, and (iii) the Administrative Limited Partner (defined herein) is expected to own a 0.001% interest in the Borrower. The Borrower's Amended and Restated Agreement of Limited Liability Limited Partnership (the "Limited Partnership Agreement") will allow for a substitution of the Investor Limited Partner (defined herein) in the future without the Limited Partnership Agreement being restated.

The Borrower will not have any other assets other than the Project and does not intend to acquire any other substantial assets or to engage in any substantial business activities other than those related to the ownership of the Project. Affiliates of the Borrower and their respective principals and affiliates, however, are engaged in, and will continue to engage in, the acquisition, development, ownership and management of similar types of affordable Projects and they may be financially interested in, as officers, partners or otherwise, and devote substantial time to, business and activities that may be inconsistent or competitive with the interests of the Project.

The obligations and liabilities of the Borrower under the 2023B Loan Agreement are of a nonrecourse nature and are secured solely by the Pledge Agreements and the Guaranty. The Limited Partnership Agreement and certain other related documents executed by the Borrower, its partners and/or their affiliates will contain numerous terms regarding the funding, operation and cash flow of the Project. See "APPENDIX E – SUBSTANTIALLY FINAL FORM OF THE BORROWER'S AMENDED AND RESTATED AGREEMENT OF LIMITED LIABILITY LIMITED PARTNERSHIP" in this Limited Offering Memorandum.

For additional descriptions of the Borrower, the General Partner, and the Limited Partners, see "APPENDIX A – THE BORROWER, THE PROJECT, THE GUARANTOR, AND THE MANAGER" in this Limited Offering Memorandum.

## THE INVESTOR LIMITED PARTNER

The initial Investor Limited Partner will be Alliant Credit Facility IV, LLC (the "Investor Limited Partner"), a California limited liability company and affiliate of Walker & Dunlop Affordable Equity ("Walker Dunlop"), which will own a 99.989% interest in the Borrower. The Administrative Limited Partner of the Borrower will be Alliant Credit Facility ALP IV, LLC (the "Administrative Limited Partner"), a California limited liability company and affiliate of Walker Dunlop, which will own a 0.001% interest. The price that the Investor Limited Partner is paying for the tax credits for the Project is \$0.90 per credit (subject to certain adjusters set forth in the Limited Partnership Agreement). **FURTHER ALLIANT DISCLOSURE TO BE CONSIDERED**

Pursuant to the Borrower's Limited Partnership Agreement and as shown under the heading "CAPITAL CONTRIBUTIONS" below, the Investor Limited Partner will make Capital Contributions (as defined below) to the Borrower in the approximate aggregate amount of \$12,900,810\*, payable in installments upon the satisfaction of various conditions. The Borrower's Limited Partnership Agreement will allow for a substitution of the Investor Limited Partner in the future. As mentioned above under the heading "THE BORROWER", the Borrower's Limited Partnership Agreement will allow for a substitution of the Investor Limited Partner in the future without the Limited Partnership Agreement being restated. The funding levels and the timing of the funding are subject to numerous adjustments and conditions that could result in the amounts funded and/or the timing or even occurrence of the funding to vary significantly from the projections set forth above and no representation is made as to the availability of funds. See "THE BORROWER" and "APPENDIX A – THE BORROWER, THE PROJECT, THE GUARANTOR, AND THE MANAGER" in this Limited Offering Memorandum.

## **THE GUARANTOR**

Each Guarantor will guaranty the payment of debt service on the Series 2023B Bonds and the payments of the Borrower relating to the Series 2023B Bonds under the 2023B Loan Agreement. Each Guarantor was initially organized in 2013. The Guaranty is a joint and several obligation of each Guarantor. Under the terms of the Guaranty, each Guarantor is also guaranteeing the purchase price of the Series 2023B Bonds on the Mandatory Tender Date. Each Guarantor is a Minnesota limited liability company, 100% owned by Polaris Holdings I, LLC, a Minnesota limited liability company ("Polaris Holdings"). Polaris Holdings is an entity that owns partnership interests in over 125 partnerships (the "Partnerships") that own affordable Projects that have been developed by Dominion Development & Acquisition, LLC, a Minnesota limited liability company ("Dominium"). The principals in Polaris Holdings are the principals in Dominium. As of \_\_\_\_\_, 20\_\_\_\_, (i) Dominium Holdings I had a net worth of approximately \$[200,000,000], as valued based upon agreed upon procedures for purposes of consistent valuation of illiquid assets, of which at least \$[15,000,000] was in cash and/or marketable securities, and (ii) Dominium Holdings II had a net worth of approximately \$[200,000,000], as valued based upon agreed upon procedures for purposes of consistent valuation of illiquid assets, of which at least \$[15,000,000] was in cash and/or marketable securities. As of \_\_\_\_\_, 20\_\_\_\_, (i) Dominium Holdings I had contingent debt liabilities (primarily guaranties of debt obligations) that total approximately \$[900,000,000], and (ii) Dominium Holdings II had contingent debt liabilities (primarily guaranties of debt obligations) that total approximately \$[900,000,000]. See "APPENDIX A – THE BORROWER, THE PROJECT, THE GUARANTOR, AND THE MANAGER – THE GUARANTOR" in this Limited Offering Memorandum.

## **THE PROJECT**

### **Generally**

The Series 2023B Bonds are being issued to finance a portion of the cost of the acquisition and rehabilitation of the Project which is an existing 160-unit affordable multifamily rental housing development and functionally related facilities located at 210 Nettles Lane in Ponte Vedra Beach, Florida.

For detailed information with respect to the Project, see "APPENDIX A – THE BORROWER, THE PROJECT, THE GUARANTOR, AND THE MANAGER" in this Limited Offering Memorandum. For more information with respect to the costs of the Project, see "PLAN OF FINANCE" in this Limited Offering Memorandum.

The Borrower anticipates using the Second Installment and Third Installment of Capital Contributions from the Limited Partners to redeem all of the Outstanding Bonds on or prior to the Mandatory Tender Date. See "SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2023B BONDS – The Pledge Agreements" and "PLAN OF FINANCE" in this Limited Offering Memorandum.

## **Land and Building Acquisition**

The Borrower and the Seller (as defined herein) entered into that certain Purchase Agreement, dated January 19, 2022, as amended (the “Purchase Agreement”). The Purchase Agreement includes the approximately 23.9 acres of land and seven three-story buildings and one community/clubhouse building comprising the Project (the “Parcel”) for a purchase price of \$22,400,000. On the date of the issuance of the Series 2023B Bonds, the Borrower will acquire from the Seller the Parcel pursuant to the Purchase Agreement.

See also “APPENDIX A – THE BORROWER, THE PROJECT, THE GUARANTOR, AND THE MANAGER – THE PROJECT – Proposed Unit Mix and Rental Rates” in this Limited Offering Memorandum.

## **Construction Contract**

The Borrower entered into a construction contract (the “Construction Contract”) with Community Construction Group, LLC (the “Contractor”) for the rehabilitation of the Project. The Contractor will be paid a contractor fee. See “APPENDIX A – THE BORROWER, THE PROJECT, THE GUARANTOR, AND THE MANAGER – THE PROJECT – Construction of the Project” in this Limited Offering Memorandum.

## **PLAN OF FINANCE**

### **Capital Contributions**

Simultaneously with the issuance of the Series 2023B Bonds, the Borrower expects to admit (i) the Investor Limited Partner as a 99.989% partner in the Borrower, and (ii) the Administrative Limited Partner as a .001% partner of the Borrower. Under the terms of the Limited Partnership Agreement, the funding of the Capital Contributions is expected to total approximately \$12,900,810\*. Pursuant to the Pledge Agreements (as defined herein), the Borrower has assigned the Second Installment of Capital Contributions and the Third Installment of Capital Contributions in the aggregate amount of \$\_\_\_\_\_ to the 2023B Trustee to secure the payment of the Series 2023B Bonds. It is anticipated that the Second Installment and Third Installment of Capital Contributions will be used to fully redeem the Outstanding Bonds. See “CAPITAL CONTRIBUTIONS” in this Limited Offering Memorandum for a description of the total amount of capital contributions that the Investor Limited Partner expects to make. The funding levels and the timing of the funding of the Capital Contributions are subject to numerous adjustments and conditions which could result in the amounts funded and/or the timing or even occurrence of the funding to vary significantly from the projections set forth above. Neither the Issuer nor the Underwriter makes any representation as to the availability of such funds. In connection with the issuance of the 2023B Bonds, the 2023A Trustee and the 2023B Trustee will enter into a Subordination Agreement (Equity Bridge Loan), dated as of December 1, 2023 (the “Subordination Agreement”), whereby the 2023A Trustee acknowledges that its interest in any Pledged Capital Contributions are junior and subordinate to the rights of the 2023B Trustee. In addition, financing documents for the Series 2023B Bonds provide that the 2023B Trustee has the ability to require the Investor Limited Partner to make the Pledged Capital Contributions if the conditions in the Limited Partnership Agreement have been met, but do not allow for the 2023B Trustee to foreclose on the various ownership interests of the various partners/members of the Borrower. See “CAPITAL CONTRIBUTIONS” and “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2023B BONDS – The Pledge Agreements” in this Limited Offering Memorandum.

## Other Project Funding Sources

*Series 2023A Bonds.* Simultaneously with the issuance of the Series 2023B Bonds, the Issuer will issue its Series 2023A Bonds, in the approximate aggregate principal amount of \$6,880,000\*, pursuant to a Trust Indenture, dated as of December 1, 2023 (the “2023A Indenture”), by and between the Issuer and U.S. Bank Trust Company, National Association (the “2023A Trustee”). The Series 2023A Bonds have an initial mandatory tender date of July 1, 2025 (the initial “2023A Mandatory Tender Date”) with a final maturity date of July 1, 2027. The Series 2023A Bonds will bear a fixed rate of interest. *The Series 2023A Bonds are being offered pursuant to a separate offering document and are not being offered under the terms of this Limited Offering Memorandum.*

The loan of the proceeds of the Series 2023A Bonds (the “2023A Loan”) will be made to the Borrower under a Loan Agreement, dated as of December 1, 2023 (the “2023A Loan Agreement”), by and between the Issuer and the Borrower. Pursuant to the 2023A Loan Agreement, the Borrower has agreed to make payments to the Issuer in amounts sufficient, together with interest earnings thereon, to pay the principal of and interest on the Series 2023A Bonds when due (the “Bond Service Charges”) to the extent that amounts otherwise available for such payment are insufficient therefor. The 2023A Loan will be evidenced by a promissory note in the principal amount of \$6,880,000\* (the “Note”) from the Borrower to the Issuer and endorsed to the 2023A Trustee. Simultaneously with the issuance of the Series 2023A Bonds it is expected that the Borrower will close on a mortgage loan (the “Mortgage Loan”) with Colliers Mortgage LLC (the “Mortgage Lender”), and will cause to be deposited certain proceeds of the Mortgage Loan (the “Eligible Funds”) into the Collateral Fund held by the 2023A Trustee under the 2023A Indenture allowing the 2023A Trustee to disburse a like amount of Series 2023A Bond proceeds to the Borrower to pay costs of the Project pursuant to the terms of the 2023A Indenture and the 2023A Loan Agreement. Amounts on deposit in the Collateral Fund, the Bond Fund and the Project Fund (collectively, the “Special Funds”) will be invested in Eligible Investments (as defined in the 2023A Indenture). It is anticipated that the aggregate Eligible Funds and Eligible Investments on deposit in the Project Fund and the Collateral Fund will, at all times, equal the principal amount of Series 2023A Bonds Outstanding. It is anticipated that the Bond Service Charges will be paid from amounts on deposit in the Special Funds, along with investment earnings thereon (without the need for reinvestment). At all times the Series 2023A Bonds will be secured by amounts on deposit under the 2023A Indenture, which amounts shall constitute Eligible Funds and shall be invested in Eligible Investments, and such amounts will be sufficient (along with investment earnings thereon), without the need for reinvestment, to pay all of the interest on the Series 2023A Bonds when due and to pay the principal of the Series 2023A Bonds on the earlier of any 2023A Mandatory Tender Date or any redemption date.

*Series 2023C Bonds.* Simultaneously with the closing of the Series 2023B Bonds and the Series 2023A Bonds, the Issuer will issue its Series 2023C Bonds, in the original aggregate principal amount of \$4,330,000\* which will be delivered to Gainesville Leased Housing Associates (TIC-I) III, LLC, Gainesville Leased Housing Associates (TIC-II), III, LLC, and Gainesville Leased Housing Associations (TIC-III) III, LLC (collectively, the “Seller”) in partial payment of the purchase price of the Project. The Series 2023C Bonds will bear interest at 4.00% and have a final maturity date of \_\_\_\_\_, 20\_\_\_. Repayment of the Series 2023C Bonds is subordinate to repayment of the Series 2023A Bonds and the Series 2023B Bonds and certain other expenses of the Project. Repayment of the Series 2023C Bonds is secured by a **2023C Mortgage lien** on the Project that is subordinate to the mortgage lien of the Mortgage Lender to secure the Mortgage Loan and the mortgage lien to the 2023A Trustee to secure the Series 2023A Bonds. The Seller will agree, pursuant to a subordination agreement with the 2023A Trustee and the Borrower that it will exercise no remedies against the Project while the Series 2023A Bonds are outstanding, without the consent of the 2023A Trustee. *The Series 2023C Bonds are being placed directly with the Seller and are not offered by this Limited Offering Memorandum.*

**Estimated Sources and Uses of Funds**

The proceeds derived from the sale of the Series 2023B Bonds will be loaned by the Issuer to the Borrower under the terms of the 2023B Loan Agreement. The proceeds of the 2023B Loan will be applied to the financing of the Project and certain related costs. The sources of funds to accomplish these purposes and the specific uses of such funds are specified below:

**Sources of Funds:\***

Series 2023A Bonds	
Series 2023B Bonds <sup>(1)</sup>	
Series 2023C Bonds	
Capital Contributions	
General Partner Capital Contribution	
Deferred Developer Fee and Contractor Fees	
<b>Total</b>	\$

**Uses of Funds:\***

Acquisition Cost	\$
Rehabilitation Costs	
Capitalized Interest on Series 2023B Bonds	
Total Costs of Issuance <sup>(2)</sup>	
Operating Reserve Fund	
Project Reserves and Escrows	
Developer Fee	
<b>Total</b>	\$

<sup>(1)</sup> It is anticipated that after the Project has been placed in service (for purposes of Section 42 of the Internal Revenue Code) and achieved stabilized operations, the Series 2023B Bonds will be redeemed in full from the proceeds of the Second Installment of Capital Contributions (as further described herein under “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2023B BONDS” in this Limited Offering Memorandum).

<sup>(2)</sup>Includes Underwriter’s compensation that is payable on the date of issuance of the Series 2023B Bonds, certain legal fees and expenses, printing, 2023B Trustee fees, Issuer fees, and certain other costs associated with issuance of the Series 2023B Bonds.

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## THE SERIES 2023B BONDS

### General

The Series 2023B Bonds will be dated as of their date of initial issuance and shall bear interest until paid from the most recent date to which interest has been duly paid or provided for or, if no interest has been paid or duly provided for, from the date of delivery of the Series 2023B Bonds. Interest on the Series 2023B Bonds will be payable semiannually on January 1 and July 1 of each year, commencing July 1, 2024\* (each a “Payment Date”), computed on the basis of a 360 day year of twelve 30-day months. The Series 2023B Bonds are issuable only as fully registered Bonds without coupons in minimum denomination of \$\_\_\_\_\_ and increments of \$\_\_\_\_\_ in excess thereof, and shall be initially available only in Book-Entry Form.

The Series 2023B Bonds will bear interest at the rates and will mature in the year and amount stated on the cover page. The Series 2023B Bonds shall be equally and ratably secured under the 2023B Indenture. Interest on the Series 2023B Bonds will be capitalized in amounts that will be sufficient to pay interest on the Series 2023B Bonds to, but not including, the Mandatory Tender Date. Principal of and premium, if any, on the Series 2023B Bonds will be payable, upon surrender, at the 2023B Trustee’s payment office. Debt service on the Series 2023B Bonds will be payable by check or draft mailed on each Payment Date to the person in whose name such Bond (or any predecessor Bond) is registered as of the close of business of the Record Date next preceding a Payment Date.

### Limited Liability of Issuer

THE SERIES 2023B BONDS SHALL NOT CONSTITUTE AN OBLIGATION, EITHER GENERAL OR SPECIAL, OF THE STATE OR ANY AGENCY, SUBDIVISION OR LOCAL GOVERNMENT THEREOF; AND NEITHER THE STATE NOR ANY AGENCY, SUBDIVISION OR LOCAL GOVERNMENT THEREOF SHALL BE LIABLE THEREON. NEITHER THE FAITH, REVENUES, CREDIT NOR TAXING POWER OF THE STATE OR ANY AGENCY, SUBDIVISION OR LOCAL GOVERNMENT THEREOF SHALL BE PLEDGED TO THE PAYMENT OF THE PRINCIPAL OR INTEREST ON THE SERIES 2023B BONDS. THE SERIES 2023B BONDS ARE PAYABLE, AS TO PRINCIPAL AND INTEREST, SOLELY OUT OF THE TRUST ESTATE (AS DEFINED IN THE 2023B INDENTURE), WHICH IS THE SOLE ASSET OF THE ISSUER PLEDGED THEREFOR, AND THEN ONLY TO THE EXTENT PROVIDED IN THE 2023B INDENTURE. THE ISSUER HAS NO TAXING POWER.

NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR PREMIUM, IF ANY, OR INTEREST ON THE SERIES 2023B BONDS AGAINST ANY PAST, PRESENT, OR FUTURE OFFICER, DIRECTOR, EXECUTIVE DIRECTOR, MEMBER, PROGRAM MANAGER, EMPLOYEE, COUNSEL, ADVISOR, CONTRACTOR, CONSULTANT OR AGENT OF THE ISSUER, OR OF 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, EXECUTIVE DIRECTORS, MEMBERS, PROGRAM MANAGERS, EMPLOYEES, COUNSEL, ADVISORS, CONTRACTORS, CONSULTANTS OR AGENTS, IF ANY, AS SUCH IS HEREBY EXPRESSLY WAIVED AND RELEASED AS A CONDITION OF AND CONSIDERATION FOR THE EXECUTION AND ISSUANCE OF THE SERIES 2023B BONDS.

## **Redemption**

***Optional Prepayment.*** The Series 2023B Bonds are subject to redemption and prepayment upon request by the Borrower to the 2023B Trustee on any Business Day on and after January 1, 2026\*, in whole or in part, and by lot within any Stated Maturity, at a Redemption Price equal to the principal amount thereof, without premium, plus accrued interest thereon to the date fixed for redemption.

***Redemption from Money Remaining in Project Fund.*** The Series 2023B Bonds are subject to mandatory redemption in part, at a Redemption Price equal to the principal amount thereof, without premium, plus accrued interest thereon to the date fixed for redemption, on the earliest practicable date for which notice can be given pursuant to the 2023B Indenture, to the extent of money remaining on deposit in the Project Fund that is transferred to the Bond Fund upon completion of the Project and payment of all Costs of the Project as provided in the 2023B Indenture.

***Mandatory Redemption from Certain Money.*** The Series 2023B Bonds are subject to mandatory redemption in part, at a Redemption Price equal to the principal amount thereof, without premium, plus accrued interest thereon to the date fixed for redemption, on the earliest practicable date for which notice can be given pursuant to the 2023B Indenture, from the proceeds of the Pledged Capital Contributions (as defined and described in detail herein); redemption of the Series 2023B Bonds in part to occur upon each receipt by the Borrower or its designee and deposit with the 2023B Trustee in accordance with the 2023B Loan Agreement. If the mandatory redemption pursuant to the provisions of the 2023B Indenture described in this paragraph occurs resulting in the redemption of all Outstanding Bonds, remaining money on deposit in the Capitalized Interest Fund will be used to pay first the portion of the Redemption Price attributable to accrued interest on the Outstanding Bonds, and second the portion of the Redemption Price attributable to principal of the Outstanding Bonds.

***No Redemption Prior to Placed in Service Date.*** Notwithstanding anything to the contrary contained in the 2023B Indenture, the Series 2023B Bonds shall not be optionally redeemed prior to the date upon which the Borrower has advised the 2023B Trustee in writing that the Project has been placed in service for purposes of Section 42 of the Code.

***Notice of Redemption.*** Notice of the intended redemption of any Series 2023B Bonds shall be given by the 2023B Trustee not less than twenty (20) nor more than sixty (60) days prior to the date fixed for redemption by first class mail, overnight delivery service, postage prepaid, to the registered owner of each Series 2023B Bond (with a copy to the Remarketing Agent (as defined in the 2023B Indenture)) to be redeemed, at the address of such owner shown on the Bond Register; and a second notice of redemption shall be sent by first class mail, overnight delivery service, postage prepaid at such address to the registered owner of any Series 2023B Bond who has not submitted his Series 2023B Bond to the 2023B Trustee for payment on or before the date 60 days following the date fixed for redemption of such Series 2023B Bond in each case in the form as required by the 2023B Indenture. The notice will state that Series 2023B Bonds must be surrendered at the payment office of the 2023B Trustee for redemption at the Redemption Price and shall state that further interest on such Series 2023B Bond will not accrue from and after the Redemption Date provided the 2023B Trustee has on deposit sufficient funds to redeem the Series 2023B Bonds on such date. CUSIP number identification with appropriate dollar amounts for each CUSIP number also shall accompany all redemption payments made by check or draft.

With respect to optional redemptions, such notice may be conditioned upon money being on deposit with the 2023B Trustee on or prior to the Redemption Date in an amount sufficient to pay the Redemption Price on the Redemption Date. If such notice is conditional and either the 2023B Trustee receives written notice from the Borrower that money sufficient to pay the Redemption Price will not be on deposit on the Redemption Date, or such money is not received on or prior to the Redemption Date, then such notice shall be of no force and effect, the 2023B Trustee shall not redeem such Series 2023B Bonds and the 2023B

Trustee shall give notice, in the same manner in which the notice of redemption was given, that such money was not or will not be so received and that such Series 2023B Bonds will not be redeemed.

Notice of redemption having been given as provided in the 2023B Indenture and money sufficient for the redemption being held by the 2023B Trustee or Paying Agent for that purpose, thereupon the Series 2023B Bonds so called for redemption shall become due and payable on the Redemption Date, and interest thereon shall cease to accrue; and the owners of the Series 2023B Bonds so called for redemption shall thereafter no longer have any security or benefit under the 2023B Indenture except to receive payment of the Redemption Price for such Series 2023B Bonds.

***Selection of Bonds To Be Redeemed.*** The 2023B Trustee will select the Series 2023B Bonds, or portions thereof, to be redeemed by lot within a stated maturity. No Series 2023B Bond will be selected for redemption if, upon redemption, the remaining principal amount of the Series 2023B Bond would not be an Authorized Denomination. Notwithstanding the foregoing, the securities depository for Book-Entry Bonds shall select the Series 2023B Bonds for redemption within particular maturities according to its stated procedures.

***No Partial Redemption During Default.*** If there shall have occurred and be continuing an Event of Default under the 2023B Indenture, there shall be no redemption of less than all of the Series 2023B Bonds at the time Outstanding.

### **Mandatory Tender**

***Mandatory Purchase of Bonds on Mandatory Tender Date.*** The Series 2023B Bonds are subject to mandatory tender on the Mandatory Tender Date (July 1, 2026\*), and on such date, the Bondholders are required to tender and the Borrower is required to purchase, all the Series 2023B Bonds, at a purchase price equal to par plus accrued interest, if any. The Bondholders will receive from the 2023B Trustee, at least thirty (30) days but not more than forty-five (45) days before the Mandatory Tender Date, notice of the mandatory purchase and the required tender of their Series 2023B Bonds for purchase by the Borrower. The Series 2023B Bonds that are not delivered to the Remarketing Agent or the 2023B Trustee on or prior to the Mandatory Tender Date, shall be deemed to have been purchased on the Mandatory Tender Date, and the owners of such Series 2023B Bonds will be entitled to the Mandatory Purchase Price in accordance with the terms of the 2023B Indenture. Under the terms of the Guaranty, the Guarantor has guaranteed the purchase price of the Series 2023B Bonds on the Mandatory Tender Date. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2023B BONDS” and “RISK FACTORS – Mandatory Tender” in this Limited Offering Memorandum.

### **Book-Entry Only System**

The Series 2023B Bonds will be issued in book-entry form. The Depository Trust Company (“DTC”), New York, New York will act as securities depository for the Series 2023B Bonds. The Series 2023B Bonds will be issued as fully registered securities registered in the name of Cede & Co. (DTC’s partnership nominee). One fully registered Series 2023B Bond will be issued for each maturity in the total aggregate principal amount due on such maturity and will be deposited with DTC. See “APPENDIX I – BOOK-ENTRY ONLY SYSTEM” in this Limited Offering Memorandum.

### **Replacement Bonds**

Replacement Bonds may be issued directly to beneficial owners of Series 2023B Bonds other than a Depository, or its nominee, but only in the event that (i) the Depository determines not to continue to act as securities depository for the Series 2023B Bonds (which determination shall become effective no less than 90 days after written notice to such effect to the Issuer and the 2023B Trustee); or (ii) the Issuer has

advised a Depository of its determination (which determination is conclusive as to the Depository and beneficial owners of the Series 2023B Bonds) that the Depository is incapable of discharging its duties as securities depository for the Series 2023B Bonds; or (iii) the Issuer has determined (which determination is conclusive as to the Depository and the beneficial owners of the Series 2023B Bonds) that the interests of the beneficial owners of the Series 2023B 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 sole cost, shall cause to be authenticated and delivered replacement Series 2023B Bonds, in certificate form, to the beneficial owners of the Series 2023B Bonds. In the event that the Issuer makes the determination noted in (ii) or (iii) above (provided that the Issuer undertakes no obligation to make any investigation to determine the occurrence of any events that would permit the Issuer to make any such determination and shall be provided notice by the 2023B Trustee if it undertakes any such investigation), and has made provisions to notify the beneficial owners of Series 2023B Bonds of such determination by mailing an appropriate notice to the Depository, the 2023B Trustee and the Borrower shall cause to be issued replacement Series 2023B Bonds in certificate form to beneficial owners of the Series 2023B 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 Series 2023B Bonds, the 2023B Trustee shall withdraw the Series 2023B Bonds from any Depository and authenticate and deliver Series 2023B Bonds fully registered to the assignees of that Depository or its nominee. If the request for 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 Series 2023B 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 Series 2023B Bonds, the beneficial ownership thereof is determined by a book entry at a Depository, (i) the requirements in the 2023B Indenture of holding, delivering or transferring Series 2023B Bonds shall be deemed modified to require the appropriate person or entity to meet the requirements of the Depository as to registering or transferring the book entry to produce the same effect and (ii) delivery of the Series 2023B Bonds will be in accordance with arrangements among the Issuer, the 2023B Trustee and the Depository notwithstanding any provision of the 2023B Indenture to the contrary.

The 2023B 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. Neither the 2023B Trustee nor any of its agents shall have any responsibility or liability for any actions taken or not taken by DTC.

#### **Purchase and Transfer Restrictions for the Series 2023B Bonds**

THE SERIES 2023B BONDS ARE INITIALLY OFFERED AND SOLD SOLELY TO "QUALIFIED INSTITUTIONAL BUYERS" (AS DEFINED IN RULE 144A PROMULGATED UNDER THE SECURITIES ACT). SEE "NOTICE TO INVESTORS OF THE SERIES 2023B BONDS" IN THIS LIMITED OFFERING MEMORANDUM. THE PURCHASE RESTRICTIONS DESCRIBED IN THIS PARAGRAPH APPLY TO INITIAL PURCHASES OF THE SERIES 2023B BONDS AND TO ALL SUBSEQUENT SALES OR TRANSFERS OF THE SERIES 2023B BONDS. See also "Notice to Investors" in this Limited Offering Memorandum.

## CAPITAL CONTRIBUTIONS [TO BE UPDATED UPON RECEIPT OF THE DRAFT LPA]

### Scheduled Capital Contributions to the Borrower

The following table summarizes the capital contributions to be paid into the Borrower; each capital contribution (other than the contribution to be made at closing) is required to be made within fifteen (15) days after the satisfaction of the conditions referenced below and certain other conditions set forth in the Limited Partnership Agreement. The Pledged Capital Contributions are assigned to the 2023B Trustee pursuant to the Pledge Agreements as described in further detail herein.

#1	#2	#3
At Closing or Satisfaction of Certain Conditions	The later of (i) _____ 1, 20____ or (ii) ten (10) Business Days after the Satisfaction of Certain Conditions <sup>(2)</sup>	The later of (i) the date that is thirty-six (36) months following the Stabilization Date or (ii) ten (10) Business Days after the Satisfaction of Certain Conditions <sup>(3)</sup>
\$1,935,122*	\$10,320,648 <sup>†(1)*</sup>	\$645,040 <sup>(1)*</sup>

<sup>(1)</sup> These capital contributions are assigned to the 2023B Trustee.

<sup>(2)</sup> See below under the heading “The Pledged Capital Contributions – The Third Capital Contribution.”

<sup>(3)</sup> The anticipated date of this payment is after the final maturity date of the Series 2023B Bonds. See below under the heading “The Pledged Capital Contributions – The Third Capital Contribution.”

<sup>†</sup> Pursuant to the Limited Partnership Agreement, the Second Installment of Capital Contributions is to be used to fully redeem the Series 2023B Bonds.

**Each of the above capital contributions will be composed of contributions from the Investor Limited Partner, as shown in the following table.**

	#1	#2	#3	Total
Investor Limited Partner Contribution	\$1,935,122*	\$10,320,648*	\$645,040*	\$12,900,810*

### Summary of Pledged Amounts

Second Installment of Capital Contributions*	\$10,320,648
Third Installment of Capital Contributions*	645,040
<b>Total Amount Pledged to the Series 2023B Bonds</b>	<b>\$10,965,688</b>
Par Amount of Bonds*	
Excess Amount Pledged to the Series 2023B Bonds*	\$

### The Pledged Capital Contributions

The Investor Limited Partner will have a 99.989% partnership interest in the Borrower, which will result in an allocation of 99.989% of the federal low income housing tax credits available to the Project being allocated to the Investor Limited Partner, and will, pursuant to the Limited Partnership Agreement, make total equity contributions to the Borrower of approximately \$12,900,810\* in capital contributions (the “Capital Contributions”), payable in installments. The second installment of the Capital Contributions (the “Second Installment of Capital Contributions”) and the third installment of the Capital Contributions (the “Third Installment of Capital Contributions,” and together with the Second Installment of Capital Contributions, the “Pledged Capital Contributions”) are scheduled to be in the aggregate amount of \$10,965,688\*, and are to be made upon the later of twenty-four (24) months following the Stabilization

Date (as defined below) or the satisfaction of the conditions described in the paragraphs below. The Pledged Capital Contributions are assigned to the 2023B Trustee to secure the repayment of the Series 2023B Bonds.

**[TO BE UPDATED UPON RECEIPT OF THE DRAFT LPA]** The Limited Partnership Agreement defines “Stabilization Date” as the first day of the month following a 3-month period during which period the Project has maintained an average Debt Service Coverage Ratio of 1.15 to 1.0. Capitalized terms used in this section and not defined herein shall have the meaning set forth in the Limited Partnership Agreement. See “APPENDIX E – SUBSTANTIALLY FINAL FORM OF THE BORROWER’S AMENDED AND RESTATED AGREEMENT OF LIMITED LIABILITY LIMITED PARTNERSHIP” in this Limited Offering Memorandum.

**[TO BE UPDATED UPON RECEIPT OF DRAFT LPA]** *Conditions for Capital Contributions.* The obligation to pay the amounts due under the Limited Partnership Agreement shall also be expressly conditioned upon each of the following requirements being satisfied at all times prior to and including the due dates of the respective payment:

- (a) The General Partner shall have complied in all material respects with all of its covenants and obligations set forth in the Limited Partnership Agreement;
- (b) The General Partner shall have fully complied with furnishing the Limited Partner any reports or other information required to be provided by the General Partner pursuant to the Limited Partnership Agreement;
- (c) There has been no change in any law or regulation which would adversely affect the ability of the Partnership to generate Tax Credits; and
- (d) There has been no default under the Project Documents that is ongoing and no event has occurred, which event with notice of the passage of time, would give rise to such a default.

*Adjustments to Capital Contributions of Limited Partner.* The Pledged Capital Contributions are subject to adjustment (including downward or a positive adjustment) as provided in the Limited Partnership Agreement, which may adversely affect the security for the Series 2023B Bonds.

*Deposit of Capital Contributions.* The Second Capital Contribution and Third Capital Contribution of the Invested Limited Partner shall be deposited with the 2023B Trustee to redeem the Series 2023B Bonds as provided in the Limited Partnership Agreement.

*Withholding of Capital Contribution Upon Default.* The Limited Partnership Agreement provides that the Pledged Capital Contributions may be withheld if certain conditions to the Limited Partnership Agreement have not been met.

**[TO BE UPDATED UPON RECEIPT OF DRAFT LPA]** *The Second Capital Contribution.* Under the Limited Partnership Agreement, the following is a summary of certain of the conditions to the Limited Partner making the Second Installment of Tax Credit Equity. Reference is made to the full form of Limited Partnership Agreement attached hereto at APPENDIX E for a complete list of conditions. Capitalized terms not otherwise defined below are defined in the Limited Partnership Agreement, a form of which is attached hereto as APPENDIX E.

- (a) Substantial completion of construction and receipt of final construction documents including updated and recertified as-built ALTA/NSPS standards survey; As-Built Plans and Specifications; any permits and license for the operation of the Project; final sworn statement or affidavit of final construction cost;

- (b) Payment to Contractor (subject to holdback for punch list items);
  - (c) Final lien waivers;
  - (d) Receipt of an audited cost certification for the Project prepared by the Accountants;
  - (e) Achievement of Final Closing;
  - (f) Achievement of Stabilization Date, which may occur contemporaneously with the funding of the Second Capital Contribution;
  - (g) 100% Qualified Occupancy evidenced by submission to the Limited Partner of certified rent rolls and tenant income certification documents;
  - (h) 90% physical occupancy for 90 consecutive days;
  - (i) Evidence of completion of punch list items;
  - (j) Submission of IRS 8609 and Schedule K-1 for the first year of the credit period;
- and
- (k) Copies of permanent loan documents.

The Borrower currently expects that the Second Installment of Capital Contributions will be made on or before July 1, 2026\* and that such installment will be used to redeem Series 2023B Bonds in an amount rounded down to the nearest Authorized Denomination on the earliest practicable date for which notice can be given to Bondholders pursuant to the 2023B Indenture, which will result in the full redemption of the Series 2023B Bonds.

*The Third Capital Contribution.* Under the Limited Partnership Agreement, the following is a summary of certain of the conditions to the Limited Partner making the Third Installment of Capital Contributions. Reference is made to the full form of Limited Partnership Agreement attached hereto at APPENDIX E for a complete list of conditions. Capitalized terms not otherwise defined below are defined in the Limited Partnership Agreement, a form of which is attached hereto as APPENDIX E.

- (a) Evidence that the Operating Reserve has been initially funded or funded concurrently; and
- (b) Satisfaction of all unsatisfied conditions to all prior Capital Contributions.

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## **SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2023B BONDS**

THE SERIES 2023B BONDS, WHEN ISSUED, WILL BE SPECIAL LIMITED OBLIGATIONS OF THE ISSUER AND ARE PAYABLE SOLELY FROM THE TRUST ESTATE (AS DEFINED BELOW, AND WHICH INCLUDES PAYMENTS TO BE MADE BY THE BORROWER UNDER THE 2023B LOAN AGREEMENT) AND SECURED BY THE PLEDGE AGREEMENTS AND THE GUARANTY, EACH AS DESCRIBED HEREIN. INTEREST ON THE SERIES 2023B BONDS WILL BE CAPITALIZED IN AMOUNTS THAT WILL BE SUFFICIENT TO PAY INTEREST ON THE SERIES 2023B BONDS TO, BUT NOT INCLUDING, THE MANDATORY TENDER DATE.

### **Pledge of Trust Estate**

Pursuant to the 2023B Indenture, the Issuer has assigned and pledged the collateral described below (the “Trust Estate”) to the 2023B Trustee to secure the payment of the principal of, premium, if any, and interest on the Series 2023B Bonds when the same become due and payable:

(a) all rights, title, interest and privileges of the Issuer in, to and under the 2023B Loan Agreement, including, but not limited to, all sums which the Issuer is entitled to receive from the Borrower pursuant to the 2023B Loan Agreement and in particular the Basic Payments (but excluding the Issuer’s Unassigned Rights (as defined in the 2023B Indenture)) and the Revenues (as defined in the 2023B Indenture), and all other sums (including Bond proceeds) which are required to be deposited in the trust accounts in accordance with the 2023B Indenture, except for the Rebate Fund which is not a part of the Trust Estate; and the earnings derived from the investment of any of the foregoing sums as provided in the 2023B Indenture;

(b) any and all other property of every name and nature which may from time to time after the date of the 2023B Indenture by delivery or by writing of any kind be subjected to the lien of the 2023B Indenture by the Issuer or by anyone on its behalf or with its written consent, including, but not limited to, the interests of the Issuer, if any, under the Collateral Documents (as defined in the 2023B Indenture) (including, without limitation, the proceeds of the Pledged Capital Contributions), and the 2023B Trustee is authorized to receive any and all such property at any and all times and to hold and apply the same as additional security under the 2023B Indenture subject to the terms thereof; and

(c) any and all other property of every name and nature which may from time to time after the date of the 2023B Indenture by delivery or by writing of any kind be subjected to the lien of the 2023B Indenture by the Issuer or by anyone on its behalf or with its written consent, and the 2023B Trustee is authorized to hold and apply the same as additional security under the 2023B Indenture subject to the terms thereof.

### **Capitalized Interest**

A portion of the proceeds of the Series 2023B Bonds will be used to fund capitalized interest for the payment of interest during the term of the Series 2023B Bonds through the Mandatory Tender Date. Such funds must be used by the 2023B Trustee to pay interest on the Series 2023B Bonds as interest becomes due. See “APPENDIX B – SUBSTANTIALLY FINAL FORM OF THE TRUST INDENTURE” in this Limited Offering Memorandum.

### **The Pledge Agreements**

The Investor Limited Partner has agreed to make certain capital contributions to the Borrower at the times and subject to the terms and conditions as set forth in the Limited Partnership Agreement,



including the Pledged Capital Contributions which are comprised of (i) the second installment in the amount of \$\_\_\_\_\_, and (ii) the third installment in the amount of \$\_\_\_\_\_, to be used by the Borrower to redeem the outstanding Bonds upon the satisfaction of the conditions described under the caption “CAPITAL CONTRIBUTIONS – The Pledged Capital Contributions” above in this Limited Offering Memorandum.

Under the terms of the Pledge Agreements, as additional security for the Series 2023B Bonds, the Borrower and the General Partner will assign, transfer and set over to the 2023B Trustee, as assignee, both (i) the title, interest, and right to receive the Pledged Capital Contributions and (ii) all of the respective right, title and interest of the General Partner in the Borrower, pursuant to the Pledge Agreements, which will be acknowledged by the Limited Partners in the Limited Partnership Agreement. At any time during the occurrence and continuation of an Event of Default (as defined in the Pledge Agreements), the 2023B Trustee may, at its option, exercise any and all rights that the Borrower has under the Limited Partnership Agreement to collect the Pledged Capital Contributions and to enforce for its own benefit all of the interests of the General Partner in and under the Limited Partnership Agreement.

### **Sources of Capital Contributions**

Simultaneously with the issuance of the Series 2023B Bonds, the Borrower expects to enter into an agreement with the Investor Limited Partner and the Administrative Limited Partner admit them as partners of the Borrower with a 99.989% and .001% interest in the Borrower, respectively. Pursuant to the Limited Partnership Agreement, subject to the conditions therein, the Limited Partners shall make capital contributions to the Borrower as described above under “CAPITAL CONTRIBUTIONS – Scheduled Capital Contributions to the Borrower” and “– The Pledged Capital Contributions.” See also “APPENDIX E – SUBSTANTIALLY FINAL FORM OF THE BORROWER’S AMENDED AND RESTATED AGREEMENT OF LIMITED LIABILITY LIMITED PARTNERSHIP”, as well as the information under the caption “PLAN OF FINANCE – Capital Contributions” in this Limited Offering Memorandum. The Limited Partners have agreed in the Limited Partnership Agreement to deposit the Pledged Capital Contributions directly to the 2023B Trustee on behalf of the Borrower.

THE TIMING OF THE FUNDING OF THE PLEDGED CAPITAL CONTRIBUTIONS IS SUBJECT TO CONDITIONS WHICH COULD RESULT IN THE TIMING OR EXISTENCE OF THE FUNDING VARYING SIGNIFICANTLY, AND NEITHER THE ISSUER NOR THE UNDERWRITER MAKES ANY REPRESENTATION AS TO THE AVAILABILITY OF SUCH FUNDS.

### **Guaranty**

The Series 2023B Bonds are secured by, among other things, the Guaranty from the Guarantor for the benefit of the 2023B Trustee. Under the Guaranty, each Guarantor has, among other things, guaranteed the full and punctual payment of all obligations and indebtedness of the Borrower related to the Series 2023B Bonds arising under the 2023B Loan Agreement (including the payment obligations under the 2023B Indenture and the purchase of any outstanding Bonds on the Mandatory Tender Date). See “THE GUARANTOR” and “APPENDIX A – THE BORROWER, THE PROJECT, THE GUARANTOR, AND THE MANAGER” in this Limited Offering Memorandum.

### **Subordination Agreement**

In connection with the issuance of the 2023B Bonds, the 2023A Trustee and the 2023B Trustee will enter into a Subordination Agreement, whereby the 2023A Trustee acknowledges that its interest in any Pledged Capital Contributions are junior and subordinate to the rights of the 2023B Trustee. In addition, financing documents for the Series 2023B Bonds provide that the 2023B Trustee has the ability to require the Investor Limited Partner to make the Pledged Capital Contributions if the conditions in the Limited Partnership Agreement have been met. *The repayment of the Series 2023B Bonds is not secured*

*by a debt service reserve fund nor are the repayment of the Series 2023B Bonds secured by a lien on the Project pursuant to a deed of trust or mortgage.*

### **No Deed of Trust or Mortgage Securing the Series 2023B Bonds; No Debt Service Reserve Fund**

The Series 2023B Bonds are not secured by a deed of trust or mortgage lien or any other real estate security interest in any property or real estate of the Borrower. The Series 2023B Bonds are payable solely from and secured by the Trust Estate and secured by the Pledge Agreements and the Guaranty. The repayment of the Series 2023B Bonds is not secured by any debt service reserve account or debt service reserve fund.

## **RISK FACTORS**

*Purchase of the Series 2023B Bonds offered by this Limited Offering Memorandum involves a high degree of risk. The Series 2023B Bonds are suitable for investment consideration only for those purchasers who are sophisticated and experienced in the field of high yield multifamily housing bonds. Prospective purchasers of the Series 2023B Bonds should give careful consideration to the matters referred to in the following summary. No person should purchase any Bonds without carefully reviewing the following information, which summarizes some, but not all factors that should be carefully considered before such purchase.*

### **General**

The Series 2023B Bonds and the obligations of the Issuer under the 2023B Indenture are special, limited obligations of the Issuer to be paid exclusively from the Trust Estate.

As described above under “CAPITAL CONTRIBUTIONS,” interest on the Series 2023B Bonds will be capitalized in amounts that will be sufficient to pay interest on the Series 2023B Bonds to, but not including, the Mandatory Tender Date. As described above under “CAPITAL CONTRIBUTIONS,” the conditions to the disbursement of the Second Installment of Capital Contributions are related to (i) the completion of rehabilitation of the Project as well as related governmental approvals, (ii) the stabilization of the Project, (iii) the lease-up or occupancy rates of the Project, and (iv) other similar performance metrics of the Project.

### **Nature of Special, Limited Obligations**

The Series 2023B Bonds, the premium, if any, and the interest thereon will be special limited obligations of the Issuer and will be payable exclusively from the Trust Estate (as defined in the 2023B Indenture). The Series 2023B Bonds shall not constitute an obligation, either general or special, of the State or any agency, subdivision, or local government thereof, and neither the State nor any agency, subdivision or local government thereof shall be liable thereon. Neither the faith, revenues, credit nor taxing power of the State or any agency, subdivision or local government thereof shall be pledged to the payment of the principal or interest on the Series 2023B Bonds. The Series 2023B Bonds are payable, as to principal and interest, solely out of the Trust Estate (as defined in the 2023B Indenture), which is the sole asset of the Issuer pledged therefor, and then only to the extent provided in the 2023B Indenture. *The Issuer has no taxing power.*

No recourse shall be had for the payment of the principal of or premium, if any, or interest on the Series 2023B Bonds against any past, present, or future officer, director, executive director, member, program manager, employee, counsel, advisor, contractor, consultant or agent of the Issuer, or of 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, executive directors,

members, program managers, employees, counsel, advisors, contractors, consultants or agents, if any, as such is hereby expressly waived and released as a condition of and consideration for the execution and issuance of the Series 2023B Bonds.

### **Mandatory Tender**

The Series 2023B Bonds are subject to Mandatory Tender on the Mandatory Tender Date (July 1, 2026\*), and on such date, the Bondholders are required to tender and the Borrower (or, if the Borrower's funds are not sufficient, each Guarantor) is required to purchase, all of the Series 2023B Bonds, at a purchase price equal to par plus accrued interest, if any. Interest on the Series 2023B Bonds through the Mandatory Tender Date has been capitalized. If the Series 2023B Bonds are still Outstanding on the Mandatory Tender Date, then Colliers Securities LLC, as remarketing agent, will remarket the Series 2023B Bonds in accordance with the terms of the Remarketing Agreement. See "SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2023B BONDS" in this Limited Offering Memorandum.

### **Completion of Project/Construction Risks**

There can be no assurance that the Project will be completed, or that it can be completed for the cost and within the time as set forth in this Limited Offering Memorandum. Failure to complete the Project, or to complete it in a timely fashion at the estimated cost, could adversely affect the delivery of the Pledged Capital Contributions and therefore the payment of debt service on the Series 2023B Bonds.

Whether or not the Project will be completed on schedule depends upon a large number of factors, many of which may be beyond the control of the Borrower. These include, but are not limited to, adverse weather, strikes, delays in the delivery of or shortages of materials, delays in the issuance of required building permits, environmental restrictions or similar unknown or unforeseeable contingencies. Further, although construction work will be inspected periodically by the Architect (as defined in Appendix A), there can be no assurance that the Project will conform to construction specifications or state or local regulations. The occurrence of any of the foregoing could result in increases in rehabilitation costs or considerable delays in, or complete impossibility of, completion of the Project, resulting in a delay in the delivery of or failure to deliver the Pledged Capital Contributions, which could cause insufficient funds to be available to pay debt service on the Series 2023B Bonds.

It is anticipated that the proceeds from the sale of the Series 2023B Bonds, together with investment earnings thereon, and certain funds of the Borrower, will be sufficient to complete the rehabilitation of the Project based upon the guaranteed maximum price obtained from the Contractor (as defined in Appendix A). However, cost overruns for projects of this magnitude may occur due to change orders and other factors. In addition, the date of substantial completion may be extended by reason of changes authorized by the Borrower, delays due to acts or neglect of the Borrower or by independent contractors employed by the Borrower or by labor disputes, fire, unusual delay in transportation, adverse conditions not reasonably anticipated, unavoidable casualties or any causes beyond the control of the contractors. Cost overruns could also result in the Borrower not having sufficient moneys to complete rehabilitation of the Project, thereby materially affecting the receipt of the Pledged Capital Contributions, and therefore the payment of debt service on the Series 2023B Bonds.]

### **Lease-Up and Stabilization Risks**

Even if the rehabilitation of the Project is completed in a timely manner, the Limited Partners are not obligated to fund the Second Installment of Capital Contributions until, among other things, the Project attains Qualified Occupancy and the Stabilization Date. Evidence of attaining Qualified Occupancy and the Stabilization Date shall be subject to the review and approval by the Limited Partners to confirm that the calculations conform to the requirements in the Limited Partnership Agreement. The Borrower's ability

to achieve these benchmarks can be impinged by a variety of factors including competition from other multifamily rental housing facilities and commercial spaces, the income and rent restrictions applicable to the Project and economic factors in general. See Article I of the Limited Partnership Agreement attached hereto at APPENDIX E for the definition of Qualified Occupancy and the Stabilization Date.

### **Income and Rent Restrictions**

The Regulatory Agreement imposes certain requirements with respect to the tax-exempt status of the Series 2023B Bonds under the Code, which include, among other things, that the Project be operated as a qualified residential rental project with at least 40% of the completed units in the Project occupied by Low Income Tenants, i.e., tenants whose income does not exceed 60% of area median income, adjusted for family size, during the Qualified Project Period (as such term is defined in the Regulatory Agreement) in accordance with Section 142(d) of the Code. Failure to comply with these requirements could result in the loss of the federal tax exemption of the Series 2023B Bonds retroactive to their date of issuance. See “APPENDIX D – SUBSTANTIALLY FINAL FORM OF THE Regulatory AGREEMENT” in this Limited Offering Memorandum for a description of the requirements affecting the operation of the Project in order to assume compliance with the Code.

The Project will also be subject to a tax credit restrictive covenant (the “Tax Credit Extended Use Agreement”) which imposes additional rent and occupancy restrictions on the Project, as set forth in further detail in in “APPENDIX A – THE BORROWER, THE PROJECT, THE GUARANTOR, AND THE MANAGER – Tenant and Rent Limitations” in this Limited Offering Memorandum.

The Borrower’s assumptions upon which its financial forecast is based include rental rates which are in compliance with the various income and rent restrictions anticipated to be applicable to the Project in 20\_\_\_, and that average median area income, and therefore, such rent and income restrictions, may increase in future years. If median income decreases in any year, it is possible that permitted maximum rents and income limits may also decrease in future years. See “RENTAL HOUSING REQUIREMENTS” in this Limited Offering Memorandum.

### **Economic Feasibility**

The stabilization and success of the Project depends upon economic conditions, management of the Project and other factors. Furthermore, should management of the Project in the future prove to be inefficient, increases in operating expenses might exceed increases in rents which can be supported by market conditions. The economic feasibility of the Project also depends to a large extent on operating expenses. No assurances can be given that monies available to the Borrower from operation of the Project will be sufficient to achieve the benchmarks that must be met before the Limited Partners are obligated to make the Second Installment of Capital Contributions, which installment will secure the Series 2023B Bonds and is anticipated to be used to pay the principal of the Series 2023B Bonds.

The occurrence of any of the following events, or other unanticipated events, could adversely affect the financial position or results of operations of the Borrower and the Project:

- (a) reinstatement or establishment of mandatory governmental wage, rent or price controls;
- (b) inability to control increases in operating costs, including salaries, wages and fringe benefits, supplies and other expenses, without being able to obtain corresponding increases in revenues from the rental income of the Project which rental income will largely be fixed;
- (c) unionization, employee strikes and other adverse labor actions which could result in a substantial increase in expenditures without a corresponding increase in Project revenues;

(d) adoption of other federal, state or local legislation or regulations having an adverse effect on the future operating or financial performance of the Borrower and the Project; and

(e) the occurrence of any natural disasters or other disruptions that impact the operations of the Project.

Information with regard to the Project has been provided by the Borrower and its affiliates. See “THE BORROWER,” “THE PROJECT” and “APPENDIX A – THE BORROWER, THE PROJECT, THE GUARANTOR, AND THE MANAGER” in this Limited Offering Memorandum.

### **Environmental Regulations**

An environmental report generally involves the review of historical aerial photographs and real estate records to discover the prior use of the site and an on-site inspection to discover any open hazardous environmental conditions. Such studies are aimed at assessing the presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release or a material threat of a release of any hazardous substances or petroleum products into structures on the property or into the ground, groundwater or surface water of the property. There can be no assurances as to the ultimate level of protection, if any, provided by the environmental report or any determination based thereon.

A Phase I Environmental Site Assessment (the “Phase I Report”), was completed by Braun Intertec (“Braun”), dated August 24, 2023, for the site of the Project. The Phase I Report did not identify any recognized environmental conditions (“RECs”) or controlled recognized environmental conditions (“CRECs”) or historical recognized environmental conditions (“HRECs”) on the Project site. See “APPENDIX A – THE BORROWER, THE PROJECT, THE GUARANTOR, AND THE MANAGER – THE PROJECT – Environmental Site Assessment” in this Limited Offering Memorandum.

### **Appraisal of Project**

\_\_\_\_\_ (the “Appraiser”) completed an appraisal of the Project (on an as-built basis) in connection with the issuance of the Series 2023B Bonds. The Appraiser’s report, dated \_\_\_\_\_, 2023 (the “Appraisal”), determined that based on the valuation analysis the following market value for the Project on a fee simple basis was:

<u>Appraisal Premise</u>	<u>Date of Value</u>	<u>Market Value Conclusion</u>
As Stabilized, Encumbered		
As Stabilized, Unencumbered		
As Complete, Encumbered		
As Complete, Unencumbered		
As Is, Land Value		
LIHTC Valuation		

*Note: “As Stabilized, Encumbered” is predicated on the condition that the proposed improvements will be completed in a good and workmanlike manner.*

*“As Stabilized, Unencumbered” is predicated on the condition that the property is not controlled by any income, rent restrictions due to a HAP contract, LIHTC, LURA or other restricting documents that would not allow rents to move with the market.*

*“As Complete, Encumbered” deducts the cost of lease-up from the “As Stabilized, Encumbered” Market Value Conclusion.*

*“As Complete, Unencumbered” deducts the cost of lease-up from the “As Stabilized, Unencumbered” Market Value Conclusion.*

*“LIHTC Valuation” is based on the value of the proposed low-income housing tax credits for the property.*

A copy of the Appraisal is on file with the Borrower and is available for review.

See “APPENDIX A – THE BORROWER, THE PROJECT, THE GUARANTOR, AND THE MANAGER – THE PROJECT – Appraisal” in this Limited Offering Memorandum.]

**Conditions to Pledged Capital Contributions; General Partner/Borrower Default; Downward Adjustment Possibility**

The Limited Partnership Agreement sets forth certain conditions to the making of the Pledged Capital Contributions as described above under “CAPITAL CONTRIBUTIONS – The Pledged Capital Contributions.” In the event that any of the Pledged Capital Contributions are not made for any reason, or adjusted downward as allowable under the Limited Partnership Agreement, there may not be sufficient money to pay the principal and interest on the Series 2023B Bonds upon redemption, mandatory tender or maturity.

Under the Limited Partnership Agreement, in addition to the specific conditions to the funding of each capital contribution, each capital contribution will be subject to, among other things, compliance with additional conditions as of the date of funding of the capital contribution, as set forth in the Limited Partnership Agreement, and the absence of an Event of Default that has occurred and is then continuing under the Limited Partnership Agreement. See “CAPITAL CONTRIBUTIONS – The Pledged Capital Contributions” and “APPENDIX E – SUBSTANTIALLY FINAL FORM OF THE BORROWER’S AMENDED AND RESTATED AGREEMENT OF LIMITED LIABILITY LIMITED PARTNERSHIP” in this Limited Offering Memorandum.

**Competition and Reliance on Market Study**

The ultimate success of the Project and the ability of the Borrower to meet all of its obligations with respect to the Project depends on the existence of adequate demand for units in the Project. The Borrower commissioned a “Market Study for \_\_\_\_\_,” dated \_\_\_\_\_, 20\_\_ (the “Market Study”), prepared by \_\_\_\_\_ (“\_\_\_\_\_”) with respect to the Project and its market area. The conclusions of the Market Study are solely the opinions of \_\_\_\_\_ and there are no guarantees that actual demand exists or will continue to exist which support the assumptions in the Market Study. The Borrower is not aware of any material changes to the information included in the Market Study. The Borrower faces competition from other existing affordable multifamily housing facilities of a similar nature to the Project and may face additional competition in the future if affordable multifamily housing facilities are constructed in the market area of the Project that are of a similar nature to the Project. The Market Study has identified \_\_\_\_\_ (\_\_\_\_) competitive affordable multifamily housing facilities, not including facilities outside the primary market area. Actual occupancy of the Project in the future may vary from conclusions in the Market Study, which variance may be material and adverse. If, among other things, actual occupancy of the Project is materially lower or rental rates for the Project are materially less than assumed by the Borrower, actual revenues for the Project will be less than projected, and perhaps materially less. Any shortfall in such revenues could adversely affect the ability of the Borrower to provide for payment in full of the Series 2023B Bonds.

The Market Study contains certain assumptions and conditions as stated therein. Information regarding the competitive affordable multifamily housing facilities and the Market Study is located in “APPENDIX J – MARKET STUDY” in this Limited Offering Memorandum.

**Nonperformance under Guaranty**

Should the enforcement of the Guaranty become necessary to pay the principal or interest on the Series 2023B Bonds, there is no assurance that either Guarantor will have or be able to raise sufficient funds

to make such payments or otherwise perform its obligations under the Guaranty. Moreover, even if a Guarantor is solvent and has sufficient funds to pay debt service on the Series 2023B Bonds, the Guarantor may reject or dishonor a properly made demand under the Guaranty. The Guaranty is an unsecured obligation of each Guarantor. The terms of the Guaranty do not restrict the ability of a Guarantor to enter into other guarantees and the Guaranty does not have any financial covenants for a Guarantor to comply with during the terms of the Series 2023B Bonds.

#### **No Debt Service Reserve Fund for the Series 2023B Bonds**

The Series 2023B Bonds will not be secured by a debt service reserve fund. The lack of a debt service reserve fund will affect the ability of the registered owners of the Series 2023B Bonds to receive payments of debt service on the Series 2023B Bonds should the payments pledged under the 2023B Indenture and Loan Agreement be insufficient to make such payments.

#### **No Deed of Trust or Mortgage Securing the Series 2023B Bonds**

The Series 2023B Bonds are not secured by a deed of trust or mortgage lien or any other real estate security interest in any property or real estate of the Borrower. The Series 2023B Bonds are payable solely from the Trust Estate and secured by the Pledge Agreements and the Guaranty. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2023B BONDS” in this Limited Offering Memorandum.

#### **Infectious Disease Outbreak**

An outbreak of a highly contagious, epidemic or pandemic infectious disease such as COVID-19, Zika or Ebola nationally or locally in the Project’s market area could adversely affect the Borrower’s operations and financial results, including the cost or length of time necessary to complete the rehabilitation of the Project. An increase in delinquencies and/or vacancies could depress rental revenue, and operating costs could increase, resulting in a default by the Borrower on its obligations with respect to the Series 2023B Bonds, including the taxability of interest paid on, and/or the extraordinary mandatory redemption of, the Series 2023B Bonds.

#### **Legislative Response to COVID-19 [TO BE REVISED]**

Recent federal legislation, passed to address the economic effects of COVID-19, known as the Coronavirus Aid, Relief, and Economic Security (CARES) Act (the “CARES Act”), provided for a temporary moratorium on eviction of tenants due to nonpayment of rents when the landlord’s mortgage on that property is supplemented or assisted in any way by the Department of Housing and Urban Development (“HUD”). Such provision would apply to a project that receives HUD assistance under a Section 8 Housing Assistance Payment Contract (a “HAP Contract”). If such provision of the CARES Act was extended to cover projects such as the Project, or similar legislation was adopted at the state or local level, such eviction moratorium and the Borrower’s inability to evict non-paying tenants of the Project and replace them with paying tenants would also be extended. Indeed, by order under Section 361 of the Public Health Service Act (42 U.S.C. 264), the Centers for Disease Control and Prevention imposed a moratorium set to expire on July 31, 2021 on residential evictions, however, this moratorium was not extended and has expired. No assurances can be given that subsequent federal, state or local legislation enacted in response to the COVID-19 pandemic will not adversely affect the Borrower’s ability to collect rent and evict tenants for nonpayment of rent or otherwise operate the Project as planned.

#### **No Rating; Lack of Secondary Market**

The Series 2023B Bonds are not rated by any agency, and no applications for credit ratings for the Series 2023B Bonds have been made. There is no existing secondary market for the Series 2023B Bonds

and there can be no assurance that such a market will develop. In these circumstances, purchasers may not be able to resell or dispose of the Series 2023B Bonds at a price approximating the purchase price, and, therefore, the purchase of the Series 2023B Bonds should be regarded as a long-term investment. In addition, the Series 2023B Bonds may be resold only in Authorized Denominations of \$\_\_\_\_\_ and increments of \$\_\_\_\_\_ in excess thereof (except as otherwise set forth in the 2023B Indenture) to “Accredited Investors” (as defined in Rule 501 of Regulation D promulgated under the Securities Act) or “Qualified Institutional Buyers (as defined in Rule 144A Promulgated under the Securities Act. See “NOTICE TO INVESTORS OF THE SERIES 2023B BONDS,” “NO RATING,” and “THE SERIES 2023B BONDS – Purchase and Transfer Restrictions for the Series 2023B Bonds” in this Limited Offering Memorandum. In addition, adverse developments in economic conditions may have an unfavorable impact upon the bid and asked price for the Series 2023B Bonds in any secondary market. Accordingly, a purchaser of the Series 2023B Bonds should be prepared to have funds committed for an indefinite period of time, including until the Series 2023B Bonds mature or are redeemed.

### **Enforceability of Remedies upon an Event of Default**

The remedies available to the 2023B Trustee and the owners of the Series 2023B Bonds upon an Event of Default under the 2023B Indenture, the 2023B Loan Agreement, the Regulatory Agreement or any other document described herein are in many respects dependent upon regulatory and judicial actions which are often subject to discretion and delay. Under existing law and judicial decisions, the remedies provided for under such documents may not be readily available or may be limited. The various legal opinions to be delivered concurrently with the delivery of the Series 2023B Bonds will be qualified to the extent that the enforceability of certain legal rights related to the Series 2023B Bonds is subject to limitations imposed by bankruptcy, reorganization, insolvency or other similar laws affecting the rights of creditors generally and by equitable remedies and proceedings generally.

### **Risk of Loss Upon Redemption**

The rights of Bondholders to receive interest will terminate on the date, if any, on which such Bonds are to be redeemed pursuant to a call for redemption, notice of which has been given under the terms of the 2023B Indenture, the 2023B Loan Agreement and the Regulatory Agreement. Failure of any Bondholder to present its Bond in such eventuality could result in a loss of interest until such Bond is presented for payment. Certain Bond proceeds will have been expended for rehabilitation and other developmental costs and will not be available for the redemption of the Series 2023B Bonds. There can be no assurance that the Borrower will be able to pay amounts in addition to what is available under the 2023B Indenture. See “THE SERIES 2023B BONDS – Redemption” in this Limited Offering Memorandum.

### **Bankruptcy of the Borrower**

In the event of the bankruptcy of the Borrower, payment of principal and interest made by the Borrower through the 2023B Trustee to the Bondholders within 91 days of the filing of the petition in bankruptcy with respect to the Borrower may be determined to be voidable preferences subject to claim by a debtor in possession or a trustee in bankruptcy, or may be subject to applicable State law regarding fraudulent conveyances.

### **Changes in Federal and State Tax Law**

From time to time, there are legislative proposals in the Congress and in the states that, if enacted, could alter or amend the federal and state tax matters relating to the Series 2023B Bonds or adversely affect the market value of the Series 2023B Bonds. It cannot be predicted whether or in what form any such proposal might be enacted or whether if enacted it would apply to bonds issued prior to enactment. In addition, regulatory actions are from time to time announced or proposed and litigation is threatened or



commenced which, if implemented or concluded in a particular manner, could adversely affect the market value of the Series 2023B Bonds. It cannot be predicted whether any such regulatory action will be implemented, how any particular litigation or judicial action will be resolved, or whether the Series 2023B Bonds or the market value thereof would be impacted thereby. Purchasers of the Series 2023B Bonds should consult their tax advisors regarding any pending or proposed legislation, regulatory initiatives or litigation. The opinions expressed by Bond Counsel are based upon existing legislation and regulations as interpreted by relevant judicial and regulatory authorities as of the date of issuance and delivery of the Series 2023B Bonds and Bond Counsel has expressed no opinion as of any date subsequent thereto or with respect to any pending legislation, regulatory initiatives or litigation.

### **VOLUNTARY CONTINUING DISCLOSURE**

Although the Series 2023B Bonds are exempt from the ongoing reporting requirements under Rule 15c2-12 (the “Rule”) promulgated by the Securities and Exchange Commission (the “SEC”), the Borrower has voluntarily agreed to comply with the provisions of the Continuing Disclosure Agreement. The Guarantor is not a party to the Continuing Disclosure Agreement. See “APPENDIX G – FORM OF CONTINUING DISCLOSURE AGREEMENT” in this Limited Offering Memorandum.

The Issuer does not have any continuing disclosure obligation with respect to the Series 2023B Bonds.

### **DISCLOSURE REQUIRED BY SECTION 517.051(1), FLORIDA STATUTES**

Rule 69W-400.003, Rules of Government Securities, promulgated by the Florida Department of Banking and Finance, Division of Securities, under Section 517.051(1), Florida Statutes (“Rule 69W-400.003”), requires the Issuer to disclose each and every default of the Issuer as to the payment of principal and interest with respect to obligations issued or guaranteed by the Issuer after December 31, 1975. Rule 69W-400.003 further provides, however, that if the Issuer in good faith believes that such disclosures would not be considered material by a reasonable investor, such disclosures may be omitted.

The Series 2023B Bonds do not constitute a general debt, liability or obligation of the Issuer, but are instead secured by amounts on deposit under the 2023B Indenture and by other security discussed herein. The Series 2023B Bonds are not being offered on the basis of the financial strength of the Issuer. Accordingly, the Issuer, in good faith, believes that disclosure of any such default on bonds with respect to which the Issuer was merely a conduit issuer and which are secured solely by payments of the borrower under a loan agreement, lease agreement or installment sale agreement, would not be considered material by a reasonable investor in the Series 2023B Bonds.

### **TAX MATTERS**

#### **Tax Matters Applicable to the Series 2023B Bonds**

*General Matters.* In the opinion of Butler Snow LLP, Bond Counsel, under existing law and assuming compliance with certain covenants described herein, interest on the Series 2023B Bonds is excludable from the gross income of the owners thereof for federal income tax purposes, except that no opinion is expressed as to the status of interest on any Bond for any period that a Bond is held by a “substantial user” of the facilities financed by such Bond or by or a “related person” within the meaning of Section 147(a) of the Internal Revenue Code of 1986, as amended (the “Code”). Bond Counsel is further of the opinion that, under existing law, interest on the Series 2023B Bonds is not an item of preference for purposes of the federal alternative minimum tax; however, such interest is taken into account in determining the annual adjusted financial statement income of applicable corporations (as defined in Section 59(k) of the Code) for the purpose of computing the alternative minimum tax imposed on corporations.

Bond Counsel is further of the opinion that the Series 2023B Bonds and the income therefrom shall be exempt from all state and local taxes in the State of Florida.

The Code imposes a number of requirements that must be satisfied for interest on state and local obligations to be excludable from gross income for federal income tax purposes. These requirements include limitations on the use of bond proceeds and the source of repayment of bonds, limitations on the investment of bond proceeds prior to expenditure, a requirement that excess arbitrage earned on the investment of certain bond proceeds be paid periodically to the United States, except under certain circumstance, and a requirement that information reports be filed with the IRS. The Issuer has covenanted that it will, to the extent permitted by the laws of the State, comply with the requirements of the Code in order to maintain the exclusion from gross income of interest on the Series 2023B Bonds for federal income tax purposes.

The opinion of Bond Counsel will assume continuing compliance with the covenants of the State pertaining to those sections of the Code which affect the exclusion from gross income of interest on the Series 2023B Bonds for federal income tax purposes and, in addition, will rely on representations by the State with respect to matters solely within the knowledge of the State which Bond Counsel has not independently verified. If the State should fail to comply with its covenants or if the foregoing representations should be determined to be inaccurate or incomplete, interest on the Series 2023B Bonds could become taxable from the date of issuance of the Series 2023B Bonds, regardless of the date on which the event causing such taxation occurs. Bond Counsel has not undertaken to determine (or to inform any person) whether any action taken (or not taken) or events occurring (or not occurring) after the date of issuance of the Series 2023B Bonds may affect the tax status of interest on the Series 2023B Bonds.

Except as stated above, Bond Counsel will express no opinion as to any federal, state or local tax consequences resulting from the ownership of, receipt of interest on or disposition of the Series 2023B Bonds.

Owners of the Series 2023B Bonds should be aware that (i) the ownership of tax-exempt obligations, such as the Series 2023B Bonds, may result in collateral federal income tax consequences to certain taxpayers, and (ii) certain other federal, state and/or local tax consequences may also arise from the ownership and disposition of the Series 2023B Bonds or the receipt of interest on the Series 2023B Bonds. Furthermore, future laws and/or regulations enacted by federal, state or local authorities may affect certain owners of the Series 2023B Bonds.

### **Tax Treatment of Premium**

The Series 2023B Bonds are offered and sold to the public at a premium. The premium is the excess of the issue price over the stated redemption price at maturity and must be amortized on an actuarial basis by the owner of the Series 2023B Bonds from the date of acquisition of the Series 2023B Bonds through the maturity date thereof. The premium is not deductible for federal income tax purposes, and owners of the Series 2023B Bonds are required to reduce their basis in the Series 2023B Bonds by the amount of premium that accrued while they owned such Bonds. Owners of the Series 2023B Bonds (including owners that purchase a Bond other than pursuant to the initial public offering) should consult their own tax advisors as to the determination for federal income tax purposes of the amount of premium amortized each year with respect to the Series 2023B Bonds, the adjusted basis of the Series 2023B Bonds for purposes of determining the taxable gain or loss upon the sale or other disposition of the Series 2023B Bonds (prior to maturity and at maturity), and all other federal tax consequences and any state and local tax aspects of owning the Series 2023B Bonds.

## **Changes in Federal and State Tax Law**

Tax legislation, administrative actions taken by tax authorities, and court decisions may cause interest on the Series 2023B Bonds to be subject, directly or indirectly, to federal income taxation or to be subject to state income taxation, or otherwise prevent the beneficial owners of the Series 2023B Bonds from realizing the full current benefit of the tax status of such interest. In addition, such legislation or actions (whether currently proposed, proposed in the future or enacted) could affect the market price or marketability of the Series 2023B Bonds. For example, ongoing negotiations between President Trump and the two Houses of Congress to resolve chronic budget deficits may result in the enactment of tax legislation that could significantly reduce the benefit of, or otherwise affect, the exclusion of gross income for federal income tax of interest on all state and local obligations, including the Series 2023B Bonds. It cannot be predicted whether or in what form any such tax legislation might be enacted or whether, if enacted, it would apply to bonds issued prior to enactment. In addition, regulatory actions are from time to time announced and proposed, and litigation is threatened or commenced which, if implemented or concluded in a particular matter, could adversely affect the market value of the Series 2023B Bonds. It cannot be predicted whether any such regulatory action will be implemented, how any particular litigation or judicial action will be resolved, or whether the Series 2023B Bonds or the market value thereof would be impacted thereby. Prospective purchasers of the Series 2023B Bonds should consult their own tax advisors regarding any pending or proposed federal or state tax legislation, regulations or litigation, and its impact on their individual situations. The opinions expressed by Bond Counsel are based upon existing legislation and regulations as interpreted by relevant judicial and regulatory authorities as of the date of issuance and delivery of the Series 2023B Bonds, and Bond Counsel has expressed no opinion as of any date subsequent thereto or with respect to any pending or proposed federal or state tax legislation, regulations or litigation.

## **Information Reporting Requirement**

Interest on tax-exempt obligations such as the Series 2023B Bonds is subject to information reporting in a manner similar to interest paid on taxable obligations. In general, such information reporting requirements are satisfied if the bondholder completes, and provides the payor with, a Form W-9, "Request for Taxpayer Identification Number and Certification," or the bondholder is one of a limited class of exempt recipients, such as corporations. Backup withholding (i.e., the requirement for the payor to deduct and withhold a tax, calculated in the manner determined under the Code, from the interest payment) may be imposed on payments made to any bondholder who fails to provide certain required information, including an accurate taxpayer identification number, to any person required to collect such information under Section 6049 of the Code. Neither compliance with this reporting requirement nor backup withholding, in and of itself, affects or alters the excludability of interest on the Series 2023B Bonds from gross income for federal income tax purposes or any other federal tax consequence of purchasing, holding or selling tax-exempt obligations.

THE FEDERAL TAX DISCUSSION SET FORTH ABOVE IS INCLUDED FOR GENERAL INFORMATION ONLY AND MAY NOT BE APPLICABLE DEPENDING UPON A BONDHOLDER'S PARTICULAR SITUATION. INVESTORS SHOULD CONSULT THEIR OWN TAX ADVISORS CONCERNING THE TAX IMPLICATIONS OF HOLDING AND DISPOSING OF THE SERIES 2023B BONDS UNDER APPLICABLE STATE OR LOCAL LAWS, INCLUDING THE EFFECT OF ANY PENDING OR PROPOSED LEGISLATION, REGULATORY INITIATIVES OR LITIGATION. FOREIGN INVESTORS SHOULD ALSO CONSULT THEIR OWN TAX ADVISORS REGARDING THE TAX CONSEQUENCES UNIQUE TO INVESTORS WHO ARE NOT U.S. PERSONS.

Bond Counsel's opinions are based on existing legislation and regulations as interpreted by relevant judicial and regulatory authorities as of the date of issuance and delivery of the Series 2023B Bonds. Such opinions are further based on Bond Counsel's knowledge of facts as of the date thereof. Bond Counsel

assumes no duty to update or supplement its opinions to reflect any facts or circumstances that may thereafter come to Bond Counsel's attention or to reflect any changes in any law that may thereafter occur or become effective. Moreover, Bond Counsel's opinions are not a guarantee of result and are not binding on the IRS; rather, such opinions represent Bond Counsel's legal judgment based upon its review of existing law and in reliance upon the representations and covenants referenced above that it deems relevant to such opinions.

The IRS has an ongoing audit program to determine compliance with rules that relate to whether interest on state or local obligations is includable in gross income for federal income tax purposes. No assurance can be given whether or not the IRS will commence an audit of the Series 2023B Bonds. If an audit is commenced, in accordance with its current published procedures, the IRS is likely to treat the Issuer as the Taxpayer and the bondholders may not have a right to participate in such audit. Public awareness of any future audit of the Series 2023B Bonds could adversely affect the value of the Series 2023B Bonds during the pendency of the audit regardless of the ultimate outcome of the audit.

## **NO LITIGATION**

### **The Issuer**

As of the date hereof, there is no litigation pending (as to which the Issuer has received service of process) or, to the actual knowledge of the Issuer, overtly threatened in writing, directly against the Issuer to restrain or enjoin the issuance, sale, execution or delivery of the Series 2023B Bonds or any proceedings of the Issuer with respect to the issuance or sale thereof, or the pledge or application of any monies or security for the Series 2023B Bonds or the existence or powers of the Issuer.

### **The Borrower and General Partner**

There is no action, suit, proceeding, inquiry or investigation of which the Borrower or General Partner has been notified, at law or in equity, before or by any judicial or administrative court or governmental agency or body, state, federal or other, pending or, to the best knowledge of the Borrower, threatened against the Borrower or the General Partner, affecting the existence of the Borrower or the General Partner or the titles of their respective officers to their respective offices, or contesting or affecting as to the Borrower or the General Partner, as applicable, the validity or enforceability of the Series 2023B Bonds, any of the documents entered into by the Borrower in connection with the transaction described in this Limited Offering Memorandum (the "Borrower Documents"), or in any way contesting or challenging the completeness or accuracy of this Limited Offering Memorandum or the powers of the Borrower or the General Partner or their respective authority with respect to the Borrower Documents or the consummation of the transactions contemplated hereby or thereby; nor, to the best knowledge of the Borrower, is there any basis for any such action, suit, proceeding, inquiry or investigation, wherein an unfavorable decision, ruling or finding would materially adversely affect the Borrower's or the General Partner's financial condition or operations or the validity of the authorization, execution, delivery or performance by the Borrower or the General Partner, as applicable, of any Borrower Document.

### **Investor Limited Partner**

There is no action, suit, proceeding, inquiry or investigation of which the Investor Limited Partner has been notified, at law or in equity, before or by any judicial or administrative court or governmental agency or body, state, federal or other, pending or, to the best knowledge of the Borrower, threatened against the Investor Limited Partner, affecting the existence of the Borrower or the General Partner or the titles of their respective officers to their respective offices or the execution and delivery or adoption by the Investor Limited Partner of the Limited Partnership Agreement or the power of the Investor Limited Partner to with respect to the Limited Partnership Agreement or to best knowledge of the Investor Limited Partner, is there

any basis for any such action, suit, proceeding, inquiry or investigation, wherein an unfavorable decision, ruling or finding would materially adversely affect the Investor Limited Partner's financial condition or operations.

## **NO RATING**

The Borrower has not applied for a rating on the Series 2023B Bonds from any of the national credit rating agencies, and, consequently, the Series 2023B Bonds have not been rated by any national credit rating agency. The Issuer has not received a rating from any of the national credit rating agencies. The Series 2023B Bonds are believed to bear higher rates of interest than obligations with investment-grade ratings in order to compensate investors for a level of risk that is higher than the risk generally associated with investment-grade obligations. In addition, unrated obligations such as the Series 2023B Bonds typically have less liquidity in the secondary market than obligations that have received a rating from a national credit rating agency. See "RISK FACTORS – No Rating; Lack of Secondary Market" in this Limited Offering Memorandum.

## **RENTAL HOUSING REQUIREMENTS**

*Federal.* The Borrower and the Issuer will enter into the Regulatory Agreement, which requires that at least forty percent (40%) of the completed units in the Project be held available for individuals or families with incomes that do not exceed sixty percent (60%) of the area median income. Section 142(d) of the Code requires that at least 40% of the units in the Project be held available for individuals or families with incomes that do not exceed 60% of the area median income. Any failure of the Borrower to comply with the income restrictions of the Regulatory Agreement may cause interest on the Series 2023B Bonds to be included in the gross income of the owners thereof for federal income tax purposes, retroactively to the date of issuance of the Series 2023B Bonds.

*LIHTC Requirements.* The Borrower will claim certain low-income housing credits available under Section 42 of the Code, which will be documented in a Declaration of Restrictive Covenants (the "LIHTC Declaration") to be executed by the Borrower, the Issuer, and the 2023B Trustee. The LIHTC Declaration will require that one hundred percent (100%) of the units in the Project must be held available for persons whose incomes (adjusted for family size) do not exceed sixty percent (60%) of the median annual income of the area in which the Project is located (adjusted for family size). In addition to tenant income limitations, the LIHTC Declaration will contain rent limitations pursuant to which gross rent for a unit (which may include a utility allowance) occupied by a low income tenant may not exceed thirty percent (30%) of the applicable income limitation (adjusted for family size). The LIHTC Declaration will require compliance by the Project with the low-income housing tax credit income targeting and rent restrictions, subject to certain contingencies, for a period of fifteen years, as extended in accordance with an extended use period for an additional fifteen years, which is subject to release in accordance with the provisions of a qualified contract under Internal Revenue Code 42(h)(6)(F).

The Borrower's assumptions upon which its forecasted financial statements are based include rental rates which are in compliance with the various income and rent restrictions projected to be applicable in 20\_\_\_. For years after 20\_\_\_, the forecasted financial statements are based on the Borrower's assumption that average median area income will increase each year and therefore such rent and income restrictions will increase in each year. If median income decreases in any year, it is possible that permitted maximum rents and income limits may also decrease. See the summary of the Regulatory Agreement in "APPENDIX D – SUBSTANTIALLY FINAL FORM OF Regulatory AGREEMENT," "THE PROJECT," "APPENDIX A – THE BORROWER, THE PROJECT, THE GUARANTOR, AND THE MANAGER – THE PROJECT – Tenant Income and Rent Limitations" and "TAX MATTERS" in this Limited Offering Memorandum.

## **CERTAIN LEGAL MATTERS**

Legal matters incident to the authorization, issuance and sale of the Series 2023B Bonds are subject to the approving opinion of Butler Snow LLP, Bond Counsel to the Issuer. The opinion will be furnished at the expense of the Borrower upon delivery of the Series 2023B Bonds. A complete copy of the proposed form of Bond Counsel opinion is set forth in “APPENDIX F – FORM OF OPINION OF BOND COUNSEL” to this Limited Offering Memorandum. Butler Snow LLP has acted in the capacity as Bond Counsel for the purpose of rendering the aforementioned approving opinion. Such firm has not been requested to examine, and has not investigated or verified, any statements, records, material or matters relating to the financial condition or capabilities of the Borrower or its affiliates, and has not assumed responsibility for the preparation of this Limited Offering Memorandum, except that, in its capacity as Bond Counsel, such firm has reviewed the information in this Limited Offering Memorandum under the captions “THE SERIES 2023B BONDS” (except under the subcaption “Book-Entry System”), “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2023B BONDS” (except under the subcaptions “The Pledge Agreements,” “Guaranty,” “Sources of Capital Contributions,” “Subordination Agreement,” and “No Deed of Trust or Mortgage Securing the Series 2023B Bonds; No Debt Service Reserve Fund”) and “TAX MATTERS,” and in Appendices B, C, D and E.

In rendering its approving opinion, Bond Counsel will rely on certifications and representations of fact to be contained in the transcript of proceedings which Bond Counsel will not have independently verified. Certain legal matters will be passed upon for the Borrower by its counsel, Winthrop & Weinstine, P.A., Minneapolis, Minnesota. The Underwriter has been represented in this transaction by its co-counsel Ballard Spahr LLP, Minneapolis, Minnesota and Fabyanske Westra Hart & Thomson, P.A., Minneapolis, Minnesota. The Issuer has been represented in this transaction by its counsel Bradley, Garrison & Komando, P.A., Orange Park, Florida.

The legal opinions to be delivered concurrently with the delivery of the Series 2023B Bonds express the professional judgment of the attorneys rendering the opinions regarding the legal issues expressly addressed therein. By rendering a legal opinion, the opinion giver does not become an insurer or guarantor of the result indicated by that expression of professional judgment, of the transaction on which the opinion is rendered, or of the future performance of parties to the transaction. Nor does the rendering of an opinion guarantee the outcome of any legal dispute that may arise out of the transaction.

## **UNDERWRITING**

The Series 2023B Bonds are being purchased from the Issuer by Colliers Securities LLC, Minneapolis, Minnesota (the “Underwriter”). The Underwriter has agreed to purchase the Series 2023B Bonds for a purchase price of \$\_\_\_\_\_, subject to the terms of that certain Bond Purchase Agreement (the “Bond Purchase Agreement”), between the Issuer, the Borrower, and the Underwriter. In addition, the Borrower will pay the Underwriter a fee of \$\_\_\_\_\_ with respect to the Series 2023B Bonds, plus an additional \$\_\_\_\_\_ to reimburse the Underwriter for certain fees and expenses. The Bond Purchase Agreement provides that the Underwriter will purchase all the Series 2023B Bonds if any are purchased and that the obligation to make such purchase is subject to certain terms and conditions set forth in the Bond Purchase Agreement, the approval of certain legal matters by counsel and certain other conditions. The initial public offering prices set forth on the cover page hereof may be changed from time to time by the Underwriter. To the extent permitted by law, the Borrower has agreed under the Bond Purchase Agreement to indemnify the Underwriter against certain liabilities, including certain liabilities under the federal and state securities laws.

In addition to serving as the Underwriter, Colliers Securities LLC has been designated to serve as Remarketing Agent under the Remarketing Agreement and will receive a fee for its remarketing services in connection with the remarketing of the Series 2023B Bonds on the Mandatory Tender Date.

## **REMARKETING AGENT**

The Remarketing Agent for the Series 2023B Bonds is Colliers Securities LLC pursuant to the Remarketing Agreement. If the Series 2023B Bonds are still Outstanding on the Mandatory Tender Date, the Remarketing Agent will set the interest rates on the Series 2023B Bonds and perform the other duties and remarket the Series 2023B Bonds as provided in the 2023B Indenture, subject to the provisions of the Remarketing Agreement. The Remarketing Agent has agreed to use its best efforts to remarket the Series 2023B Bonds which have been delivered to the 2023B Trustee for purchase pursuant to the optional and mandatory tender provisions of the Series 2023B Bonds and as described in the 2023B Indenture. The Borrower will pay the Remarketing Agent a remarketing fee as provided in the Remarketing Agreement for its ongoing duties as Remarketing Agent.

## **RELATIONSHIPS AMONG THE PARTIES**

In connection with the issuance of the Series 2023B Bonds, the Issuer, the Borrower and the Underwriter are being represented by the attorneys or law firms identified above under the heading “CERTAIN LEGAL MATTERS” in this Limited Offering Memorandum. In other transactions not related to the Series 2023B Bonds, each of these attorneys or law firms may have acted as bond counsel or represented the Issuer, the Borrower, the Investor Limited Partner, or the Underwriter or their affiliates, in capacities different from those described, and there will be no limitations imposed as a result of the issuance of the Series 2023B Bonds on the ability of any of these firms or attorneys to act as bond counsel or represent any of these parties in any future transactions. Potential purchasers of the Series 2023B Bonds should not assume that the Issuer, the Borrower, the Investor Limited Partner, and the Underwriter or their respective counsel or Bond Counsel have not previously engaged in, or will not after the issuance of the Series 2023B Bonds engage in, other transactions with each other or with any affiliates of any of them, and no assurance can be given that there are or will be no past or future relationships or transactions between or among any of these parties or these attorneys or law firms.

The Underwriter/Remarketing Agent and the Mortgage Lender are affiliates and are both subsidiaries of Colliers Financial LLC.

## **THE 2023B TRUSTEE**

*The information under this heading has been provided solely by the 2023B Trustee and has not been independently verified. No representation whatsoever as to the accuracy, adequacy or completeness of such information is being made.*

At the request of the Borrower, the Issuer has appointed U.S. Bank Trust Company, National Association to serve as 2023B Trustee. The 2023B Trustee is a national banking association organized and existing under the laws of the United States of America. The 2023B Trustee is to carry out those duties assignable to it under the 2023B Indenture. Except for the contents of this section, the 2023B Trustee has not reviewed or participated in the preparation of this Limited Offering Memorandum and assumes no responsibility for the nature, contents, accuracy, fairness or completeness of the information set forth in this Limited Offering Memorandum or for the recitals contained in the 2023B Indenture or the Series 2023B Bonds, or for the validity, sufficiency, or legal effect of any of such documents.

Furthermore, the 2023B Trustee has no oversight responsibility, and is not accountable, for the use or application of the proceeds of such Bonds by the Borrower or the Issuer. The 2023B Trustee has not evaluated the risks, benefits, or propriety of any investment in the Series 2023B Bonds and makes no representation, and has reached no conclusions, regarding the value or condition of any assets or revenues pledged or assigned as security for the Series 2023B Bonds, or the investment quality of the Series 2023B

Bonds, about all of which the 2023B Trustee expresses no opinion and expressly disclaims the expertise to evaluate.

### **MISCELLANEOUS**

The foregoing does not purport to be comprehensive or definitive and all references to any document herein are qualified in their entirety by reference to each such document. All references to the Series 2023B Bonds are qualified in their entirety by reference to the forms thereof and the information with respect thereto included in the aforesaid documents. Copies of these documents are available for inspection during the period of the offering at the offices of the Underwriter in Minneapolis, Minnesota, and thereafter at the principal corporate trust office of the 2023B Trustee. The Underwriter makes no representations or warranties as to the accuracy or completeness of the information in any of the Appendices.

OTHER THAN WITH RESPECT TO INFORMATION CONCERNING THE ISSUER CONTAINED UNDER THE CAPTIONS “THE ISSUER” AND “NO LITIGATION – THE ISSUER,” SOLELY AS SUCH INFORMATION RELATES TO THE ISSUER, NONE OF THE INFORMATION IN THIS LIMITED OFFERING MEMORANDUM HAS BEEN SUPPLIED OR VERIFIED BY THE ISSUER, AND THE ISSUER MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO (I) THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION; (II) THE VALIDITY OF THE SERIES 2023B BONDS; OR (III) THE TAX STATUS OF THE INTEREST ON THE SERIES 2023B BONDS.

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



The Borrower has authorized and approved and the Issuer has consented to the lawful use and distribution of this Limited Offering Memorandum, although the Issuer has not reviewed or approved any matters herein and assumes no responsibility for the accuracy or completeness of the information herein except for the information under the captions “THE ISSUER” and “NO LITIGATION – The Issuer” in this Limited Offering Memorandum, solely as such information relates to the Issuer. The Borrower has approved the information contained herein.

**PONTE VEDRA BEACH LEASED HOUSING  
ASSOCIATES I, LLLP,**  
a Minnesota limited liability limited partnership

By: PONTE VEDRA BEACH LEASED HOUSING  
ASSOCIATES I, LLC,  
a Minnesota limited liability company,  
its General Partner

By: /s/ \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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**APPENDIX A**

**THE BORROWER, THE PROJECT, THE GUARANTOR,  
AND THE MANAGER**

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**APPENDIX B**

**SUBSTANTIALLY FINAL FORM OF THE**

**TRUST INDENTURE**

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**APPENDIX C**

**SUBSTANTIALLY FINAL FORM OF THE  
LOAN AGREEMENT**

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**APPENDIX D**

**SUBSTANTIALLY FINAL FORM OF THE Regulatory**  
**AGREEMENT**

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**APPENDIX E**

**SUBSTANTIALLY FINAL FORM OF THE  
BORROWER'S AMENDED AND RESTATED  
AGREEMENT OF LIMITED LIABILITY LIMITED  
PARTNERSHIP**

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**APPENDIX F**

**FORM OF OPINION OF BOND COUNSEL**

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**APPENDIX F**

**FORM OF OPINION OF BOND COUNSEL**

[To be provided by Bond Counsel]



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**APPENDIX G**

**FORM OF CONTINUING DISCLOSURE AGREEMENT**

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**APPENDIX G**  
**FORM OF CONTINUING DISCLOSURE AGREEMENT**

[To be added]

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**APPENDIX H**

**FORM OF INVESTOR LETTER**

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**APPENDIX H**  
**FORM OF INVESTOR LETTER**

[To be attached]

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**APPENDIX I**

**BOOK-ENTRY ONLY SYSTEM**

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## APPENDIX I

### BOOK-ENTRY ONLY SYSTEM

The Depository Trust Company (“DTC”), New York, New York, will act as securities depository for the Securities. The Series 2023B Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Security certificate will be issued for each maturity of the Securities, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.8 million issues of U.S. and non-U.S. equity, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has a Standard & Poor’s rating: AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org).

Purchases of the Securities under the DTC system must be made by or through Direct Participants which will receive a credit for the Securities on DTC’s records. The ownership interest of each actual purchaser of each Security (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2023B Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Securities, except in the event that use of the book-entry system for the Series 2023B Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the Series 2023B Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bond; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Securities, such as redemptions, tenders, defaults, and proposed amendments to the Security documents. For example, Beneficial Owners of the Series 2023B Bonds may wish to ascertain that the nominee holding the Security for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the

alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of the notices be provided directly to them.

Redemption notices are required to be sent to DTC. If less than all of the Series 2023B Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor such other DTC nominee) will consent or vote with respect to Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, distributions, and dividend payments on the Series 2023B Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts, upon DTC's receipt of funds and corresponding detail information from the Issuer or 2023B Trustee on the payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Issuer or 2023B Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

A Beneficial Owner will give notice to elect to have its Security purchased or tendered, through its Participant, to 2023B Trustee, and will effect delivery of such Security by causing the Direct Participant to transfer the Participant's interest in the Series 2023B Bonds, on DTC's records, to 2023B Trustee. The requirement for physical delivery of Series 2023B Bonds in connection with an optional tender or a mandatory purchase will be deemed satisfied when the ownership rights in the Series 2023B Bonds are transferred by Direct Participants on DTC's records and followed by a book-entry credit of tendered Bonds to the 2023B Trustee's DTC account.

DTC may discontinue providing its services as depository with respect to the Series 2023B Bonds at any time by giving reasonable notice to Issuer or the 2023B Trustee. Under such circumstances, in the event that a successor depository is not obtained, Security certificates are required to be printed and delivered. The Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Security certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the Issuer believes to be reliable, but the Issuer takes no responsibility for the accuracy thereof.

THE INFORMATION ABOVE DISCUSSING THE BOOK-ENTRY SYSTEM HAS BEEN FURNISHED BY DTC. NO REPRESENTATION IS MADE BY THE ISSUER, THE BORROWER OR THE UNDERWRITER AS TO THE COMPLETENESS OR ACCURACY OF SUCH INFORMATION OR AS TO THE ABSENCE OF MATERIAL ADVERSE CHANGES IN SUCH INFORMATION SUBSEQUENT TO THE DATE HEREOF. NO ATTEMPT HAS BEEN MADE BY THE ISSUER, THE BORROWER OR THE UNDERWRITER TO DETERMINE WHETHER DTC IS OR WILL BE FINANCIALLY OR OTHERWISE CAPABLE OF FULFILLING ITS OBLIGATIONS. THE ISSUER HAS NO RESPONSIBILITY OR OBLIGATION TO DTC PARTICIPANTS, INDIRECT PARTICIPANTS OR BENEFICIAL OWNERS, OR THE PERSONS FOR WHICH THEY ACT AS NOMINEES WITH RESPECT TO THE BOND, OR FOR ANY PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST PAYMENT THEREON.

DMFIRM #409766455 v4

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**APPENDIX J**  
**MARKET STUDY**

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**EXHIBIT L**  
**TEFRA NOTICE**  
**(see attached)**

# LOCALiQ FLORIDA

PO Box 631244 Cincinnati, OH 45263-1244

## PROOF OF PUBLICATION

Amber Ware  
Amber Ware  
Butler Snow LLP  
6022 San Jose BLVD  
Jacksonville FL 32217-2385

### NOTICE OF PUBLIC MEETING AND PUBLIC HEARING OF THE HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA

NOTICE is hereby given that the Housing Finance Authority of St. Johns County, Florida (the "Authority"), will hold a public meeting and public hearing on Thursday, October 26, 2023 at 3:00 P.M. or as soon thereafter as is practicable, in the Kingfisher Conference Room located on the second floor of the St. Johns County Health & Human Services Building, 200 San Sebastian View, St. Augustine, Florida 32084, for the purposes of:

1. Holding a public hearing regarding a plan of financing involving the proposed issuance of debt obligations by the Authority in an aggregate principal amount not to exceed \$21,500,000 (the "Bonds") for the purpose of financing or refinancing all or a portion of the costs of the acquisition, rehabilitation and equipping of a multifamily rental housing development to be known as Oaks at St. John, to be occupied by persons or families of low, moderate or middle income, to consist of approximately 160 units, on an approximately 23.93-acre site located at 210 Nettles Lane, Ponte Vedra Beach, Florida 32081 in an unincorporated area of St. Johns County, Florida (collectively, the "Project"), and to be owned by Ponte Vedra Beach Leased Housing Associates I, L.L.P., a Minnesota limited partnership.

The public hearing will be conducted in a manner that provides a reasonable opportunity to be heard for persons with differing views on the issuance of the Bonds and the location and nature of the Project. Any person desiring to be heard on this matter is requested to attend the public hearing or send a representative. Written comments (not exceeding 250 words) to be presented at this hearing may be submitted to the Authority at, and further information relating to this matter is available for inspection and copying during the regular business hours at, the office of Roberto Ortiz, Housing and Community Services Manager, at 200 San Sebastian View, Suite 2300, St. Augustine, Florida 32084. Comments made at the hearing and the meeting are for the consideration of the Authority and the Board of County Commissioners, and will not bind any legal action to be taken by the Authority or the Board of County Commissioners.

2. Considering and acting upon a resolution of the Authority authorizing the Authority to proceed with the issuance and sale of the Bonds, pursuant to Chapter 159, Part IV, Florida Statutes, as amended, and other applicable provisions of law, subject to the conditions set forth in such resolution.

3. Considering and acting upon such other business as may properly come before the Authority at said meeting. In accordance with the American Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact St. Johns County at (904) 827-6890 or at the County Administration Building, 500 San Sebastian View, St. Augustine, Florida 32084, not later than 7 days prior to the date of this hearing.

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE AUTHORITY WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND, FOR SUCH PURPOSE, SUCH PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

Dated: October 1, 2023

HOUSING FINANCE AUTHORITY OF  
ST. JOHNS COUNTY, FLORIDA  
Pub: Oct. 19, 2023 #9418198

### STATE OF WISCONSIN, COUNTY OF BROWN

Before the undersigned authority personally appeared, who on oath says that he or she is the Legal Coordinator of the St Augustine Record, published in St Johns County, Florida; that the attached copy of advertisement, being a Public Notices, was published on the publicly accessible website of St Johns County, Florida, or in a newspaper by print in the issues of, on:

10/19/2023

Affiant further says that the website or newspaper complies with all legal requirements for publication in chapter 50, Florida Statutes.

Subscribed and sworn to before me, by the legal clerk, who is personally known to me, on 10/19/2023



Legal Clerk



Notary, State of WI, County of Brown

8-19-26

My commission expires

Publication Cost: \$171.36  
Order No: 9418198 # of Copies: 1  
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**THIS IS NOT AN INVOICE!**

*Please do not use this form for payment remittance.*

MARIAH VERHAGEN  
Notary Public  
State of Wisconsin