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**LOAN AGREEMENT**

BETWEEN

CITY OF FORSYTH, MONTANA

AND

AVISTA CORPORATION

\$17,000,000

CITY OF FORSYTH, MONTANA  
POLLUTION CONTROL REVENUE REFUNDING BONDS  
(AVISTA CORPORATION COLSTRIP PROJECT)  
SERIES 2010B

DATED AS OF DECEMBER 1, 2010

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The amounts payable to the Issuer and certain other rights of the Issuer under this Loan Agreement (except for amounts payable to, and certain rights of, the Issuer under Section 4.04, Section 4.06(a), Section 5.03, Section 5.06, Section 5.07, Section 5.08 and Section 7.05 hereof and any rights of the Issuer to receive notices, certificates, requests, requisitions, directions and other communications hereunder) and the rights of the Issuer to any Credit Facility and any Additional Collateral therefor that may be delivered by the Company in accordance with Section 4.09 hereof, have been pledged and assigned to The Bank of New York Mellon Trust Company, N.A., as Trustee under the Trust Indenture, dated as of December 1, 2010, and prior to an Event of Default, the Issuer's right to give approvals and consents hereunder, from the Issuer. For the purpose of perfecting the security interest of such Trustee in such amounts payable and such rights assigned to such Trustee under the Montana Uniform Commercial Code — Secured Transactions, the counterpart of this Loan Agreement actually delivered to the Trustee shall be deemed the original thereof.

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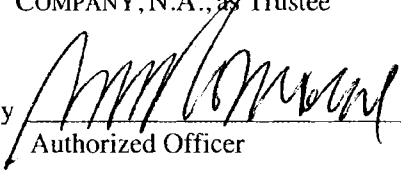
DATED AS OF DECEMBER 1, 2010

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The amounts payable to the Issuer and certain other rights of the Issuer under this Loan Agreement (except for amounts payable to, and certain rights of, the Issuer under Section 4.04, Section 4.06(a), Section 5.03, Section 5.06, Section 5.07, Section 5.08 and Section 7.05 hereof and any rights of the Issuer to receive notices, certificates, requests, requisitions, directions and other communications hereunder) and the rights of the Issuer to any Credit Facility and any Additional Collateral therefor that may be delivered by the Company in accordance with Section 4.09 hereof, have been pledged and assigned to The Bank of New York Mellon Trust Company, N.A., as Trustee under the Trust Indenture, dated as of December 1, 2010, as amended and restated, from the Issuer. For the purpose of perfecting the security interest of such Trustee in such amounts payable and such rights assigned to such Trustee under the Montana Uniform Commercial Code — Secured Transactions, the counterpart of this Loan Agreement actually delivered to the Trustee shall be deemed the original thereof.

This counterpart of the Loan Agreement has been actually delivered to the Trustee and the Trustee acknowledges receipt thereof.

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

By   
Authorized Officer

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## LOAN AGREEMENT

This LOAN AGREEMENT, dated as of December 1, 2010, between the Issuer (as defined below) and the Company (as defined below), is between the CITY OF FORSYTH, MONTANA, a political subdivision duly organized and existing under the Constitution and laws of the State (the "Issuer"), and AVISTA CORPORATION, a corporation duly organized under the laws of the State of Washington and duly qualified to conduct business in the State (the "Company").

### RECITALS:

- A. The Issuer is authorized by the provisions of the Act to issue one or more series of its revenue bonds to finance all or part of the cost of projects consisting of exempt facilities (as such term is used in the Code) located within the territorial limits of the Issuer.
- B. The Act provides that payment of the principal of and interest on revenue bonds issued thereunder shall be secured by a pledge of the revenues out of which such revenue bonds shall be payable and may be secured by a pledge of an agreement relating to a project.
- C. The Issuer has previously issued the Prior Bonds on behalf of the Company for the purpose of refinancing a portion of the costs of acquiring and improving the Project.
- D. The Issuer is authorized by the Act to issue its revenue refunding bonds to refund the Prior Bonds.
- E. By proper action of its governing body taken pursuant to and in accordance with the provisions of the Act, the Issuer has authorized and undertaken to issue its Pollution Control Revenue Refunding Bonds (Avista Corporation Colstrip Project) Series 2010B and the issuance of the Bonds to refund the Prior Bonds is authorized by the provisions of the Act.
- F. The issuance of the Bonds to refund the Prior Bonds will provide financing on more advantageous terms for the cost of the Project financed by the Prior Bonds.
- G. The Bonds shall be issued under and pursuant to the Trust Indenture, dated as of December 1, 2010, between the Issuer and The Bank of New York Mellon Trust Company, N.A., as Trustee, pursuant to which the Issuer shall pledge and assign to the Trustee certain rights of the Issuer hereunder.
- H. Pursuant to this Agreement, the Issuer will loan the proceeds of the Bonds to the Company to provide financing for the Project, and the Company agrees to make, or cause to be made, payments sufficient to pay when due (whether at stated maturity, by acceleration or otherwise) the principal of and premium, if any, and interest on the Bonds.
- I. The Company agrees under this Agreement to pay, or cause to be paid, when due, the purchase price of Bonds purchased pursuant to the terms of the Indenture.

J. The issuance, sale and delivery of the Bonds and the execution and delivery of this Agreement and the Indenture have been in all respects duly and validly authorized in accordance with the Act and the Bond Resolution.

K. The Company may provide Additional Collateral as provided herein and in the Trust Indenture.

In consideration of the respective representations and agreements contained in this Agreement, the parties hereto agree as follows:

## ARTICLE I

### DEFINITIONS

All words and terms used but not otherwise defined in this Agreement, shall for all purposes of this Agreement have the meanings specified in Article I of the Indenture, unless the context clearly requires otherwise. In addition, the following words and terms shall have the following meanings when used in this Agreement:

“*Affiliate*” means any entity controlling, controlled by or under common control with the Company.

“*Indenture*” means the Trust Indenture, dated as of December 1, 2010, between the Issuer and the Trustee, relating to the issuance of the Bonds as such Trust Indenture may be supplemented and amended from time to time as therein permitted.

The words “*hereto*,” “*hereunder*” and other words of similar import refer to this Agreement as a whole.

## ARTICLE II

### REPRESENTATIONS, WARRANTIES AND AGREEMENTS

**Section 2.01. Representations, Warranties and Agreements of Issuer.** The Issuer represents, warrants and agrees that:

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

(b) Under the Act, the Issuer has the power to enter into the transactions contemplated by this Agreement and the Indenture and to carry out its obligations hereunder and thereunder, including the issuance and sale of the Bonds. By proper action of its governing body, the Issuer has been duly authorized to execute, deliver and duly perform this Agreement and the Indenture and to issue and sell the Bonds and has made all determinations and findings as and where required by Section 90-5-106 of the Act.

(c) The aggregate principal amount of the Bonds authorized to be issued under the Indenture for the purpose of refunding the Prior Bonds does not exceed the aggregate principal amount of the Prior Bonds now outstanding.

(d) The Prior Agreement and the Prior Indenture are each in full force and effect and have not been amended or supplemented.

(e) The proceeds of the sale of the Bonds (i) will be deposited with the Prior Trustee for deposit into the Prior Bond Fund to provide a portion of the moneys necessary for the Refunding and (ii) will be applied by the Prior Trustee to redeem the Prior Bonds pursuant to the Prior Indenture on the Redemption Date. The Prior Bonds are now outstanding in the principal amount of \$17,000,000. Prior to the issuance and delivery of the Bonds, the Prior Trustee will be given irrevocable instructions and will be directed to call all of the Prior Bonds for redemption on the Redemption Date.

(f) The Bonds are to be issued under and secured by the Indenture, pursuant to which certain of the Issuer's right, title and interest in this Agreement and the revenues derived by the Issuer pursuant to this Agreement will be pledged and assigned to the Trustee as security for payment of the principal and purchase price of, premium, if any, and interest on the Bonds.

(g) Neither the execution and delivery of this Agreement or the Indenture, the issuance and sale of the Bonds, the consummation of the transactions contemplated hereby and thereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement, the Tax Certificate, the Indenture or the Bonds conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Issuer is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(h) The Issuer has not assigned or pledged and will not assign or pledge its interest in this Agreement other than to secure the Bonds.

(i) To the knowledge of the Issuer, after due inquiry, no litigation is pending or threatened against the Issuer to restrain or enjoin the issuance or sale of the Bonds or in any way affecting any authority for or the validity of the Bonds, the Indenture, this Agreement or the existence or powers of the Issuer or the right of the Issuer under the Act to refinance a portion of the costs of the Project through the issuance of the Bonds.

(j) To the knowledge of the Issuer, after due inquiry, no event has occurred and no condition exists which, upon the issuance of the Bonds, would constitute an event of default on the part of the Issuer under the Prior Indenture.

(k) The Issuer will not knowingly take or omit to take any action reasonably within its control the taking or omission of which would adversely affect the Tax-Exempt status of the Bonds. The Issuer will file or cause to be filed with the United States Department of Treasury the information required by Section 149(e) of the Code.

(l) A public hearing relating to the Refunding for the Project was held on August 23, 1999, following public notice thereof, pursuant to Section 147(f) of the Code, and the public hearing and approval requirements of Section 147(f) of the Code have been satisfied.

(m) Within the meaning of Sections 2-2-121 and 2-2-125, Montana Code Annotated, as amended, no "public officer," "public employee," "officer" or "employee" of the Issuer is engaged as counsel, consultant, representative, or agents of the Company, or has a substantial financial interest in the Company. None of the officers, deputies, or employees of the Issuer or employees having terminated their employment with the Issuer within the six months immediately preceding this Agreement are "interested in" this Agreement, the Indenture, the Bonds or the transactions contemplated thereby, within the meaning of Section 2-2-201, Montana Code Annotated, as amended.

Concurrently with the initial authentication and delivery of the Bonds under the Indenture, the Issuer shall execute and deliver a certificate reaffirming the foregoing representations, warranties and agreements as of the date thereof.

**Section 2.02. Representations, Warranties and Agreements of Company.** The Company represents, warrants and agrees that:

(a) It is a corporation duly organized and validly existing under the laws of the State of Washington and duly qualified as a foreign corporation in good standing in the State, is not in violation of any provision of its Articles of Incorporation or its Bylaws, in each case as the same have been amended, has full corporate power to own its properties and conduct its business, and has the corporate power to enter into, and by proper corporate action has duly authorized the execution and delivery of, this Agreement and the Tax Certificate.

(b) Neither the execution and delivery of this Agreement or the Tax Certificate, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement or the Tax Certificate conflicts with or will result in a breach of any of the terms, conditions or provisions of any law or judgment to which the Company or its property or assets are subject or of any corporate restriction contained in its Articles of Incorporation or its Bylaws, in each case as the same have been amended, or any agreement or instrument to which the Company is now a party or by which it is bound, or constitutes, with or without the giving of notice or lapse of time or both, a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Company (other than any lien, charge or encumbrance which may be created in favor of the Provider on any Bonds purchased by or pledged to the Provider or on the Company's right to receive certain moneys under the Indenture) under the terms of any instrument or agreement.

(c) This Agreement has been duly and validly authorized, executed and delivered by the Company and is a legal, valid and binding obligation of the Company,

enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, usury or other similar laws affecting the rights of creditors generally, equitable principles relating to the availability of remedies and principles of public or governmental policy limiting the enforceability of the indemnification and contribution provisions.

(d) Other than the orders of the Washington Utilities and Transportation Commission, the Idaho Public Utilities Commission and the Public Utility Commission of Oregon and the approval by the Issuer, all of which orders and approvals will have been received and be in effect prior to the initial authentication and delivery of the Bonds, no consent, approval, authorization or order of, or registration with, any court or governmental or regulatory agency or body is required with respect to the Company for the execution, delivery and performance by the Company of this Agreement and the Tax Certificate.

(e) The Company has received an executed counterpart of the Indenture and hereby consents to and approves of the provisions thereof (including, without limitation, the provisions applicable to it).

(f) The information relating to the Project furnished by the Company in writing to Chapman and Cutler LLP, as Bond Counsel, in connection with the issuance by the Issuer of the Bonds, is, to the best of the Company's knowledge, true and correct.

(g) The Prior Agreement and the Prior Indenture are in full force and effect and have not been amended or supplemented.

(h) To the best knowledge of the Company, no event has occurred and is continuing under the provisions of the Prior Indenture that now constitutes, or with the lapse of time or the giving of notice, or both, would constitute, an event of default under the Prior Indenture.

(i) Upon the initial authentication and delivery of the Bonds, the Company has given or will give timely notice as required by the provisions of the Prior Agreement of the Company's intent to prepay the amounts payable thereunder to provide for the redemption of the Prior Bonds on the Redemption Date.

(j) The aggregate principal amount of Bonds authorized to be issued under the Indenture does not exceed the aggregate principal amount of the Prior Bonds now Outstanding.

(k) The Company does not, as of the date of issuance of the Bonds, reasonably expect any use of moneys derived from the proceeds of the Bonds or any investment or reinvestment thereof or from the sale of the Project which would cause the Bonds to be classified as "*arbitrage bonds*" within the meaning of Section 148 of the Code.

(l) All of the proceeds of the Prior Bonds, including the investment earnings thereon, have been disbursed in accordance with the provisions of the Prior Indenture and the Prior Agreement and there are no proceeds of the Prior Bonds, or investment earnings therefrom, or any other moneys being held by the Prior Trustee under the Prior Indenture.

(m) The Pollution Control Facilities that comprise the Project constitute Exempt Facilities and consist of those facilities described in *Exhibit A* hereto (as such *Exhibit A* is from time to time amended or supplemented in accordance with Section 3.04 hereof), and the Company shall not consent to any changes in the Project which would adversely affect the qualification of the Project as a “project” under the Act or adversely affect the Tax-Exempt status of the Bonds.

(n) Substantially all of the proceeds of the Prior Bonds have been expended for the purpose of acquiring, constructing and improving the Project, which constitutes Exempt Facilities. None of the proceeds of the Prior Bonds were used (i) to acquire land (or an interest therein) or (ii) to acquire any property (or an interest therein) unless the first use of such property was pursuant to such acquisition, all within the meaning of Section 147 of the Code.

(o) The Montana Department of Health and Environmental Sciences has certified that the pollution control facilities constituting part of the Project, as designed, are in furtherance of the purpose of abating or controlling atmospheric pollutants or contaminants, and water pollution, as the case may be.

(p) No construction, reconstruction or acquisition (within the meaning of the Code) of the Project was commenced prior to the taking of official action by the Issuer with respect thereto and the Project has been placed in service.

(q) The average maturity of the Bonds does not exceed 120% of the average reasonably expected remaining economic life of the Project.

(r) All of the Prior Bonds will be redeemed within 90 days of the date of the initial authentication and delivery of the Bonds, and all of the proceeds of the sale of the Bonds will be spent within 90 days of the initial authentication and delivery of the Bonds.

(s) The Project (i) was designed to meet applicable federal, state and local requirements for the control of pollution or the disposal of solid waste, (ii) was and is to be used solely for purposes contemplated by the Act, and (iii) is located within the boundaries of Rosebud County, Montana.

(t) The representations, warranties and covenants of the Company set forth in the Project Certificate are incorporated herein by reference and are hereby made a part of this Agreement as if set forth herein.

(u) The Company will cooperate with the Issuer in filing or causing to be filed with the United States Department of Treasury the information required by Section 149(e) of the Code.

(v) The Company will pay the principal of and premium, if any, and interest to the Redemption Date on all Prior Bonds that are validly presented to the Company for payment after the Prior Trustee has paid to the Company, in accordance with Section 4.08 of the Prior Indenture, any moneys held in trust for the payment of the principal of and premium, if any, and interest on the Prior Bonds.

Concurrently with the initial authentication and delivery of the Bonds under the Indenture, the Company shall execute and deliver a certificate reaffirming the foregoing representations, warranties and agreements as of the date thereof.

### ARTICLE III

#### ISSUANCE OF THE BONDS; THE LOAN; DISPOSITION OF PROCEEDS OF THE BONDS; THE PROJECT

**Section 3.01. Issuance of Bonds.** In order to refinance a portion of the cost of the Project by effecting the Refunding, the Issuer shall issue the Bonds under and in accordance with the Act and pursuant to the Indenture. The Company hereby approves the issuance of the Bonds and all terms and conditions thereof.

**Section 3.02. Issuance of Other Obligations.** The Issuer and the Company expressly reserve the right to enter into, to the extent permitted by law, an agreement or agreements other than this Agreement with respect to the issuance by the Issuer, under an indenture or indentures other than the Indenture, of obligations to provide additional funds to pay costs of facilities in addition to the Project or to provide for the refunding of all or any principal amount of the Bonds. Such obligations will not be entitled to the benefits of the Indenture, any Credit Facility or any Additional Collateral.

**Section 3.03. The Loan; Disposition of Bond Proceeds and Certain Other Moneys.** The Issuer shall lend to the Company the proceeds of the issuance and sale of the Bonds for the purposes specified in Section 3.01 of this Agreement. The Issuer and the Company shall, simultaneously with the delivery of the Bonds, cause such proceeds, other than accrued interest, if any, to be transferred to the Prior Trustee for deposit into the Prior Bond Fund to be used to pay the principal amount of the Prior Bonds upon their redemption on the Redemption Date.

**Section 3.04. Changes to Project.** The Company may at its own expense cause the Project to be remodeled or cause such substitutions, modifications and improvements to be made to the Project from time to time as the Company, in its discretion, may deem to be desirable for its uses and purposes, which remodeling, substitutions, modifications and improvements shall be included under the terms of this Agreement as part of the Project; *provided, however*, that no such remodeling, substitutions, modifications or improvements shall change the description of the Project set forth in *Exhibit A* to this Agreement or change the function of any principal

component of the Project described in *Exhibit A* to this Agreement unless, in either case, the Trustee and the Issuer first receive a Favorable Opinion of Bond Counsel with respect to such change. If any such supplement or amendment affects the description of the Project, the Company and the Issuer will amend *Exhibit A* to this Agreement to reflect such supplement or amendment, which supplement or amendment will not be considered as an amendment to this Agreement requiring the consent of any Owner, the Trustee or the Provider for the purposes of Article XII of the Indenture.

#### ARTICLE IV

##### LOAN PAYMENTS; PAYMENTS TO REMARKETING AGENT AND TRUSTEE; OTHER OBLIGATIONS

**Section 4.01. Loan Payments.** (a) As and for repayment of the loan made to the Company by the Issuer pursuant to Section 3.03 hereof, the Company shall pay to the Trustee, for the account of the Issuer, an amount equal to the aggregate principal amount of and the premium, if any, on the Bonds from time to time Outstanding and, as interest on its obligation to pay such amount, an amount equal to interest on the Bonds, such amounts to be paid in installments due on the dates, in the amounts and in the manner provided in the Indenture for the payment of the principal of and premium, if any, and interest on the Bonds, whether at maturity, upon redemption, acceleration or otherwise; *provided, however*, that the obligation of the Company to make any such payment hereunder shall be reduced by the amount of any moneys held by the Trustee under the Indenture and available for such payment; and *provided, further*, that the obligation of the Company to make any payment hereunder shall be deemed to be satisfied and discharged to the extent of the corresponding payment made (i) by the Provider to the Trustee under any Credit Facility (unless the Credit Facility then in effect shall be an insurance policy, in which case such obligation of the Company shall not be deemed to be satisfied and discharged) or (ii) by the Company of principal of or premium, if any, or interest on any First Mortgage Bonds and any Additional Collateral that corresponds to the principal of or premium, if any, or interest on the Bonds.

(b) In the event the Company shall fail to make any payment required by Section 4.01(a) hereof with respect to the principal of and premium, if any, and interest on any Bond, the payment so in default shall continue as an obligation of the Company until the amount in default shall have been fully paid, and the Company will pay interest on any overdue amount with respect to principal of such Bond at the interest rate then borne by such Bond until paid.

**Section 4.02. Payments of Purchase Price.** (a) The Company shall pay or cause to be paid for its account to the Trustee amounts equal to the amounts to be paid by the Trustee as the purchase price for such Bonds pursuant to Section 3.01 and Section 3.02 of the Indenture in respect of Outstanding Bonds, such amounts to be paid to the Trustee on the dates such payments are to be made pursuant to Section 3.01 and Section 3.02 of the Indenture; *provided, however*, that the obligation of the Company to make any such payment hereunder shall be reduced by the amount of any moneys held by the Trustee under the Indenture and available for such payment.



(b) The Company may provide for the payment of the amounts to be paid by the Trustee pursuant to Section 3.01 and Section 3.02 of the Indenture by the delivery of a Credit Facility, which consists of a direct pay letter of credit, to the Trustee. The Company hereby irrevocably authorizes and directs the Trustee to draw moneys under such Credit Facility in accordance with the provisions of the Indenture and such Credit Facility to obtain the moneys necessary to pay the purchase price for Bonds payable under Section 3.01 and Section 3.02 of the Indenture if and when due.

**Section 4.03. *Payments Assigned; Obligation Absolute.*** It is understood and agreed that the Loan Payments and all payments to be made by the Company on any First Mortgage Bonds and any Additional Collateral that corresponds to the principal of or premium, if any, or interest on the Bonds are, by the Indenture, pledged and assigned by the Issuer to the Trustee pursuant to the Indenture, and that all right, title and interest of the Issuer hereunder (except for amounts payable to, and the rights of, the Issuer under Section 4.04, Section 4.06(a), Section 5.03, Section 5.06, Section 5.07, Section 5.08 and Section 7.05 hereof and the Issuer's rights to receive notices, certificates, requests, requisitions, directions and other communications hereunder) are pledged and assigned to the Trustee pursuant to the Indenture. The Company assents to such pledge and assignment and agrees that the obligation of the Company to make the Loan Payments and payments to the Trustee under Section 4.02 hereof and to make the payments on any First Mortgage Bonds and any Additional Collateral that corresponds to the principal of or premium, if any, or interest on the Bonds shall be absolute, irrevocable and unconditional and shall not be subject to cancellation, termination or abatement, or to any defense other than payment, or to any right of setoff, counterclaim or recoupment arising out of any breach under this Agreement or the Indenture or otherwise by the Company, the Trustee, the Remarketing Agent, the Provider or any other party, and, further, that the Loan Payments and the other payments due hereunder and on any First Mortgage Bonds and any Additional Collateral that corresponds to the principal of or premium, if any, or interest on the Bonds shall continue to be payable at the times and in the amounts herein and therein specified whether or not the Project, or any portion thereof, shall have been destroyed by fire or other casualty, or title thereto, or the use thereof, shall have been taken by the exercise of the power of eminent domain, and that there shall be no abatement of or diminution in any such payments by reason thereof, whether or not the Project shall be used or useful and whether or not any applicable laws, regulations or standards shall prevent or prohibit the use of the Project or for any other reason. The Project shall not constitute any part of the Trust Estate or any part of the security for the Bonds.

**Section 4.04. *Payment of Expenses.*** The Company shall pay the reasonable compensation and reimbursement of reasonable expenses and advances payable to the Issuer, the Trustee, the Paying Agent, the Registrar, the Securities Depository, Moody's and S&P under the Indenture and of any Remarketing Agent under a Remarketing Agreement directly to each such entity. The Company shall also pay all of the expenses of the Prior Trustee in connection with the Refunding and all other reasonable fees and expenses incurred in connection with the issuance of the Bonds, including underwriting and legal fees and expenses. The obligations of the Company under this Section 4.04 shall survive the termination of this Agreement.

**Section 4.05. *Indemnification.*** The Company releases the Trustee, the Paying Agent and the Registrar and their respective officers, agents, servants and employees from, agrees that the

Trustee, the Paying Agent and the Registrar and their respective officers, agents, servants and employees shall not be liable for, and agrees to indemnify and hold free and harmless the Trustee, the Paying Agent and the Registrar and their respective officers, agents, directors, servants and employees from and against, any 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, except in any case as a result of the negligence or willful misconduct of the Trustee, the Paying Agent and the Registrar and their respective officers, agents, servants and employees.

The Company will indemnify and hold free and harmless the Trustee, the Paying Agent and the Registrar and their respective officers, agents, servants, directors and employees from and against any loss, claim, damage, tax, penalty, liability, disbursement, litigation or other expenses, attorneys' fees and expenses or court costs arising out of, or in any way relating to, the execution or performance of this Agreement, the Tax Certificate, the issuance or sale of the Bonds, the delivery of any Credit Facility, the delivery of any Additional Collateral pursuant to Section 4.08 hereof, the Refunding, the acceptance or administration of the trust under the Indenture or any other cause whatsoever pertaining to this Agreement, the Tax Certificate, the Indenture or the Credit Facility, except in any case as a result of the negligence or willful misconduct of the Trustee, the Paying Agent and the Registrar or their respective officers, agents, servants and employees.

The obligations of the Company under this Section 4.05 shall survive the termination of this Agreement and the earlier removal or resignation of the Trustee.

**Section 4.06. Payment of Taxes and Charges in Lieu Thereof.** (a) The Company covenants and agrees that it will, from time to time for so long as the Company has an ownership interest in the Project, promptly pay and discharge or cause to be paid and discharged when due its share of all taxes, assessments, levies, duties, imposts and governmental, utility and other charges lawfully imposed upon the Project or any part thereof or upon income and profits thereof or any payments hereunder or on any Credit Facility or any Additional Collateral. In the event that the Company sells or otherwise transfers its interest in the Project while the Bonds are Outstanding, the Company shall require the purchasers or transferor of the Company's interest in the Project to assume the Company's obligations under this Section 4.06(a).

(b) The Company shall pay or cause to be satisfied and discharged or make adequate provision to satisfy and discharge (including the provisions of adequate bonding therefor) within 60 days after the same shall accrue, any lien or charge upon the Loan Payments or payments under Section 4.02 hereof or amounts payable on any Credit Facility or any Additional Collateral, and all lawful claims or demands for labor, materials, supplies or other charges which, if unpaid, might be or become a lien thereon.

(c) Notwithstanding subsections (a) and (b) of this Section, the Company may, at its expense and in its own name and behalf or in the name and behalf of the Issuer, in good faith contest any such liens, taxes, assessments and other charges and, in the event of any such contest, may permit such liens, taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom; *provided, further*, that during such period enforcement of such contested item is effectively stayed, unless by nonpayment of any such

items the lien of the Indenture as to the amounts payable hereunder or on any Credit Facility or any Additional Collateral will be materially endangered, in which event the Company shall promptly pay and cause to be satisfied and discharged all such unpaid items. The Issuer will cooperate fully with the Company in any such contest. In the event that the Company shall fail to pay any of the foregoing items required by this Section to be paid by the Company, the Issuer or the Trustee may (but shall be under no obligation to) pay the same, and any amounts so advanced therefor by the Issuer or the Trustee shall become an additional obligation of the Company to the party making the advance. The Company agrees to repay the amounts so advanced, from the date thereof, together (to the extent permitted by law) with interest thereon until paid at a rate per annum which is one percentage point greater than the highest rate per annum then borne by any of the Bonds.

**Section 4.07. Credit Facility.** (a) The Issuer and the Company agree to be bound by the provisions of the Indenture pertaining to any Credit Facility.

(b) The Company may provide for a Change of Credit Facility at any time that the Bonds are subject to optional redemption pursuant to Section 4.02(b) of the Indenture, *provided* that the Company delivers to the Trustee and the Remarketing Agent not less than 30 days before the effective date of the Change of Credit Facility:

(1) a notice which (A) states the effective date of the Change of Credit Facility, (B) describes the terms of the Change of Credit Facility, (C) directs the Trustee to give notice pursuant to Section 2.17 of the Indenture that the Bonds are subject to mandatory purchase, in whole, on or before the effective date of the Change of Credit Facility in accordance with Section 3.02(b) of the Indenture, and (D) directs the Trustee to take any other action as shall be necessary for the Trustee to take to effect the Change of the Credit Facility; and

(2) on or before the effective date of the Change of Credit Facility, the Company shall furnish to the Trustee a Favorable Opinion of Bond Counsel with respect to such Change of Credit Facility and stating, in effect, that such Change of Credit Facility is authorized under this Agreement.

(c) The Company may provide for one or more extensions of a Credit Facility for any period commencing after its then-current expiration date without complying with the foregoing provisions of this Section, including, but not limited to, the delivery to the Trustee of new First Mortgage Bonds in substitution for First Mortgage Bonds then held by the Trustee, identical in all respects to any First Mortgage Bonds then held by the Trustee except for a subsequent stated maturity date.

(d) The Company may rescind its election to make a Change of Credit Facility at any time prior to the effective date thereof.

**Section 4.08. Compliance With Prior Agreement.** The Company hereby confirms its obligations under the Prior Agreement to furnish any moneys required to be deposited with the Prior Trustee under the Prior Indenture in order to redeem the Prior Bonds on the Redemption

Date, to the extent that the proceeds of the Bonds on deposit in the Prior Bond Fund, together with any investment earnings thereon, is less than the amount required to pay the principal of and applicable redemption premium and interest on the Prior Bonds upon their redemption on the Redemption Date, in accordance with the terms and conditions of the Prior Indenture.

**Section 4.09. Delivery of Additional Collateral.** (a) During any period that the Bonds are secured by a Credit Facility, the obligation of the Company pursuant to Section 4.01 hereof to repay the loan made to it by the Issuer pursuant to Section 3.03 hereof may be secured Additional Collateral.

(b) Any Additional Collateral shall (i) mature on the same date and in the same principal amount as the Bonds, (ii) bear interest at the same rate and be payable at the same times as the Bonds, (iii) contain mandatory redemption provisions correlative to the mandatory redemption provisions of Section 4.03 of the Indenture, and (iv) subject to the provisions of Section 4.09(c) hereof, require payments of the principal thereof and premium, if any, and interest thereon to be made to the Trustee for the account of the Issuer. If such Additional Collateral consists of First Mortgage Bonds, they shall be delivered to and registered in the name of the Trustee (or, subject to Section 5.12 of the Indenture, the Trustee's nominee) for the account of the Issuer and the benefit of the Owners from time to time of the Bonds and shall be held, voted, transferred and surrendered by the Trustee subject to and in accordance with the respective provisions of this Agreement and the Indenture. Any moneys received by the Trustee with respect to such Additional Collateral shall be used to make the corresponding payment then due of principal of and premium, if any, or interest on the Bonds in accordance with the terms of the Bonds and the Indenture. Any proceeds of such Additional Collateral in excess of the amounts necessary to pay in full the principal of and premium, if any, or interest on the Bonds shall be remitted to the Company.

(c) The Company shall receive a credit against its obligations to make any payment of principal of and premium, if any, or interest on any Additional Collateral described in Section 4.09(b) hereof (whether at maturity, upon redemption or otherwise), and such obligations shall be fully or partially, as the case may be, satisfied and discharged, in an amount equal to the amount, if any, paid by the Company under Section 4.01 hereof, or otherwise satisfied or discharged, in respect of the principal of and premium, if any, or interest on the Bonds; *provided, however*, that, if the Credit Facility then in effect shall be an insurance policy, the Company shall receive no such credit for any payment with respect to any Bond made by the Provider. The obligations of the Company to make such payment of principal of and premium, if any, or interest on any Additional Collateral shall be deemed to have been reduced by the amount of such credit.

(d) On any Business Day, the Company may provide for the release of the then-existing Additional Collateral by delivering other Additional Collateral to the Trustee to secure the obligation of the Company to repay the loan made to it pursuant to Section 3.03 hereof, but only if the Company shall, on the date of delivery of such other Additional Collateral, simultaneously deliver to the Trustee:

(i) a Favorable Opinion of Bond Counsel regarding the delivery of such other Additional Collateral and the release of then-existing Additional Collateral; and

(ii) written evidence from the Provider that it has reviewed the proposed Additional Collateral and finds the same to be acceptable.

**Section 4.10. First Mortgage Bonds.** (a) The Issuer agrees that if the Additional Collateral or Credit Facility consists of First Mortgage Bonds, (i) such First Mortgage Bonds shall be issued and delivered to, registered in the name of and held by the Trustee (or, subject to Section 5.12 of the Indenture, the Trustee's nominee) for the benefit of the Owners from time to time of the Bonds, and the Company shall make all payments of principal of and premium, if any, and interest on such First Mortgage Bonds to the Trustee as the registered owner thereof; (ii) the Indenture shall provide that the Trustee shall not sell, assign or transfer the First Mortgage Bonds except to a successor trustee under the Indenture and shall surrender First Mortgage Bonds to the Company Mortgage Trustee in accordance with the provisions of Section 4.09(d) and Section 4.10(b) hereof; and (iii) the Company may take such actions as it shall deem to be desirable to effect compliance with such restrictions on transfer, including the placing of an appropriate legend on each First Mortgage Bond and the issuance of stop-transfer instructions to the Company Mortgage Trustee or any other transfer agent under the Company Mortgage.

(b) If the Additional Collateral or the Credit Facility consists of First Mortgage Bonds and any Bonds cease to be Outstanding (other than by reason of the payment of First Mortgage Bonds or by reason of the payment of principal of or interest on the Bonds by the Provider and other than those Bonds in lieu of or in exchange or substitution for which other Bonds shall have been authenticated and delivered), the Issuer shall cause the Trustee to surrender to the Company Mortgage Trustee a corresponding principal amount of First Mortgage Bonds.

## ARTICLE V

### SPECIAL COVENANTS

**Section 5.01. Maintenance of Existence; Conditions Under Which Exceptions Permitted.** The Company shall maintain in good standing its corporate existence as a corporation organized under the laws of one of the states of the United States or the District of Columbia and will remain duly qualified to do business in the State for so long as the Company has an ownership interest in the Project, will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into another corporation; *provided, however*, that the Company may, without violating the foregoing, undertake from time to time any one or more of the following, if, prior to the effective date thereof, such action is approved by all public utility commissions or similar entities that are required by law to approve such action and there shall have been delivered to the Trustee a Favorable Opinion of Bond Counsel with respect to the contemplated action:

(a) consolidate or merge with another corporation or sell or otherwise transfer to another entity all or substantially all of its assets as an entirety, *provided* the resulting, surviving or transferee entity, as the case may be, shall be (i) the Company or (ii) an

entity qualified to do business in the State as a foreign corporation or incorporated and existing under the laws of the State which shall have assumed in writing all of the obligations of the Company hereunder, under the Credit Facility Agreement and with respect to any Credit Facility or any Additional Collateral and shall deliver to the Trustee an opinion of counsel to the Company that such consolidation or merger complies with the provisions of this Section 5.01; or

(b) convey all or substantially all of its assets to one or more wholly-owned subsidiaries of the Company so long as the Company shall remain in existence and primarily liable on all of its obligations hereunder and the subsidiary or subsidiaries to which such assets shall be so conveyed shall guarantee in writing the performance of all of the Company's obligations hereunder, under the Credit Facility Agreement, under any First Mortgage Bonds and, if applicable, under any Additional Collateral.

**Section 5.02. Permits or Licenses.** In the event that it may be necessary for the proper performance of this Agreement on the part of the Company or the Issuer that any application or applications for any permit or license to do or to perform certain things be made to any governmental or other agency by the Company or the Issuer, the Company and the Issuer each shall, upon the request of either, execute such application or applications.

**Section 5.03. Arbitrage Covenant.** The Issuer, to the extent it has any control over proceeds of the Bonds, and the Company covenant and represent to each other and to and for the benefit of the Beneficial Owners that so long as any of the Bonds remain Outstanding, moneys on deposit in any fund in connection with the Bonds, whether such moneys were derived from the proceeds of the sale of the Bonds or from any other sources, will not be used in a manner which will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code and any lawful regulations promulgated thereunder, as the same exist on this date or may from time to time hereafter be amended, supplemented or revised. The Company also covenants for the benefit of the Beneficial Owners to comply with all of the provisions of the Tax Certificate. The Company reserves the right, however, to make any investment of such moneys permitted by State law, if, when and to the extent that said Section 148 or regulations promulgated thereunder shall be repealed or relaxed or shall be held void by final judgment of a court of competent jurisdiction, but only upon receipt of a Favorable Opinion of Bond Counsel with respect to such investment.

**Section 5.04. Financing Statements.** The Company shall, to the extent required by law, file and record, refile and re-record, or cause to be filed and recorded, refiled and re-recorded, all documents or notices, including the financing statements and continuation statements, referred to in Section 5.05 of the Indenture. The Issuer shall cooperate fully with the Company in taking any such action. Concurrently with the execution and delivery of the Bonds, the Company shall cause to be delivered to the Trustee the opinion of counsel required pursuant to Section 5.05(a) of the Indenture.

**Section 5.05. Covenants With Respect to Tax-Exempt Status of the Bonds.** The Company covenants for the benefit of the Owners of the Bonds and the Issuer that it (a) has not taken, and will not take or permit to be taken on its behalf, any action which would adversely

affect the Tax-Exempt status of the Bonds and (b) will take, or require to be taken, such actions as may, from time to time, be required under applicable law or regulation to continue to cause the Bonds to be Tax-Exempt.

**Section 5.06. Indemnification of Issuer.** (a) The Company agrees that the Issuer, its elected or appointed officials, officers, agents, servants and employees, shall not be liable for, and agrees that it will at all times indemnify and hold free and harmless the Issuer, its elected or appointed officials, officers, agents, servants and employees from and against, and pay all expenses of the Issuer, its elected or appointed officials, officers, agents, servants and employees relating to, (a) any lawsuit, proceeding or claim arising in connection with the Project or this Agreement that results from any action taken by or on behalf of the Issuer, its elected or appointed officials, officers, agents, servants and employees pursuant to or in accordance with this Agreement or the Indenture that may be occasioned by any cause whatsoever, except the negligence or willful misconduct of the Issuer, its elected or appointed officials, officers, agents, servants or employees, or (b) any 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, except the negligence or willful misconduct of the Issuer, its elected or appointed officials, officers, agents, servants or employees. In case any action shall be brought against the Issuer in respect of which indemnity may be sought against the Company, the Issuer shall promptly notify the Company in writing and the Company shall assume the defense thereof, including the employment of counsel reasonably satisfactory to the Issuer and the payment of all expenses. Failure by the Issuer to notify the Company shall not relieve the Company from any liability which it may have to the Issuer otherwise than under this Section 5.06. The Issuer shall have the right to employ separate counsel in any such action and participate in the defense thereof, such counsel shall be paid by the Issuer unless the employment of such counsel has been authorized by the Company. The Company shall not be liable for any settlement of any such action without its consent, but if any such action is settled with the consent of the Company or if there be final judgment for the plaintiff in any such action, the Company agrees to indemnify and hold free and harmless the Issuer, its elected or appointed officials, officers, agents, servants and employees from and against any loss or liability by reason of such settlement or judgment. The Company will reimburse the Issuer, its elected or appointed officials, officers, agents, servants and employees for any action taken pursuant to Section 5.03 of the Indenture.

(b) The obligations of the Company under this Section 5.06 shall survive the termination of this Agreement.

(c) It is the intention of the parties that the Issuer, its elected or appointed officials, officers, agents, servants and employees shall not incur any pecuniary liability by reason of the terms of this Agreement or the Indenture, or the undertakings required of the Issuer hereunder or thereunder or by reason of the issuance of the Bonds, the execution of the Indenture or the performance of any act required of the Issuer by this Agreement or the Indenture or requested of the Issuer by the Company.

**Section 5.07. Records of Company; Maintenance and Operation of the Project.** (a) The Trustee and the Issuer shall be permitted at all reasonable times during the term of this Agreement to examine the books and records of the Company with respect to the Project;

*provided, however*, that information and data contained in the books and records of the Company shall be considered proprietary and shall not be voluntarily disclosed by the Trustee or the Issuer except as required by law.

(b) The Company shall cause the Project to be maintained in good repair and shall cause the Project to be insured in accordance with standard industry practice and shall pay all costs thereof. All proceeds of such insurance shall be for the account of the Company.

(c) The Company shall be entitled to the proceeds of any condemnation award or portion thereof made for damage to or taking of any of the Project or other property of the Company.

(d) Anything in this Agreement to the contrary notwithstanding, the Company shall have the right at any time to cause the operation of the Plant to be terminated if the Company shall have determined or concurred in a determination that the continued operation of the Plant is uneconomical for any reason.

**Section 5.08. Right of Access to the Project.** The Company agrees that the Issuer, the Trustee and their respective duly authorized agents shall have the right, for so long as the Company has an ownership interest in the Project and subject to such limitations, restrictions and requirements as the Company may reasonably prescribe for plant security and safety reasons and in order to preserve secret processes and formulae, at all reasonable times to enter upon and to examine and inspect the Project; *provided, however*, nothing contained herein shall entitle the Issuer or the Trustee to any information or inspection involving confidential material of the Company. Information and data contained in the books and records of the Company shall be considered proprietary and shall not be voluntarily disclosed by the Issuer or the Trustee except as required by law. In the event that the Company sells or otherwise transfers its interest in the Project, the Company shall require the purchaser or transferee of the Company's interest in the Project to agree that the Issuer, the Trustee and their respective duly authorized agents shall have the same rights, and be subject to the same limitations, as are provided in this Section with respect to the Project.

**Section 5.09. Remarketing Agent.** So long as any of the Bonds are subject to optional or mandatory purchase pursuant to the provisions of the Indenture (except during a Term Interest Rate Period that extends to the maturity of the Bonds), the Company shall cause a Remarketing Agent to be appointed and acting pursuant to a Remarketing Agreement at all such times as shall be necessary in order to provide for the remarketing of the Bonds and the establishment of interest rates to be borne by the Bonds in accordance with the provisions of the Indenture.

**Section 5.10. Covenant to Provide Ongoing Disclosure.** The Company hereby covenants and agrees that, the Company shall enter into a written undertaking for the benefit of the holders of the Bonds, as required by Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (17 CFR Part 240, §240.15c2-12) (the "Rule").



## ARTICLE VI

### ASSIGNMENT

**Section 6.01. Conditions.** With the consent of the Provider of any then-existing Credit Facility, the Company's interest in this Agreement may be assigned in whole or in part by the Company: (a) to another entity, subject, however, to the conditions that such assignment shall not relieve (other than as described in Section 5.01(a)(ii) hereof) the Company from primary liability for its obligations to pay amounts due with respect to any Credit Facility or any Additional Collateral or to make the Loan Payments or to make payments to the Trustee under Section 4.02 hereof or for any other of its obligations hereunder, or (b) to an Affiliate in connection with the conveyance of the Plant to such Affiliate, subject, however, to the conditions that (i) such Affiliate is an entity described in Section 5.01(a)(ii) hereof (in which case the Company shall be relieved of all obligations hereunder and with respect to any Credit Facility or any Additional Collateral); (ii) such conveyance is approved by any public utility commissions or similar entities that are required by law to approve such conveyance; and (iii) the Company shall have delivered to the Trustee and the Provider (A) an opinion of counsel to the Company that such assignment complies with the provisions of this Section 6.01 and (B) a Favorable Opinion of Bond Counsel with respect to such assignment.

**Section 6.02. Documents Furnished to Trustee.** The Company shall, within 30 days after the delivery thereof, furnish to the Issuer, the Provider and the Trustee a true and complete copy of the agreements or other documents effectuating any assignment pursuant to Section 6.01 hereof. The Trustee's only duties with respect to any such agreement or other document so furnished to it shall be to make the same available for examination by any Owner at the Principal Office of the Trustee upon reasonable notice.

**Section 6.03. Limitation.** This Agreement shall not be assigned in whole or in part, except as provided in this Article VI or in Section 4.03 or Section 5.01 hereof.

## ARTICLE VII

### EVENTS OF DEFAULT AND REMEDIES

**Section 7.01. Events of Default.** Each of the following events shall constitute and is referred to in this Agreement as an "*Event of Default*":

(a) a failure by the Company to make when due any Loan Payment or any other payment required under Section 4.02 hereof or on any First Mortgage Bonds that corresponds to the principal of or premium, if any, or interest on the Bonds, which failure shall have resulted in an "*Event of Default*" under Section 9.01(a), Section 9.01(b) or Section 9.01(c) of the Indenture;

(b) a failure by the Company to pay when due any amount required to be paid under this Agreement or to observe and perform any other covenant, condition or agreement on its part to be observed or performed under this Agreement (other than a

failure described in Section 7.01(a) above), which failure shall continue for a period of 90 days (or such longer period as the Issuer and (if so directed by the Owners of a majority in aggregate principal amount of the Bonds) the Trustee may agree to in writing) after written notice, specifying such failure and requesting that it be remedied, shall have been given to the Company by the Trustee or to the Company and the Trustee by the Issuer; *provided, however*, that if such failure is other than for the payment of money and is of such nature that it cannot be corrected within the applicable period, such failure shall not constitute an “*Event of Default*” so long as the Company institutes corrective action within the applicable period and such action is being diligently pursued which period shall not be longer than 180 days from the date of the written default notice; or

(c) the dissolution or liquidation of the Company; or the filing by the Company of a voluntary petition in bankruptcy; or failure by the Company promptly to lift or bond any execution, garnishment or attachment of such consequence as will impair its ability to make any payments under this Agreement or on any First Mortgage Bonds; or the filing of a petition or answer proposing the entry of an order for relief by a court of competent jurisdiction against the Company under Title 11 of the United States Code, as the same may from time to time be hereafter amended, or proposing the reorganization, arrangement or debt readjustment of the Company under the provisions of any bankruptcy act or under any similar act which may be hereafter enacted and the failure of said petition or answer to be discharged or denied within ninety (90) days after the filing thereof or the entry of an order for relief by a court of competent jurisdiction in any proceeding for its liquidation or reorganization under the provisions of any bankruptcy act or under any similar act which may be hereafter enacted; or an assignment by the Company for the benefit of its creditors; or the entry by the Company into an agreement of composition with its creditors (the term “*dissolution or liquidation of the Company*,” as used in this subsection (c), shall not be construed to include the cessation of the corporate existence of the Company resulting either from a merger or consolidation of the Company into or with another corporation or a dissolution or liquidation of the Company following a transfer of all or substantially all its assets as an entirety, under the conditions permitting such actions contained in Section 5.01 hereto.

**Section 7.02. Force Majeure.** The provisions of Section 7.01(b) hereof are subject to the following limitations: if by reason of acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States or the State, or any department, agency, political subdivision, court or official of any of such State or any other state which asserts regulatory jurisdiction over the Company; orders of any kind of civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes; volcanoes; fires; hurricanes; tornadoes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery; partial or entire failure of utilities; or any cause or event not reasonably within the control of the Company, the Company is unable in whole or in part to carry out any one or more of its agreements or obligations contained herein, other than its obligations under Section 4.01, Section 4.02, Section 4.04, Section 4.05, Section 4.06, Section 5.01 and Section 5.06 hereof and on with respect to any Credit Facility or any Additional Collateral, the Company shall not be deemed in default by reason of not carrying out said agreement or agreements or performing said

obligation or obligations during the continuance of such inability. The Company shall make reasonable effort to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its agreements, *provided* that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the Company, and the Company shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of the Company unfavorable to the Company except to the extent the Company's ability to pay when due any amount due on with respect to any Credit Facility or any Additional Collateral will be jeopardized by the Company's failure to make such a settlement.

**Section 7.03. Remedies.** (a) Upon the occurrence and continuance of any Event of Default described in Section 7.01(a) or Section 7.01(c) hereof, and further upon the condition that, in accordance with the terms of the Indenture, the Bonds shall have been declared to be immediately due and payable pursuant to any provision of the Indenture, the Loan Payments shall without further action, become and be immediately due and payable.

(b) Any waiver of any "Event of Default" under the Indenture and a rescission and annulment of its consequences shall constitute a waiver of the corresponding Event or Events of Default under this Agreement and a rescission and annulment of the consequences thereof.

(c) Upon the occurrence and continuance of any Event of Default, the Issuer may take any action at law or in equity to collect any payments then due and thereafter to become due hereunder or to seek injunctive relief or specific performance of any obligation, agreement or covenant of the Company hereunder and under with respect to any Credit Facility or any Additional Collateral.

(d) Any amounts collected from the Company pursuant to this Section 7.03 shall be applied in accordance with the Indenture. No action taken pursuant to this Section 7.03 shall relieve the Company from the Company's obligations pursuant to Section 4.01 or Section 4.02 hereof.

**Section 7.04. No Remedy Exclusive.** No remedy conferred upon or reserved to the Issuer hereby 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 hereunder 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 or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer to exercise any remedy reserved to it in this Article VII, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

**Section 7.05. Reimbursement of Attorneys' Fees.** If the Company shall default under any of the provisions hereof and the Issuer or the Trustee shall employ attorneys or incur other reasonable and proper expenses for the collection of payments due hereunder or on any First Mortgage Bonds or for the enforcement of performance or observance of any obligation or agreement on the part of the Company contained herein, the Company will on demand therefor

reimburse the Issuer or the Trustee, as the case may be, for the reasonable and proper fees of such attorneys and such other reasonable and proper expenses so incurred.

**Section 7.06. Waiver of Breach.** In the event any obligation created hereby shall be breached by either of the parties hereto and such breach shall thereafter be 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. In view of the assignment of certain of the Issuer's rights and interest hereunder to the Trustee, the Issuer shall have no power to waive any Event of Default hereunder by the Company in respect of such rights and interest without the consent of the Trustee, and the Trustee may exercise any of the rights of the Issuer hereunder.

## ARTICLE VIII

### PURCHASE OR REDEMPTION OF BONDS

**Section 8.01. Redemption of Bonds.** The Issuer shall take or cause to be taken the actions required by the Indenture (other than the payment of money) to discharge the lien thereof through the redemption, or provision for payment or redemption, of all Bonds then Outstanding, or to effect the redemption, or provision for payment or redemption, of less than all the Bonds then Outstanding, upon receipt by the Issuer and the Trustee from an Authorized Company Representative of a written notice designating the principal amount of the Bonds to be redeemed and specifying the date of redemption (which, unless waived by the Issuer and the Trustee, shall not be less than 30 days from the date such notice is given, or such shorter period as the Trustee and the Company may agree from time to time) and the applicable redemption provision of the Indenture. Unless otherwise stated therein and except with respect to a redemption under Section 4.03 of the Indenture, such notice shall be revocable by the Company at any time prior to the time at which the Bonds to be redeemed, or for the payment or redemption of which provision is to be made, are first deemed to be paid in accordance with Article VIII of the Indenture. The Company shall furnish any moneys required by the Indenture to be deposited with the Trustee or otherwise paid by the Issuer in connection with any of the foregoing purposes. In connection with any redemption of the Bonds, the Company shall provide to the Trustee the names and addresses of the Securities Depositories and Information Services as contemplated by Section 4.05 of the Indenture. The Company shall furnish the Provider with a copy of any notice given pursuant to this Section.

**Section 8.02. Purchase of Bonds.** The Company may at any time, and from time to time, furnish moneys to the Trustee accompanied by a notice directing such moneys to be applied to the purchase of Bonds in accordance with the provisions of the Indenture delivered pursuant to the Indenture, which Bonds shall, at the direction of the Company, be delivered in accordance with Section 3.06(a)(ii) of the Indenture.

**Section 8.03. Obligation to Prepay.** (a) The Company shall be obligated to prepay in whole or in part the amounts payable hereunder upon a Determination of Taxability (as defined below) giving rise to a mandatory redemption of the Bonds pursuant to Section 4.03 of the Indenture, by paying an amount equal to, when added to other funds on deposit in the Bond

Fund, the aggregate principal amount of the Bonds to be redeemed pursuant to the Indenture plus accrued interest to the redemption date.

(b) The Company shall cause a mandatory redemption to occur within 180 days after a Determination of Taxability (as defined below) shall have occurred. A “*Determination of Taxability*” shall be deemed to have occurred if, as a result of the failure of the Company to observe any covenant, agreement or representation in this Agreement, a final decree or judgment of any federal court or a final action of the Internal Revenue Service determines that interest paid or payable on any Bond is or was includible in the gross income of an Owner of the Bonds for federal income tax purposes under the Code (other than an Owner who is a “*substantial user*” or “*related person*” within the meaning of Section 103(b)(13) of the 1954 Code). However, no such decree or action will be considered final for this purpose unless the Company has been given written notice of the same, either directly or in the name of any Owner of a Bond, and, if it so desires and is legally allowed, has been afforded the opportunity to contest the same, either directly or in the name of any Owner of a Bond, and until conclusion of any appellate review, if sought. If the Trustee receives written notice from any Owner of a Bond stating (a) that the Owner has been notified in writing by the Internal Revenue Service that it proposes to include the interest on any Bond in the gross income of such Owner for the reasons described therein or any other proceeding has been instituted against such Owner which may lead to a final decree or action as described herein, and (b) that such Owner will afford the Company the opportunity to contest the same, either directly or in the name of the Owner, until a conclusion of any appellate review, if sought, then the Trustee shall promptly give notice thereof to the Company, the Issuer, the Provider and the Owner of each Bond then Outstanding. If a final decree or action as described above thereafter occurs and the Trustee has received written notice thereof as provided in Section 8.01 hereof at least 45 days prior to the redemption date, the Trustee shall request prepayment from the Company of the amounts payable hereunder and give notice of the redemption of the Bonds at the earliest practical date, but not later than the date specified in this Article, and in the manner provided by Section 4.05 of the Indenture.

At the time of any such prepayment of the amounts payable hereunder pursuant to this Section, the prepayment amount shall be applied, together with other moneys available in the Bond Fund, to the redemption of the Bonds on the date specified in the notice as provided in the Indenture, whether or not such date is an Interest Payment Date, to the Trustee’s fees and expenses under the Indenture accrued to such redemption of the Bonds, and to all sums due to the Issuer under this Agreement.

Whenever the Company shall have given any notice of prepayment of the amounts payable hereunder pursuant to this Article VIII, which includes a notice for redemption of the Bonds pursuant to the Indenture, all amounts payable under the first paragraph of this Section 8.03 shall become due and payable on the date fixed for redemption of such Bonds.

**Section 8.04. Compliance With Indenture.** Anything in this Agreement to the contrary notwithstanding, the Issuer and the Company shall take all actions required by this Agreement and the Indenture in order to comply with the provisions of Articles III and IV of the Indenture.

## ARTICLE IX

### MISCELLANEOUS

**Section 9.01. Term of Agreement.** This Agreement shall remain in full force and effect from the date of delivery hereof until the right, title and interest of the Trustee in and to the Trust Estate shall have ceased, terminated and become void in accordance with Article VIII of the Indenture and until all payments required under this Agreement shall have been made. The date first above written shall be for identification purposes only and shall not be construed to imply that this Agreement was executed on such date.

**Section 9.02. Notices.** Except as otherwise provided in this Agreement, all notices, certificates, requests, requisitions and other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when mailed by Mail or by certified or registered mail postage prepaid, or by overnight delivery service, addressed as follows (and, if by overnight delivery service and required by the chosen delivery service, with then-current telephone number of the addressee): if to the Issuer, at City Hall, Forsyth, Montana 59327, Attention: Mayor; if to the Company, at 1411 East Mission Avenue, Spokane, Washington 99220, Attention: Treasurer; if to the Trustee, at such address as shall be designated by it in or pursuant to the Indenture; if to the Provider of the Credit Facility, at such address as shall be designated by it in or pursuant to the Indenture; and if to the Remarketing Agent, at such address as shall be designated by such party pursuant to the Remarketing Agreement. A copy of each notice, certificate, request or other communication given hereunder to the Issuer, the Company, the Trustee, the Provider and the Remarketing Agent shall also be given to the others. Any of the foregoing parties may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

**Section 9.03. Parties in Interest; Reference to First Mortgage Bonds, Other Additional Collateral, Credit Facility, Etc.** (a) This Agreement shall inure to the benefit of and shall be binding upon the Issuer, the Company and their respective successors and assigns, and no other person, firm or corporation shall have any right, remedy or claim under or by reason of this Agreement except for rights of payment and indemnification hereunder of the Trustee and the Registrar. Section 9.05 hereof to the contrary notwithstanding, for purposes of perfecting a security interest in this Agreement by the Trustee, only the counterpart delivered, pledged and assigned to the Trustee shall be deemed the original. No security interest in this Agreement may be created by the transfer of any counterpart thereof other than the original counterpart delivered, pledged and assigned to the Trustee.

(b) At any time when the Company's obligation under Section 4.01 hereof to repay the loan made to it pursuant to Section 3.03 hereof is not secured by First Mortgage Bonds or other Additional Collateral, references to First Mortgage Bonds, the Company Mortgage, the Company Mortgage Trustee or Additional Collateral shall be ineffective.

(c) At any time a Credit Facility is not in effect, references to the Provider herein shall be of no effect, except with respect to amounts payable to the Provider which have not been paid. If such amounts have not been paid, the Provider shall be entitled to all notices hereunder. If an

*“Event of Default”* shall have occurred under the Indenture due to failure by the Provider to honor its obligations pursuant to the Credit Facility, so long as such failure continues any reference herein to the Provider shall be void and of no effect to the extent that the reference may be construed to include such Provider.

**Section 9.04. Amendments.** This Agreement may be amended only by written agreement of the Company and the Issuer and with the written consent of the Trustee in accordance with the provisions of Section 12.05 or 12.06 of the Indenture, as applicable; *provided, however*, that *Exhibit A* to this Agreement may be amended upon compliance only with the requirements of Section 3.04 hereof.

**Section 9.05. Counterparts.** This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original (except as expressly provided in Section 9.03 hereof), and such counterparts shall together constitute but one and the same Agreement.

**Section 9.06. Severability.** If any clause, provision or Section of this Agreement shall, for any reason, be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 9.07. Governing Law.** This Agreement shall be governed exclusively by and construed in accordance with the laws of the State.

*(Signature page follows.)*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

CITY OF FORSYTH, MONTANA

By: Bradley J. Matteson  
Mayor

[SEAL]

ATTEST:

By: Chris Anderson  
City Clerk-Treasurer

AVISTA CORPORATION

By: \_\_\_\_\_  
Vice President and Treasurer



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

CITY OF FORSYTH, MONTANA

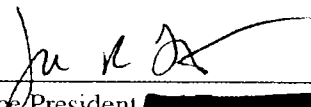

By: \_\_\_\_\_  
Mayor

[SEAL]

ATTEST:

By: \_\_\_\_\_  
City Clerk-Treasurer

AVISTA CORPORATION

By:  \_\_\_\_\_  
Vice President 

## EXHIBIT A

### PROJECT DESCRIPTION

#### 1. POLLUTION CONTROL EQUIPMENT

##### SCRUBBER SYSTEM

The air pollution control facilities employed on Units #3 and #4 consist of a complete scrubber system, including duct work, plenums, scrubber vessels, reheaters and induced draft fans, together with infrastructures, monitoring and electrical controls and instrumentation therefore, for the purpose of removing the sulfur dioxide (SO<sub>2</sub>) and particulate matter from the flue gas. The scrubber system also includes a scrubber maintenance facility, including a machine shop and laboratory dedicated to the scrubber system and an environmental monitoring laboratory for the pollution control facilities. The scrubber system utilizes the Wet Venturi Principle and consists of eight modules for each unit through which the steam generator gases from the burned coal must pass.

The gases in the scrubber are contacted with finely atomized scrubber slurry. Within the stated performance of the system, fly ash particulates are removed by the slurry droplets. The sulfur dioxide reacts with the alkali contained in the slurry which results from the mixing of water, fly ash particulates, hydrated high calcium lime and hydrated dolomitic lime. A major portion of the sulfur dioxide is converted to solid sulfate compounds which are retained in the scrubber liquid and can, therefore, be piped to and deposited in an ash pond together with the particulate.

After the flue gas passes through the venturi section, absorption sprays and wash trays, it is processed through a demister which removes any entrained slurry and is then reheated and discharged through the stack.

The slurry system in the Units #3 and #4 scrubber system consists of recycle tanks, regenerators, agitators, pumps and pipelines. The slurry from the Units #3 and #4 scrubber system is transported to an effluent holding pond and involves the use of effluent holding tanks, agitators, pumps and pipelines. A separate wash tray pond system is used to store the suspended solids collected from the wash tray system. Reclaimed water from the clear water section of these ponds is circulated back to the scrubber system.

##### LIME STORAGE

The sole purpose of the lime system is to supply the lime slurry requirements of the scrubber regeneration system. There is one lime system that serves the sixteen scrubbers for Units #3 and #4. Major components of the system include four slakers, in which calcined high calcium lime is reacted with water to produce a hydrated lime slurry, slurry transfer tanks, where the slurry is diluted with water and mixed with dry hydrated dolomitic lime, slurry feed storage

tanks, where the slurry will be held for use by the regenerators as needed, hydrators, for mixing calcined dolomitic lime with water, and agitators.

#### SCRUBBER SLUDGE DISPOSAL

Effluent slurry is pumped from the plant to the sludge disposal pond located approximately three miles southeast of the plant. The suspended solids settle to the pond bottom and the clear water is pumped back to the plant.

There are two phases in the development of this pond. The first phase requires the construction of one dam 108 feet high and 1,100 feet in length. A saddle dam must also be added. The saddle dam will vary in height with a maximum height for this phase of 36 feet and be approximately 2,800 feet in length. The capacity of Phase 1 will be 6,650 acre-feet and it will last approximately 10 years.

The development of the second phase will require that the original dam be raised to 138 feet in height and increased to a length of 2,500 feet. The saddle dam will be raised to a maximum height of 66 feet and a total length of 3,500 feet. The capacity of the second phase will be an additional 7,000 acre-feet and it will last approximately 12 years, for a total life of 22 years. The construction of the second phase is *not* included in cost reported at this time.

The sludge disposal pond design takes into account a permit requirement for minimum seepage, by providing low permeability plastic concrete filled trenches around the periphery of the pond constructed during the course of Phase 1 work.

#### COAL DUST CONTROL SYSTEM

The coal dust control system is designed to collect, store and treat coal dust resulting from mining, crushing, handling and storing coal in the course of normal Units #3 and #4 operations. To control coal dust air pollution the points where coal is transferred between conveyors or placed in coal piles have been enclosed. The coal transfer stations between conveyors are enclosed with steel framed structures with metal siding. The structures are equipped with vacuum filtration systems, consisting of ducts, blowers, dust removal filters and associated equipment, to remove coal dust from exhaust air from the structures, and are also equipped with mechanical dust collectors. The main line 45,000 ton coal storage pile is enclosed with a 340' long A-frame precast panel concrete structure designed to contain coal dust, thereby allowing its removal and treatment.

#### COOLING TOWER DRIFT CONTAINMENT CONTROL FACILITY

Operation of the cooling towers produces exhaust air emissions containing circulating water, particulates and other pollutants generally known as cooling tower drift. To control release of these air pollutants, the cooling towers are provided with high efficiency drift eliminators, located at the top of the cooling tower structures, which remove drift from the cooling tower exhaust air.

## 2. SOLID WASTE DISPOSAL

### BOTTOM ASH DISPOSAL

The function of the bottom ash disposal system is to remove accumulations of furnace bottom ash, pulverizer pyrites, economizer ash, and air preheater fly ash by means of a water-ash slurry to a disposal pond located approximately 2,000 feet southeast of the plant site. The system consists generally of three sets of fly ash hoppers, (economizer, air heater, and flue gas duct hoppers) pyrite hoppers, the bottom ash hopper, and 18,000 gallon transfer tank, a settling pond, a clear water pond and various pumps, and pipelines.

Clinker grinders are used to grind the bottom ash which is then mixed with water and sluiced to the ash transfer tank.

The economizer ash collected in economizer hoppers falls by gravity to the ash transfer tank.

The pyrites are collected in local tanks and sluiced to the ash transfer tank.

Ash collected in the flue gas duct hoppers and air preheater hoppers is sluiced to the ash transfer tank.

These ashes are pumped from the ash transfer tank to the bottom ash pond. Reclaimed water is returned from the bottom ash disposal pond and redistributed to the various sections of the bottom ash disposal system.

The solid waste disposal facilities for purposes of the issuance of the Bonds include only so much of the bottom ash disposal system as is external to the plant building and include piping from the building to the settling pond, the pond itself, return water pumps and lines, a clear water pond and piping back to the plant building.

## 3. WATER POLLUTION CONTROL

### NORTH PLANT SEDIMENT POND

The north plant sediment pond is designed to collect and store the storm runoff from the general north plant area. These waters are retained in the pond, allowing natural evaporation to desiccate the pond. This prevents high quantities of suspended solids from being discharged to Armells Creek or other state surface waters.

### NORTH PLANT AREA DRAINAGE SYSTEM

The north plant area drainage system is designed to collect and store storm runoff from the water treatment building, fuel oil handling area and the cooling tower area in the north plant area drain pond. The pond also serves as a storage facility for one cooling tower basin drain,

cooling tower overflow, water treatment filter backwash, and for the cooling tower blowdown water not used in the flue gas scrubbing process. These waters are potentially contaminated with oil and high suspended and dissolved solids, and this system stores these discharges preventing any discharge to Armells Creek or other state surface waters. The north plant area drainage system consists of collection basins, piping, concrete culverts, yard drains, manholes and special yard gradings (berms) which route these discharges to the north plant area sump and north plant area drain pond. The north plant area drain pond incorporates a hypalon liner to comply with a permit requirement for minimum seepage. The oil separator section of the sump receives oily surface collection drains. The oil and water are separated. The oil from the sump is then trucked away for disposal.

The water discharges are either pumped to the scrubber effluent holding pond via a 6" diameter pipeline, 19,000 feet in length for evaporation, to the circulating water system, or the plant oily waste sump as appropriate. Each discharge arrangement has its own set of sump pumps. The pumps and piping system which discharge to the plant oily waste sump are not included in the costs covered by this Report, nor is the circulating water system. The waters recovered are excess to any plant requirements and recovery of the waters does not provide any economic benefit to the plant.

#### CHEMICAL AND OILY WASTE SYSTEM

The chemical and oily waste system is designed to collect, store, treat and dispose of chemical and oily wastes resulting from the normal operation of Units #3 and #4. This system consists of drains and pipes, oil separators, chemical waste sumps, chemical waste neutralizing tanks, neutralizing chemical storage tanks, chemical inspection equipment, and associated mechanical and electrical control equipment.

The chemical waste drainage system includes drains and neutralization tanks for collection and treatment of chemical waste. Chemical waste drains are located throughout Units #3 and #4, and are used to collect and transfer chemical waste to holding sumps and neutralization tanks. The neutralization equipment includes chemical storage and injection equipment as well as controls and instrumentation.

The oily waste drainage system is made up of a network of drains which collect oily waste from throughout Units #3 and #4, and dispose of the wastes in the Units #3 and #4 main water-oil sump. Oil separation chambers in the sump allow for oil removal. The treated water is monitored for trace oil levels and released. After separation, the waste oil is removed by a contractor to an offsite disposal area.

#### COOLING TOWER BLOWDOWN SYSTEM

The cooling tower blowdown system consists of a 6" pipeline from the cooling tower to the waste disposal pond where the blowdown is treated by settlement and evaporation in accordance with water pollution control requirements.

## GROUNDWATER MONITORING WELLS

Groundwater monitoring wells have been installed around the various ponds associated with the plant operation. These ponds include the scrubber effluent holding pond, the scrubber drain pond, the scrubber wash tray pond, the bottom ash pond, and the north plant area effluent pond. These groundwater monitoring wells provide the ability through sampling to detect and quantify accidental discharges from the above mentioned plant storage and waste ponds. This is necessary to show compliance with State Groundwater Standards and with permit requirements for minimum seepage.

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**AVISTA CORPORATION**

**TO**

**CITIBANK, N.A.**

*As Successor Trustee under  
Mortgage and Deed of Trust,  
dated as of June 1, 1939*

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**Forty-eighth Supplemental Indenture**

*Providing among other things for two series of bonds designated  
"First Mortgage Bonds, Collateral Series 2010A"  
Due October 1, 2032  
and  
"First Mortgage Bonds, Collateral Series 2010B"  
Due March 1, 2034*

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Dated as of December 1, 2010

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## **FORTY-EIGHTH SUPPLEMENTAL INDENTURE**

**THIS INDENTURE**, dated as of the 1st day of December, 2010, between AVISTA CORPORATION (formerly known as The Washington Water Power Company), a corporation of the State of Washington, whose post office address is 1411 East Mission Avenue, Spokane, Washington 99202 (the "Company"), and CITIBANK, N.A., formerly First National City Bank (successor by merger to First National City Trust Company, formerly City Bank Farmers Trust Company), a national banking association incorporated and existing under the laws of the United States of America, whose post office address is 388 Greenwich Street, 14<sup>th</sup> Floor, New York, 10013 New York (the "Trustee"), as Trustee under the Mortgage and Deed of Trust, dated as of June 1, 1939 (the "Original Mortgage"), executed and delivered by the Company to secure the payment of bonds issued or to be issued under and in accordance with the provisions thereof, this indenture (the "Forty-eighth Supplemental Indenture") being supplemental to the Original Mortgage, as heretofore supplemented and amended.

WHEREAS pursuant to a written request of the Company made in accordance with Section 103 of the Original Mortgage, Francis M. Pitt (then Individual Trustee under the Mortgage, as supplemented) ceased to be a trustee thereunder on July 23, 1969, and all of his powers as Individual Trustee have devolved upon the Trustee and its successors alone; and

WHEREAS by the Original Mortgage the Company covenanted that it would execute and deliver such further instruments and do such further acts as might be necessary or proper to carry out more effectually the purposes of the Original Mortgage and to make subject to the lien of the Original Mortgage any property thereafter acquired intended to be subject to the lien thereof; and

WHEREAS the Company has heretofore executed and delivered, in addition to the Original Mortgage, the indentures supplemental thereto, and has issued the series of Bonds, set forth in Exhibit A hereto (the Original Mortgage, as supplemented and amended by the First through Forty-seventh Supplemental Indentures, being herein sometimes called the "Mortgage"); and

WHEREAS the Original Mortgage and the First through Forty-sixth Supplemental Indentures have been appropriately filed or recorded in various official records in the States of Washington, Idaho, Montana and Oregon, as set forth in the First through Forty-seventh Supplemental Indentures and the Instrument of Further Assurance, dated December 15, 2001, hereinafter referred to; and

WHEREAS the Forty-seventh Supplemental Indenture, dated as of November 1, 2009, has been appropriately filed or recorded in the States of Washington, Idaho, Montana and Oregon, as set forth in Exhibit B hereto; and



WHEREAS for the purpose of confirming or perfecting the lien of the Mortgage on certain of its properties, the Company has heretofore executed and delivered a Short Form Mortgage and Security Agreement, in multiple counterparts dated as of various dates in 1992, and such instrument has been appropriately filed or recorded in the various official records in the States of Montana and Oregon; and

WHEREAS for the purpose of confirming or perfecting the lien of the Mortgage on certain of its properties, the Company has heretofore executed and delivered an Instrument of Further Assurance, dated as of December 15, 2001, and such instrument has been appropriately filed or recorded in the various official records in the States of Washington, Idaho, Montana and Oregon; and

WHEREAS in addition to the property described in the Mortgage the Company has acquired certain other property, rights and interests in property; and

WHEREAS Section 120 of the Original Mortgage, as heretofore amended, provides that, without the consent of any holders of bonds, the Company and the Trustee, at any time and from time to time, may enter into indentures supplemental to the Original Mortgage for various purposes set forth therein, including, without limitation, to cure ambiguities or correct defective or inconsistent provisions or to make other changes therein that shall not adversely affect the interests of the holders of bonds of any series in any material respect or to establish the form or terms of bonds of any series as contemplated by Article II; and

WHEREAS Section 8 of the Original Mortgage, as heretofore amended, provides that the form of each series of bonds (other than the First Series) issued thereunder and of the coupons to be attached to coupon bonds of such series shall be established by Resolution of the Board of Directors of the Company or by Treasurer's Certificate, or shall be set forth in an indenture supplemental to the Original Mortgage; that the form of such series, as so established, shall specify the descriptive title of the bonds and various other terms thereof; and that such series may also contain such provisions not inconsistent with the provisions of the Mortgage as the Company may, in its discretion, cause to be inserted therein expressing or referring to the terms and conditions upon which such bonds are to be issued and/or secured under the Mortgage; and

WHEREAS the Company now desires to create two new series of bonds; and

WHEREAS the execution and delivery by the Company of this Forty-eighth Supplemental Indenture, and the terms of the Bonds of the Forty-eighth and Forty-ninth Series, hereinafter referred to, have been duly authorized by the Board of Directors of the Company by appropriate Resolutions of said Board of Directors, and all things necessary to make this Forty-eighth Supplemental Indenture a valid, binding and legal instrument have been performed;

NOW, THEREFORE, THIS INDENTURE WITNESSETH: That the Company, in consideration of the premises and of other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, hereby confirms the estate, title and rights of the Trustee (including, without limitation, the lien of the Mortgage on the property of the Company subjected thereto, whether now owned or hereafter acquired) held as security for the payment of both the principal of and interest and premium, if any, on the bonds from time to time issued under the Mortgage according to their tenor and effect and the performance of all the provisions of the Mortgage and of such bonds, and, without limiting the generality of the foregoing, hereby confirms the grant, bargain, sale, release, conveyance, assignment, transfer, mortgage, pledge, setting over and confirmation unto the Trustee, contained in the Mortgage, of all the following described properties of the Company, whether now owned or hereafter acquired, namely:

All of the property, real, personal and mixed, of every character and wheresoever situated (except any hereinafter or in the Mortgage expressly excepted) which the Company now owns or, subject to the provisions of Section 87 of the Original Mortgage, may hereafter acquire prior to the satisfaction and discharge of the Mortgage, as fully and completely as if herein or in the Mortgage specifically described, and including (without in anywise limiting or impairing by the enumeration of the same the scope and intent of the foregoing or of any general description contained in Mortgage) all lands, real estate, easements, servitudes, rights of way and leasehold and other interests in real estate; all rights to the use or appropriation of water, flowage rights, water storage rights, flooding rights, and other rights in respect of or relating to water; all plants for the generation of electricity, power houses, dams, dam sites, reservoirs, flumes, raceways, diversion works, head works, waterways, water works, water systems, gas plants, steam heat plants, hot water plants, ice or refrigeration plants, stations, substations, offices, buildings and other works and structures and the equipment thereof and all improvements, extensions and additions thereto; all generators, machinery, engines, turbines, boilers, dynamos, transformers, motors, electric machines, switchboards, regulators, meters, electrical and mechanical appliances, conduits, cables, pipes and mains; all lines and systems for the transmission and distribution of electric current, gas, steam heat or water for any purpose; all towers, mains, pipes, poles, pole lines, conduits, cables, wires, switch racks, insulators, compressors, pumps, fittings, valves and connections; all motor vehicles and automobiles; all tools, implements, apparatus, furniture, stores, supplies and equipment; all franchises (except the Company's franchise to be a corporation), licenses, permits, rights, powers and privileges; and (except as hereinafter or in the Mortgage expressly excepted) all the right, title and interest of the Company in and to all other property of any kind or nature.

The property so conveyed or intended to be so conveyed under the Mortgage shall include, but shall not be limited to, the property set forth in Exhibit C hereto, the particular description of which is intended only to aid in the identification thereof and shall not be construed as limiting the force, effect and scope of the foregoing.

TOGETHER WITH all and singular the tenements, hereditaments and appurtenances belonging or in anywise appertaining to the aforesaid property or any part thereof, with the reversion and reversions, remainder and remainders and (subject to the provisions of Section 57 of the Original Mortgage) the tolls, rents, revenues, issues, earnings, income, product and profits thereof, and all the estate, right, title and interest and claim whatsoever, at law as well as in equity, which the Company now has or may hereafter acquire in and to the aforesaid property and franchises and every part and parcel thereof.

THE COMPANY HEREBY CONFIRMS that, subject to the provisions of Section 87 of the Original Mortgage, all the property, rights, and franchises acquired by the Company after the date thereof (except any hereinbefore or hereinafter or in the Mortgage expressly excepted) are and shall be as fully embraced within the lien of the Mortgage as if such property, rights and franchises had been owned by the Company at the date of the Original Mortgage and had been specifically described therein.

PROVIDED THAT the following were not and were not intended to be then or now or hereafter granted, bargained, sold, released, conveyed, assigned, transferred, mortgaged, pledged, set over or confirmed under the Mortgage and were, are and shall be expressly excepted from the lien and operation of the Mortgage namely: (1) cash, shares of stock and obligations (including bonds, notes and other securities) not hereafter specifically pledged, paid, deposited or delivered under the Mortgage or covenanted so to be; (2) merchandise, equipment, materials or supplies held for the purpose of sale in the usual course of business or for consumption in the operation of any properties of the Company; (3) bills, notes and accounts receivable, and all contracts, leases and operating agreements not specifically pledged under the Mortgage or covenanted so to be; (4) electric energy and other materials or products generated, manufactured, produced or purchased by the Company for sale, distribution or use in the ordinary course of its business; and (5) any property heretofore released pursuant to any provisions of the Mortgage and not heretofore disposed of by the Company; *provided, however,* that the property and rights expressly excepted from the lien and operation of the Mortgage in the above subdivisions (2) and (3) shall (to the extent permitted by law) cease to be so excepted in the event that the Trustee or a receiver or trustee shall enter upon and take possession of the Mortgaged and Pledged Property in the manner provided in Article XII of the Original Mortgage by reason of the occurrence of a Completed Default as defined in said Article XII.

TO HAVE AND TO HOLD all such properties, real, personal and mixed, granted, bargained, sold, released, conveyed, assigned, transferred, mortgaged, pledged, set over or confirmed by the Company in the Mortgage as aforesaid, or intended so to be, unto the Trustee, and its successors, heirs and assigns forever.

IN TRUST NEVERTHELESS, for the same purposes and upon the same terms, trusts and conditions and subject to and with the same provisos and covenants as set forth in the Mortgage, this Forty-eighth Supplemental Indenture being supplemental to the Mortgage.

AND IT IS HEREBY FURTHER CONFIRMED by the Company that all the terms, conditions, provisos, covenants and provisions contained in the Mortgage shall affect and apply to the property in the Mortgage described and conveyed, and to the estates, rights, obligations and duties of the Company and the Trustee and the beneficiaries of the trust with respect to said property, and to the Trustee and its successors in the trust, in the same manner and with the same effect as if the said property had been owned by the Company at the time of the execution of the Original Mortgage, and had been specifically and at length described in and conveyed to said Trustee by the Original Mortgage as a part of the property therein stated to be conveyed.

The Company further covenants and agrees to and with the Trustee and its successor or successors in such trust under the Mortgage, as follows:

## ARTICLE I

### Forty-eighth Series of Bonds

#### SECTION 1.

(I) There shall be a series of bonds designated "Collateral Series 2010A" (herein sometimes referred to as the "Forty-eighth Series"), each of which shall also bear the descriptive title First Mortgage Bond, and the form thereof, is set forth on Exhibit D hereto. Bonds of the Forty-eighth Series shall be issued as fully registered bonds in denominations of One Thousand Dollars and, at the option of the Company, any amount in excess thereof (the exercise of such option to be evidenced by the execution and delivery thereof) and shall be dated as in Section 10 of the Mortgage provided.

(II) The Bonds of the Forty-eighth Series shall mature, bear interest, be payable, be redeemable and be otherwise as set forth below:

(a) the Bonds of the Forty-eighth Series shall be initially authenticated and delivered under the Mortgage in the aggregate principal amount of \$66,700,000, which principal amount is equal to the outstanding aggregate principal amount of the 2010A Revenue Bonds, and shall mature on October 1, 2032, which is the stated maturity date of the 2010A Revenue Bonds;

(b) the Bonds of the Forty-eighth Series shall bear interest at the same rate or rates as shall be in effect from time to time in respect of the 2010A Revenue Bonds; and interest on such bonds shall be payable at the same times as interest is payable on the 2010A Revenue Bonds;

(c) the principal of and interest on each Bond of the Forty-eighth Series payable at Maturity shall be payable upon presentation thereof at the office or agency of the Company in the Borough of Manhattan, The City of New York, in such coin or currency as at the time of payment is legal tender for public and private debts. The interest on each Bond of the Forty-eighth Series (other than interest payable at Maturity) shall be payable directly to the registered owner thereof;

(d) the Bonds of the Forty-eighth Series shall not be redeemable, in whole or in part, at the option of the Company; and

(e) (i) the Bonds of the Forty-eighth Series are to be issued and delivered to the 2010A Revenue Bond Trustee in order to secure the obligations of the Company under Section 4.01 of the 2010A Loan Agreement;

(ii) in the event that any 2010A Revenue Bonds are to be redeemed pursuant to Section 4.03 of the 2010A Revenue Bond Indenture following a Determination of Taxability (as defined in the 2010A Revenue Bond Indenture), Bonds of the Forty-eighth Series, in a principal amount equal to the principal amount of 2010A Revenue Bonds to be redeemed, shall be redeemed on the date fixed for redemption of the 2010A Revenue Bonds, at the principal amount thereof plus accrued interest to the redemption date;

(iii) in the event that all 2010A Revenue Bonds have become immediately due and payable pursuant to Section 9.02(a) of the 2010A Revenue Bond Indenture following the occurrence of an Event of Default (as defined in the 2010A Revenue Bond Indenture), the Bonds of the Forty-eighth Series (unless already due and payable) shall thereupon be redeemed at the principal amount thereof plus accrued interest to the redemption date (the obligation to effect such redemption being rescinded upon the rescission of such acceleration);

(iv) the obligation of the Company to make any payment of the principal of or interest on the Bonds of the Forty-eighth Series shall be reduced by the amount of any moneys held by the 2010A Revenue Bond Trustee under the Revenue Bond Indenture and available to make the corresponding payment of the principal of or interest on the 2010A Revenue Bonds;

(v) the Trustee shall be entitled to presume that the obligation of the Company to pay the principal of and interest on the Bonds of the Forty-eighth Series as the same shall become due and payable shall have been fully

satisfied and discharged unless and until it shall have received a written notice from the 2010A Revenue Bond Trustee, signed by an authorized officer thereof, stating that the principal of and/or interest on the Bonds of the Forty-eighth Series has become due and payable and has not been fully paid, and specifying the amount of funds required to make such payment; and

(vi) Anything in this Supplemental Indenture or in the Bonds of the Forty-eighth Series to the contrary notwithstanding, if, at the time of the Maturity of the Bonds of the Forty-eighth Series, the stated aggregate principal amount of such Bonds then Outstanding shall exceed the aggregate principal amount of 2010A Revenue Bonds then outstanding, the aggregate principal amount of such Bonds shall be deemed to have been reduced by the amount of such excess.

(III) The Bonds of the Forty-eighth Series shall be non-transferrable except to a successor trustee under the 2010A Revenue Bond Indenture. No service charge shall be made for the registration of transfer or exchange of Bonds of the Forty-eighth Series.

In the event of an application by the 2010A Revenue Bond Trustee for a substituted Bond of the Forty-eighth Series pursuant to Section 16 of the Original Mortgage, the 2010A Revenue Bond Trustee shall not be required to provide any indemnity or pay any expenses or charges as contemplated in said Section 16.

(IV) For all purposes of this Article I, except as otherwise expressly provided or unless the context otherwise requires, the terms defined below shall have the meanings specified:

“**City**” means the City of Forsyth, Montana, a political subdivision of the State of Montana.

“**2010A Loan Agreement**” means the Loan Agreement, dated as of December 1, 2010, between the City and the Company, relating to the 2010A Revenue Bonds.

“**2010A Revenue Bonds**” means the Pollution Control Revenue Refunding Bonds (Avista Corporation Colstrip Project) Series 2010A issued by the City.

“**2010A Revenue Bond Indenture**” means the Trust Indenture, dated as of December 1, 2010, between the City and The Bank of New York Mellon Trust Company, N.A., trustee, relating to the 2010A Revenue Bonds.

“**2010A Revenue Bond Trustee**” means the trustee under the 2010A Revenue Bond Indenture.

(V) The Bonds of the Forty-eighth Series shall have such other terms as are set forth in the form of bond attached hereto as Exhibit D.

Copies of the 2010A Revenue Bond Indenture and the 2010A Loan Agreement are on file at the office of the 2010A Revenue Bond Trustee at 601 Union Street, Suite 520, Seattle, WA 98101-2321 and at the office of the Company at 1411 East Mission Avenue, Spokane, WA 99202.

## ARTICLE II

### Forty-ninth Series of Bonds

#### SECTION 1.

(I) There shall be a series of bonds designated "Collateral Series 2010B" (herein sometimes referred to as the "Forty-ninth Series"), each of which shall also bear the descriptive title First Mortgage Bond, and the form thereof, is set forth on Exhibit D hereto. Bonds of the Forty-ninth Series shall be issued as fully registered bonds in denominations of One Thousand Dollars and, at the option of the Company, any amount in excess thereof (the exercise of such option to be evidenced by the execution and delivery thereof) and shall be dated as in Section 10 of the Mortgage provided.

(II) The Bonds of the Forty-ninth Series shall mature, bear interest, be payable, be redeemable and be otherwise as set forth below:

(a) the Bonds of the Forty-ninth Series shall be initially authenticated and delivered under the Mortgage in the aggregate principal amount of \$17,000,000, which principal amount is equal to the outstanding aggregate principal amount of the 2010B Revenue Bonds, and shall mature on March 1, 2034, which is the stated maturity date of the 2010B Revenue Bonds;

(b) the Bonds of the Forty-ninth Series shall bear interest at the same rate or rates as shall be in effect from time to time in respect of the 2010B Revenue Bonds; and interest on such bonds shall be payable at the same times as interest is payable on the 2010B Revenue Bonds;

(c) the principal of and interest on each Bond of the Forty-ninth Series payable at Maturity shall be payable upon presentation thereof at the office or agency of the Company in the Borough of Manhattan, The City of New York, in such coin or currency as at the time of payment is legal tender for public and private debts. The interest on each Bond of the Forty-ninth Series (other than interest payable at Maturity) shall be payable directly to the registered owner thereof;

(d) the Bonds of the Forty-ninth Series shall not be redeemable, in whole or in part, at the option of the Company; and

(e) (i) the Bonds of the Forty-ninth Series are to be issued and delivered to the 2010B Revenue Bond Trustee in order to secure the obligations of the Company under Section 4.01 of the 2010B Loan Agreement;

(i) in the event that any 2010B Revenue Bonds are to be redeemed pursuant to Section 4.03 of the 2010B Revenue Bond Indenture following a Determination of Taxability (as defined in the 2010B Revenue Bond Indenture), Bonds of the Forty-ninth Series, in a principal amount equal to the principal amount of 2010B Revenue Bonds to be redeemed, shall be redeemed on the date fixed for redemption of the 2010B Revenue Bonds, at the principal amount thereof plus accrued interest to the redemption date;

(ii) in the event that all 2010B Revenue Bonds have become immediately due and payable pursuant to Section 9.02(a) of the 2010B Revenue Bond Indenture following the occurrence of an Event of Default (as defined in the 2010B Revenue Bond Indenture), the Bonds of the Forty-ninth Series (unless already due and payable) shall thereupon be redeemed at the principal amount thereof plus accrued interest to the redemption date (the obligation to effect such redemption being rescinded upon the rescission of such acceleration);

(iii) the obligation of the Company to make any payment of the principal of or interest on the Bonds of the Forty-ninth Series shall be reduced by the amount of any moneys held by the 2010B Revenue Bond Trustee under the Revenue Bond Indenture and available to make the corresponding payment of the principal of or interest on the 2010B Revenue Bonds;

(iv) the Trustee shall be entitled to presume that the obligation of the Company to pay the principal of and interest on the Bonds of the Forty-ninth Series as the same shall become due and payable shall have been fully satisfied and discharged unless and until it shall have received a written notice from the 2010B Revenue Bond Trustee, signed by an authorized officer thereof, stating that the principal of and/or interest on the Bonds of the Forty-ninth Series has become due and payable and has not been fully paid, and specifying the amount of funds required to make such payment; and

(v) Anything in this Supplemental Indenture or in the Bonds of the Forty-ninth Series to the contrary notwithstanding, if, at the time of the Maturity of the Bonds of the Forty-ninth Series, the stated aggregate principal amount of such Bonds then Outstanding shall exceed the aggregate principal amount of 2010B Revenue Bonds then outstanding, the aggregate principal amount of such Bonds shall be deemed to have been reduced by the amount of such excess.



(III) The Bonds of the Forty-ninth Series shall be non-transferrable except to a successor trustee under the 2010B Revenue Bond Indenture. No service charge shall be made for the registration of transfer or exchange of Bonds of the Forty-ninth Series.

In the event of an application by the 2010B Revenue Bond Trustee for a substituted Bond of the Forty-ninth Series pursuant to Section 16 of the Original Mortgage, the 2010B Revenue Bond Trustee shall not be required to provide any indemnity or pay any expenses or charges as contemplated in said Section 16.

(IV) For all purposes of this Article II, except as otherwise expressly provided or unless the context otherwise requires, the terms defined below shall have the meanings specified:

“**City**” means the City of Forsyth, Montana, a political subdivision of the State of Montana.

“**2010B Loan Agreement**” means the Loan Agreement, dated as of December 1, 2010, between the City and the Company, relating to the 2010B Revenue Bonds.

“**2010B Revenue Bonds**” means the Pollution Control Revenue Refunding Bonds (Avista Corporation Colstrip Project) Series 2010B issued by the City.

“**2010B Revenue Bond Indenture**” means the Trust Indenture, dated as of December 1, 2010, between the City and The Bank of New York Mellon Trust Company, N.A., trustee, relating to the 2010B Revenue Bonds.

“**2010B Revenue Bond Trustee**” means the trustee under the 2010B Revenue Bond Indenture.

(V) The Bonds of the Forty-ninth Series shall have such other terms as are set forth in the form of bond attached hereto as Exhibit D.

Copies of the 2010B Revenue Bond Indenture and the 2010B Loan Agreement are on file at the office of the 2010B Revenue Bond Trustee at 601 Union Street, Suite 520, Seattle, WA 98101-2321 and at the office of the Company at 1411 East Mission Avenue, Spokane, WA 99202.

## **ARTICLE III**

### **Outstanding Bonds**

Upon the delivery of this Forty-eighth Supplemental Indenture, Bonds of the Forty-eighth Series in the aggregate principal amount of \$66,700,000 and Bonds of the Forty-ninth Series in the aggregate principal amount of \$17,000,000 are to be issued and will be Outstanding, in addition to \$1,428,000,000 aggregate principal amount of bonds of prior series Outstanding at the date of delivery of this Forty-eighth Supplemental Indenture (which amount excludes \$66,700,000 in aggregate principal amount of First Mortgage Bonds, Collateral Series 2005B, to be retired simultaneously with the issuance and delivery of the bonds of the Forty-eighth and Forty-ninth Series).

## **ARTICLE IV**

### **Miscellaneous Provisions**

SECTION 1. The terms defined in the Original Mortgage shall, for all purposes of this Forty-eighth Supplemental Indenture, have the meanings specified in the Original Mortgage.

SECTION 2. The Trustee hereby confirms its acceptance of the trusts in the Original Mortgage declared, provided, created or supplemented and agrees to perform the same upon the terms and conditions in the Original Mortgage set forth, including the following:

The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Forty-eighth Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made by the Company solely. Each and every term and condition contained in Article XVI of the Original Mortgage, shall apply to and form part of this Forty-eighth Supplemental Indenture with the same force and effect as if the same were herein set forth in full, with such omissions, variations and insertions, if any, as may be appropriate to make the same conform to the provisions of this Forty-eighth Supplemental Indenture.

SECTION 3. Whenever in this Forty-eighth Supplemental Indenture either of the parties hereto is named or referred to, this shall, subject to the provisions of Articles XV and XVI of the Original Mortgage be deemed to include the successors and assigns of such party, and all the covenants and agreements in this Forty-eighth Supplemental Indenture contained by or on behalf of the Company, or by or on behalf of the Trustee, or either of them, shall, subject as aforesaid, bind and inure to the respective benefits of the respective successors and assigns of such parties, whether so expressed or not.

SECTION 4. Nothing in this Forty-eighth Supplemental Indenture, expressed or implied, is intended, or shall be construed, to confer upon, or to give to, any person, firm or corporation, other than the parties hereto and the holders of the bonds and coupons Outstanding under the Mortgage, any right, remedy or claim under or by reason of this Forty-eighth Supplemental Indenture or any covenant, condition, stipulation, promise or agreement hereof, and all the covenants, conditions, stipulations, promises and agreements in this Forty-eighth Supplemental Indenture contained by or on behalf of the Company shall be for the sole and exclusive benefit of the parties hereto, and of the holders of the bonds and of the coupons Outstanding under the Mortgage.

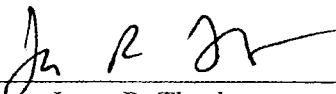
SECTION 5. This Forty-eighth Supplemental Indenture shall be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 6. The titles of the several Articles of this Forty-eighth Supplemental Indenture shall not be deemed to be any part thereof.

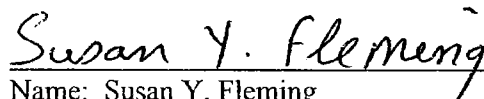
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IN WITNESS WHEREOF, on the 7<sup>th</sup> day of December, 2010, AVISTA CORPORATION has caused its corporate name to be hereunto affixed, and this instrument to be signed and sealed by its President or one of its Vice Presidents, and its corporate seal to be attested by its Corporate Secretary or one of its Assistant Corporate Secretaries for and in its behalf, all in The City of Spokane, Washington, as of the day and year first above written; and on the 7<sup>th</sup> day of December, 2010, CITIBANK, N.A., has caused its corporate name to be hereunto affixed, and this instrument to be signed and sealed by its President or one of its Vice Presidents or one of its Senior Trust Officers or one of its Trust Officers and its corporate seal to be attested by one of its Vice Presidents or one of its Trust Officers, all in The City of New York, New York, as of the day and year first above written.

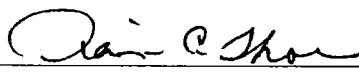
AVISTA CORPORATION

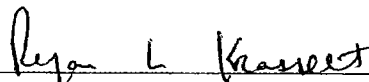
By:   
Name: Jason R. Thackston  
Title: Vice President

Attest:


  
Name: Susan Y. Fleming  
Title: Assistant Corporate Secretary

Executed, sealed and delivered  
by AVISTA CORPORATION  
in the presence of:


  
Name: Diane C. Thoren

  
Name: Ryan Krasselt

CITIBANK, N.A., AS TRUSTEE

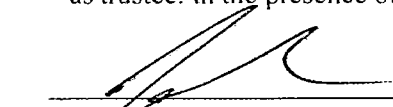
By:   
Name: Wafaa Orfy  
Title: Vice President

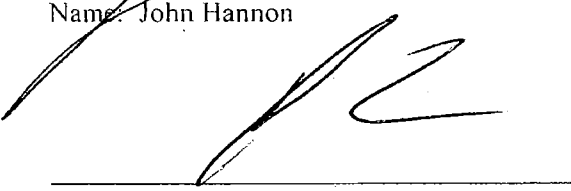
Attest:

  
Name: Louis Piscitelli  
Title: Vice President



Executed, sealed and delivered  
by CITIBANK, N.A.,  
as trustee. in the presence of:

  
Name: John Hannon

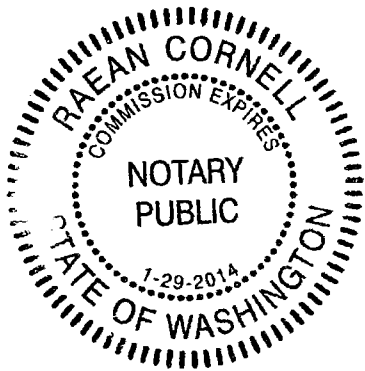
  
Name: Cirino Emanuele

STATE OF WASHINGTON )  
 ) ss.:  
COUNTY OF SPOKANE )

On the 7<sup>th</sup> day of December, 2010, before me personally appeared Jason R. Thackston, to me known to be a Vice President of AVISTA CORPORATION, one of the corporations that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said Corporation for the uses and purposes therein mentioned and on oath stated that he was authorized to execute said instrument and that the seal affixed is the corporate seal of said Corporation.

On the 7<sup>th</sup> day of December, 2010, before me, a Notary Public in and for the State and County aforesaid, personally appeared Jason R. Thackston, known to me to be a Vice President of AVISTA CORPORATION, one of the corporations that executed the within and foregoing instrument and acknowledged to me that such Corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



*Rae An Cornell*

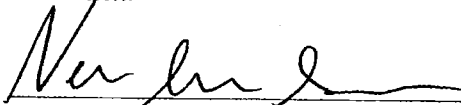
Notary Public

STATE OF NEW YORK     )  
  ) ss.:  
COUNTY OF NEW YORK    )

On the 7<sup>th</sup> day of December, 2010, before me personally appeared Wafaa Orfy, to me known to be a Vice President of CITIBANK, N.A., one of the corporations that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said Corporation for the uses and purposes therein mentioned and on oath stated that he was authorized to execute said instrument and that the seal affixed is the corporate seal of said Corporation.

On the 7<sup>th</sup> day of December, 2010, before me, a Notary Public in and for the State and County aforesaid, personally appeared Wafaa Orfy, known to me to be an Vice President of CITIBANK, N.A., one of the corporations that executed the within and foregoing instrument and acknowledged to me that such Corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

  
\_\_\_\_\_  
Notary Public

Notary Stamp

NOREEN IRIS SANTOS  
Notary Public, State of New York  
Registration #01SA6228750  
Qualified in Nassau County  
Commission Expires Sept. 27, 2014

**EXHIBIT A**

**MORTGAGE, SUPPLEMENTAL INDENTURES  
AND SERIES OF BONDS**

<u>MORTGAGE OR SUPPLEMENTAL INDENTURE</u>	<u>DATED AS OF</u>	<u>SERIES</u>		<u>PRINCIPAL AMOUNT ISSUED</u>	<u>PRINCIPAL AMOUNT OUTSTANDING</u>
		<u>NO.</u>	<u>DESIGNATION</u>		
Original	June 1, 1939	1	3-1/2% Series due 1964	\$22,000,000	None
First	October 1, 1952	2	3-3/4% Series due 1982	30,000,000	None
Second	May 1, 1953	3	3-7/8% Series due 1983	10,000,000	None
Third	December 1, 1955		None		
Fourth	March 15, 1957		None		
Fifth	July 1, 1957	4	4-7/8% Series due 1987	30,000,000	None
Sixth	January 1, 1958	5	4-1/8% Series due 1988	20,000,000	None
Seventh	August 1, 1958	6	4-3/8% Series due 1988	15,000,000	None
Eighth	January 1, 1959	7	4-3/4% Series due 1989	15,000,000	None
Ninth	January 1, 1960	8	5-3/8% Series due 1990	10,000,000	None
Tenth	April 1, 1964	9	4-5/8% Series due 1994	30,000,000	None
Eleventh	March 1, 1965	10	4-5/8% Series due 1995	10,000,000	None
Twelfth	May 1, 1966		None		
Thirteenth	August 1, 1966	11	6% Series due 1996	20,000,000	None
Fourteenth	April 1, 1970	12	9-1/4% Series due 2000	20,000,000	None
Fifteenth	May 1, 1973	13	7-7/8% Series due 2003	20,000,000	None
Sixteenth	February 1, 1975	14	9-3/8% Series due 2005	25,000,000	None
Seventeenth	November 1, 1976	15	8-3/4% Series due 2006	30,000,000	None
Eighteenth	June 1, 1980		None		



<u>MORTGAGE OR SUPPLEMENTAL INDENTURE</u>	<u>DATED AS OF</u>	<u>SERIES</u>		<u>PRINCIPAL AMOUNT ISSUED</u>	<u>PRINCIPAL AMOUNT OUTSTANDING</u>
		<u>NO.</u>	<u>DESIGNATION</u>		
Nineteenth	January 1, 1981	16	14-1/8% Series due 1991	40,000,000	None
Twentieth	August 1, 1982	17	15-3/4% Series due 1990-1992	60,000,000	None
Twenty-First	September 1, 1983	18	13-1/2% Series due 2013	60,000,000	None
Twenty-Second	March 1, 1984	19	13-1/4% Series due 1994	60,000,000	None
Twenty-Third	December 1, 1986	20	9-1/4% Series due 2016	80,000,000	None
Twenty-Fourth	January 1, 1988	21	10-3/8% Series due 2018	50,000,000	None
Twenty-Fifth	October 1, 1989	22	7-1/8% Series due 2013	66,700,000	None
		23	7-2/5% Series due 2016	17,000,000	None
Twenty-Sixth	April 1, 1993	24	Secured Medium-Term Notes, Series A (\$250,000,000 authorized)	250,000,000	43,000,000
Twenty-Seventh	January 1, 1994	25	Secured Medium-Term Notes, Series B (\$250,000,000 authorized)	161,000,000	None
Twenty-Eighth	September 1, 2001	26	Collateral Series due 2002	220,000,000	None
Twenty-Ninth	December 1, 2001	27	7.75% Series due 2007	150,000,000	None
Thirtieth	May 1, 2002	28	Collateral Series due 2003	225,000,000	None
Thirty-first	May 1, 2003	29	Collateral Series due 2004	245,000,000	None
Thirty-second	September 1, 2003	30	6.125% Series due 2013	45,000,000	45,000,000

<u>MORTGAGE OR SUPPLEMENTAL INDENTURE</u>	<u>DATED AS OF</u>	<u>SERIES</u>		<u>PRINCIPAL AMOUNT ISSUED</u>	<u>PRINCIPAL AMOUNT OUTSTANDING</u>
		<u>NO.</u>	<u>DESIGNATION</u>		
Thirty-third	May 1, 2004	31	Collateral Series due 2005	350,000,000	None
Thirty-fourth	November 1, 2004	32	5.45% Series due 2019	90,000,000	90,000,000
Thirty-fifth	December 1, 2004	33	Collateral Series 2004A	88,850,000	25,000,000
Thirty-sixth	December 1, 2004	34	Collateral Series 2004B	66,700,000	None
		35	Collateral Series 2004C	17,000,000	None
Thirty-seventh	December 1, 2004	36	Collateral Series 2004D	350,000,000	None
Thirty-eighth	May 1, 2005	37	Collateral Series 2005B	66,700,000	66,700,000 <sup>(1)</sup>
		38	Collateral Series 2005C	17,000,000	None
Thirty-ninth	November 1, 2005	39	6.25% Series due 2035	100,000,000	100,000,000
				50,000,000	50,000,000
Fortieth	April 1, 2006	40	Collateral Series due 2011	320,000,000	320,000,000
Forty-first	December 1, 2006	41	5.70% Series due 2037	150,000,000	150,000,000
Forty-second	April 1, 2008	42	5.95% Series due 2018	250,000,000	250,000,000
Forty-third	November 1, 2008	43	Collateral Series 2008A	200,000,000	None
Forty-fourth	December 1, 2008	44	7.25% Series due 2013	30,000,000	30,000,000
Forty-fifth	December 1, 2008	45	Collateral Series 2008B	17,000,000	None
Forty-sixth	September 1, 2009	46	5.125% Series due 2022	250,000,000	250,000,000

(1) To be retired in connection with the issuance and delivery of the First Mortgage Bonds, Collateral Series 2010A.

<u>MORTGAGE OR SUPPLEMENTAL INDENTURE</u>	<u>DATED AS OF</u>	<u>NO.</u>	<u>SERIES DESIGNATION</u>	<u>PRINCIPAL AMOUNT ISSUED</u>	<u>PRINCIPAL AMOUNT OUTSTANDING</u>
Forty-seventh	September 1, 2009	47	Collateral Series 2009A	75,000,000	75,000,000

**EXHIBIT B**

**FILING AND RECORDING OF  
FORTY-SEVENTH SUPPLEMENTAL INDENTURE**

<b>FILING IN STATE OFFICES</b>			
<b><u>State</u></b>	<b><u>Office of</u></b>	<b><u>Date</u></b>	<b><u>Financing Statement Document Number</u></b>
Washington	Secretary of State	1/19/10	2010-020-6503-9
Idaho	Secretary of State	1/19/10	B2010-1074105-5
Montana	Secretary of State	1/19/10	577254030
Oregon	Secretary of State	1/19/10	8444309

<b>RECORDING IN COUNTY OFFICES</b>						
		<b><u>Real Estate Mortgage Records</u></b>				
<b><u>County</u></b>	<b><u>Office of</u></b>	<b><u>Date</u></b>	<b><u>Document Number</u></b>	<b><u>Book</u></b>	<b><u>Page</u></b>	<b><u>Financing Statement Document Number</u></b>
<b><u>Washington</u></b>						
Adams	Auditor	1/19/10	294186	N/A	N/A	N/A
Asotin	Auditor	1/19/10	317109	N/A	N/A	N/A
Benton	Auditor	1/19/10	2010-001413	N/A	N/A	N/A
Douglas	Auditor	1/19/10	3140787	N/A	N/A	N/A
Ferry	Auditor	1/19/10	276008	N/A	N/A	N/A
Franklin	Auditor	1/19/10	1745059	N/A	N/A	N/A
Garfield	Auditor	1/19/10	20100040	N/A	N/A	N/A
Grant	Auditor	1/19/10	1266000	N/A	N/A	N/A
Klickitat	Auditor	1/19/10	1086736	N/A	N/A	N/A
Lewis	Auditor	1/19/10	3339583	N/A	N/A	N/A
Lincoln	Auditor	1/19/10	2010-0454285	100	4198	N/A
Pend Oreille	Auditor	1/20/10	2010-0304211	N/A	N/A	N/A
Skamania	Auditor	1/25/10	2010174763	N/A	N/A	N/A
Spokane	Auditor	1/29/10	5871475	N/A	N/A	N/A
Stevens	Auditor	1/19/10	2010 0000420	N/A	N/A	N/A
Thurston	Auditor	2/1/10	4134285	N/A	N/A	N/A
Whitman	Auditor	1/19/10	697257	N/A	N/A	N/A
<b><u>Idaho</u></b>						

RECORDING IN COUNTY OFFICES

<b>Real Estate Mortgage Records</b>						
<b>County</b>	<b>Office of</b>	<b>Date</b>	<b>Document Number</b>	<b>Book</b>	<b>Page</b>	<b>Financing Statement Document Number</b>
Benewah	Recorder	1/19/10	256186	N/A	N/A	N/A
Bonner	Recorder	1/19/10	786462	N/A	N/A	N/A
Boundary	Recorder	1/19/10	245318	N/A	N/A	N/A
Clearwater	Recorder	1/19/10	213420	N/A	N/A	N/A
Idaho	Recorder	1/19/10	470594	N/A	N/A	N/A
Kootenai	Recorder	1/19/10	2249762000	N/A	N/A	N/A
Latah	Recorder	1/20/10	534934	N/A	N/A	N/A
<b><i>Idaho (cont.)</i></b>						
Lewis	Recorder	1/19/10	138074	N/A	N/A	N/A
Nez Perce	Recorder	1/19/10	777152	N/A	N/A	N/A
Shoshone	Recorder	1/19/10	455806	N/A	N/A	N/A
<b><i>Montana</i></b>						
Big Horn	Clerk & Recorder	1/19/10	342311	109	1	N/A
Broadwater	Clerk & Recorder	1/19/10	162665	128	207	N/A
Golden Valley	Clerk & Recorder	1/19/10	80204	M	14691	N/A
Meagher	Clerk & Recorder	1/19/10	137369	N/A	N/A	N/A
Mineral	Clerk & Recorder	1/19/10	106046	N/A	N/A	N/A
Rosebud	Clerk & Recorder	1/20/10	106346	128	195	N/A
Sanders	Clerk & Recorder	1/19/10	68270	N/A	N/A	N/A
Stillwater	Clerk & Recorder	1/19/10	342952	N/A	N/A	N/A
Treasure	Clerk & Recorder	1/19/10	81040	19	373	N/A
Wheatland	Clerk & Recorder	1/19/10	106122	M	21658	N/A
Yellowstone	Clerk & Recorder	1/19/10	3537916	N/A	N/A	N/A
<b><i>Oregon</i></b>						
Douglas	Recorder	1/20/10	2010-002165	N/A	N/A	N/A
Jackson	Recorder	1/20/10	2010-002237	N/A	N/A	N/A
Josephine	Recorder	1/19/10	2010-000654	N/A	N/A	N/A
Klamath	Recorder	1/20/10	2010-000708	N/A	N/A	N/A
Morrow	Recorder	1/19/10	2010-25380	N/A	N/A	N/A
Union	Recorder	1/19/10	20100193	N/A	N/A	N/A
Wallowa	Recorder	1/19/10	63060	N/A	N/A	N/A

**PROPERTY ADDITIONS**

**First**

**THE ADDITIONAL ELECTRIC SUBSTATIONS AND SUBSTATION SITES OF THE COMPANY**, in the State of Washington, including all buildings, structures, towers, poles, equipment, appliances and devices for transforming, converting and distributing electric energy, and the lands of the company on which the same are situated and all of the company's real estate and interests therein, machinery, equipment, appliances, devices, appurtenances and supplies, franchises, permits and other rights and other property forming a part of said substations or any of them, or used or enjoyed or capable of being used or enjoyed in connection with any thereof, including, but not limited to, the following situated in the States of Washington and Idaho, to wit:

1. Lincoln County, WA: "Reardan Twin Buttes 115kV Sub"; Property No. WA-22-033; Grantor: James S. and Jo Ann Roberts; Portion of SW/4 NW/4 and NW/4 W/4 of Section 9, Township 24 North, Range 39 East, W.M.
2. Bonner County, ID: "Old Town 115kV Sub"; Property No. ID-7B-041; Grantor: Bonner County Board of Commissioners; 35' x 250' strip of vacated Diamond Lumber Road in NW/4 SE/4 SE/4 of Section 24, Township 56 North, Range 6 West, B.M.
3. Kootenai County, ID: "Carlin Bay 115kV Sub"; Property No. ID-K-047; Grantor: Jeanine Deborah Kraack; Ptn of NW/4 of Section 5, Township 48 North, Range 3 West, B.M.
4. Pincroft Spokane County, Washington: "Irvin 115kV Sub"; Property No. WA-32-082; Grantor: LLC; Parcel 3-F Record of Survey in SW/4, Section 3, Township 25 North, Range 44 East, W.M.
5. Latah County, Idaho: "Moscow 230kV Substation"; Property No. ID-1L-031; Grantor: George Wallace Johnson and Gerald Walter Johnson; Ptn of SW/4 NW/4 and NW/4 SW/4 in Section 14, Township 39 North Range 5 West, B.M.

**Second**

**BUSINESS OFFICE/S AND OR REAL ESTATE**, in the State of Washington, to wit:

1. Spokane County, WA: "North Center Properties"; Property No. WA-32-004; Grantor: Barry Van Wert; Portion of W/2 of Block 6, Ross Court addition to City of Spokane, located in the SW/4 of Section 9, Township 25 North, Range 43 East, W.M.
2. Spokane County, WA: "North Center Properties"; Property No. WA-32-004; Grantor: Michael J. Allen; Lot 1, Block One, Hamlin's Subdivision of East Half of Block 6, Ross Court Addition to City of Spokane, located in the SW/4 of Section 9, Township 25 North, Range 43 East, W.M.
3. Whitman County, Washington: "Pullman Service Center"; Property No. WA-38-001; Grantor: State of Washington; SW/4 NW/4 in Section 3, Township 14 North, Range 45 East, W.M.
4. Spokane County, Washington: "North Crescent Properties"; Property No. WA-32-004; Grantor: Zachary & Caroline King; Lots 3 and 10, Hole's Subdivision of Block 13, Ross Park Addition in SW/4 of Section 9, Township 25 North, Range 43 East, W.M.

### **Third**

**ADDITIONAL PROTECTION, MITIGATION AND ENHANCEMENT PROPERTY** of the Company, in the State of Idaho, real, personal, or mixed, acquired, constructed and/or installed in, on, under and/or proximate to the Company's Clark Fork hydroelectric development (including, without limitation, the Cabinet Gorge Hydroelectric Generating Station and the Noxon Rapids Hydroelectric generating Station) for the purpose of protecting and/or enhancing wildlife (including fish and aquatic life), botanical life and/or wetlands, and/or mitigating any harm or damage thereto, and all other property, real, personal or mixed, used or enjoyed or capable of being used or enjoyed in conjunction therewith, including, but not limited to, the following in the State of Idaho, to wit:

1. Bonner County, Idaho: "Cabinet Gorge Mitigation; Trestle Creek"; Property No. ID-7B-251; Grantor: State of Idaho, Department of Lands; SW/4 NE/4 and N/2 SE/4, in Section 16, Township 57 North, Range 1 East, B.M.

**EXHIBIT D**

**(Form of Bond)**

**This bond is non-transferable, except to a successor trustee under the 2010\_\_ Revenue Bond Indenture (as defined herein).**

**AVISTA CORPORATION**

First Mortgage Bond,  
Collateral Series 2010\_\_

REGISTERED

REGISTERED

NO. \_\_\_\_\_

\$ \_\_\_\_\_

**AVISTA CORPORATION**, a corporation of the State of Washington (hereinafter called the Company), for value received, hereby promises to pay to

, as trustee under the 2010\_\_ Revenue Bond Indenture (as defined in the Supplemental Indenture hereinafter referred to) or registered assigns on \_\_\_\_\_

DOLLARS

and to pay the registered owner hereof interest thereon at the respective rate or rates as shall be in effect from time to time in respect of the 2010\_\_ Revenue Bonds (as defined in the Supplemental Indenture hereinafter referred to) until the Company's obligation with respect to the payment of such principal shall have been discharged; and such interest shall be payable at the same times as interest is payable on the 2010\_\_ Revenue Bonds. The principal of and interest on this bond payable at Maturity (as hereinafter defined) shall be payable upon presentation hereof at the office or agency of the Company in the Borough of Manhattan, The City of New York, in such coin or currency of the United States of America as at the time of payment is legal tender for public and private debts. The interest on this bond (other than interest payable at Maturity) shall be paid directly to the registered owner hereof. Interest payable at Maturity shall be paid to the person to whom principal shall be paid. As used herein, the term "Maturity" shall mean the date on which the principal of this bond becomes due and payable, whether at stated maturity, upon redemption or acceleration, or otherwise.

This bond is one of an issue of bonds of the Company issuable in series and is one of a series known as its First Mortgage Bonds, Collateral Series 2010\_\_, all bonds of all such series being issued and issuable under and equally secured (except insofar as any sinking or other fund, established in accordance with the provisions of the



Mortgage hereinafter mentioned, may afford additional security for the bonds of any particular series) by a Mortgage and Deed of Trust, dated as of June 1, 1939 (the "Original Mortgage"), executed by the Company (formerly known as The Washington Water Power Company) to City Bank Farmers Trust Company and Ralph E. Morton, as Trustees (Citibank, N.A., successor Trustee to both said Trustees). The Original Mortgage has been amended and supplemented by various supplemental indentures and other instruments, including the Forty-eighth Supplemental Indenture, dated as of December 1, 2010 (the "Forty-eighth Supplemental Indenture") and, as so amended and supplemented, is herein called the "Mortgage." Reference is made to the Mortgage for a description of the property mortgaged and pledged, the nature and extent of the security, the rights of the holders of the bonds and of the Trustee in respect thereof, the duties and immunities of the Trustee and the terms and conditions upon which the bonds are and are to be secured and the circumstances under which additional bonds may be issued. If there shall be a conflict between the terms of this bond and the provisions of the Mortgage, the provisions of the Mortgage shall control to the extent permitted by law. The holder of this bond, by its acceptance hereof shall be deemed to have consented and agreed to all of the terms and provisions of the Mortgage.

The Mortgage may be modified or altered by affirmative vote of the holders of at least 60% in principal amount of the bonds outstanding under the Mortgage, considered as one class, or, if the rights of one or more, but less than all, series of bonds then outstanding are to be affected, then such modification or alteration may be effected with the affirmative vote only of 60% in principal amount of the bonds outstanding of the series so to be affected, considered as one class, and, furthermore, for limited purposes, the Mortgage may be modified or altered without any consent or other action of holders of any series of bonds. No modification or alteration shall, however, permit an extension of the Maturity of the principal of, or interest on, this bond or a reduction in such principal or the rate of interest hereon or any other modification in the terms of payment of such principal or interest or the creation of any lien equal or prior to the lien of the Mortgage or deprive the holder of a lien on the mortgaged and pledged property without the consent of the holder hereof.

The bonds of this series are not redeemable, in whole or in part, at the option of the Company.

The bonds of this series have been issued and delivered to the 2010\_\_ Revenue Bond Trustee in order to secure the Company's obligations under the 2010\_\_ Loan Agreement (as such terms are defined in the Forty-eighth Supplemental Indenture).

In the event that any 2010\_\_ Revenue Bonds are to be redeemed pursuant to Section 4.03 of the 2010\_\_ Revenue Bond Indenture (as defined in the Forty-eighth Supplemental Indenture) following a Determination of Taxability (as defined in the 2010\_\_ Revenue Bond Indenture), bonds of this series, in a principal amount equal to the principal amount of 2010\_\_ Revenue Bonds to be redeemed, shall be redeemed on the

date fixed for redemption of the 2010\_\_ Revenue Bonds, at the principal amount thereof plus accrued interest to the redemption date.

In the event that all 2010\_\_ Revenue Bonds have become immediately due and payable pursuant to Section 9.02(a) of the 2010\_\_ Revenue Bond Indenture following the occurrence of an Event of Default (as defined in the 2010\_\_ Revenue Bond Indenture), the bonds of this series (unless already due and payable) shall thereupon be redeemed at the principal amount thereof plus accrued interest to the redemption date (the obligation to effect such redemption being rescinded upon the rescission of such acceleration).

The obligation of the Company to make any payment of the principal of or interest on the bonds of this series shall be reduced by the amount of any moneys held by the 2010\_\_ Revenue Bond Trustee under the 2010\_\_ Revenue Bond Indenture and available to make the corresponding payment of the principal of or interest on the 2010\_\_ Revenue Bonds.

Anything in this bond to the contrary notwithstanding, if, at the time of the Maturity of the bonds of this series, the stated aggregate principal amount of such bonds then outstanding shall exceed the aggregate principal amount of 2010\_\_ Revenue Bonds then outstanding, the aggregate principal amount of such bonds shall be deemed to have been reduced by the amount of such excess.

The principal hereof may be declared or may become due prior to the stated maturity date on the conditions, in the manner and at the time set forth in the Mortgage, upon the occurrence of a Completed Default as in the Mortgage provided.

As provided in the Mortgage and subject to certain limitations therein set forth, this bond or any portion of the principal amount hereof will be deemed to have been paid if there has been irrevocably deposited with the Trustee moneys or direct obligations of or obligations guaranteed by the United States of America, the principal of and interest on which when due, and without regard to any reinvestment thereof, will provide moneys which, together with moneys so deposited, will be sufficient to pay when due the principal of and premium, if any, and interest on this bond when due.

The Mortgage contains terms, provisions and conditions relating to the consolidation or merger of the Company with or into, and the conveyance or other transfer, or lease, of assets to, another Corporation and to the assumption by such other Corporation, in certain circumstances, of all of the obligations of the Company under the Mortgage and on the bonds secured thereby.

This bond is non-transferable except as required to effect transfer to any successor trustee under the 2010\_\_ Revenue Bond Indenture, any such transfer to be made at the office or agency of the Company in the Borough of Manhattan, The City of New York, upon surrender and cancellation of this bond, together with a written

instrument of transfer whenever required by the Company duly executed by the registered owner or by its duly authorized attorney, and, thereupon, a new fully registered bond of the same series for a like principal amount will be issued to the transferee in exchange herefor as provided in the Mortgage. The Company and the Trustee may deem and treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment and for all other purposes.

In the manner prescribed in the Mortgage, any bonds of this series, upon surrender thereof for cancellation at the office or agency of the Company in the Borough of Manhattan, The City of New York, are exchangeable for a like aggregate principal amount of bonds of the same series of other authorized denominations.

No recourse shall be had for the payment of the principal of or interest on this bond against any incorporator or any past, present or future subscriber to the capital stock, stockholder, officer or director of the Company or of any predecessor or successor corporation, as such, either directly or through the Company or any predecessor or successor corporation, under any rule of law, statute or constitution or by the enforcement of any assessment or otherwise, all such liability of incorporators, subscribers, stockholders, officers and directors being released by the holder or owner hereof by the acceptance of this bond and being likewise waived and released by the terms of the Mortgage.

This bond shall not become obligatory until Citibank, N.A., the Trustee under the Mortgage, or its successor thereunder, shall have signed the form of certificate endorsed hereon.

**IN WITNESS WHEREOF**, AVISTA CORPORATION has caused this bond to be signed in its corporate name by its President or one of its Vice Presidents by his signature or a facsimile thereof, and its corporate seal to be impressed or imprinted hereon and attested by its Corporate Secretary or one of its Assistant Corporate Secretaries by his signature or a facsimile thereof.

Dated:

AVISTA CORPORATION

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

Name:

Title:

ATTEST: \_\_\_\_\_

**TRUSTEE'S CERTIFICATE**

This bond is one of the bonds, of the series herein designated, described or provided for in the within-mentioned Mortgage.

CITIBANK, N.A.  
Trustee

By: \_\_\_\_\_  
Authorized Officer

**ASSIGNMENT FORM**

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

---

[please insert social security or other identifying number of assignee]

---

[please print or typewrite name and address of assignee]

---

the within bond of AVISTA CORPORATION and does hereby irrevocably constitute and appoint \_\_\_\_\_, Attorney, to transfer said bond on the books of the within-mentioned Company, will full power of substitution in the premises.

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

---

[signature of assignor]

Notice: The signature to this assignment must correspond with the name as written upon the face of the bond in every particular without alteration or enlargement or any change whatsoever.

---

**TRUST INDENTURE**

BETWEEN

CITY OF FORSYTH, MONTANA

AND

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

AS TRUSTEE

\$17,000,000

CITY OF FORSYTH, MONTANA  
POLLUTION CONTROL REVENUE REFUNDING BONDS  
(AVISTA CORPORATION COLSTRIP PROJECT)  
SERIES 2010B

DATED AS OF DECEMBER 1, 2010

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## **TRUST INDENTURE**

THIS TRUST INDENTURE is made and entered into as of December 1, 2010, between the CITY OF FORSYTH, MONTANA, a political subdivision duly organized and existing under the Constitution and laws of the State and The Bank of New York Mellon Trust Company, N.A., as trustee.

### **RECITALS**

A. In furtherance of its public purposes, the Issuer has entered into a Loan Agreement, dated as of December 1, 2010, with Avista Corporation, a Washington corporation, providing for the issuance by the Issuer of the Bonds for the purpose of refunding, in advance of stated maturity, the Prior Bonds.

B. The execution and delivery of this Indenture and the issuance and sale of the Bonds have been in all respects duly and validly authorized by proper action duly adopted by the governing authority of the Issuer.

C. The execution and delivery of the Bonds and of this Indenture have been duly authorized and all things necessary to make the Bonds, when executed by the Issuer and authenticated by the Trustee, valid and binding legal obligations of the Issuer and to make this Indenture a valid and binding agreement have been done.

NOW, THEREFORE, THIS TRUST INDENTURE WITNESSETH:

### **GRANTING CLAUSES**

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 Owners thereof, and for other good and valuable consideration, the receipt of which is hereby acknowledged, in order to secure the payment of the principal of, and premium, if any, and interest on, the Bonds according to their tenor and effect and to secure the performance and observance by the Issuer of all the covenants expressed or implied herein and in the Bonds, does hereby grant, bargain, sell convey, mortgage and warrant, and assign, pledge and grant a security interest in, the Trust Estate to the Trustee, and its successors in trust and assigns forever for the benefit of the Owners:

TO HAVE AND TO HOLD all and singular the Trust Estate, whether now owned or hereafter acquired, to the Trustee and its respective successors in trust and assigns forever;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of all present and future Owners of the Bonds issued under and secured by this Indenture without privilege, priority or distinction as to the lien or otherwise of any of the Bonds over any of the other Bonds;

PROVIDED, HOWEVER, that if the Issuer, its successors or assigns, shall well and truly pay, or cause to be paid, the principal of, and premium, if any, and interest on, the Bonds due or to become due thereon, at the times and in the manner mentioned in the Bonds and as provided in Article VIII hereof according to the true intent and meaning thereof, and shall cause the payments to be made as required under Article V hereof, or shall provide, as permitted hereby, for the payment thereof in accordance with Article VIII hereof, 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, or cause to be paid, the principal of, and premium, if any, and interest on, the Bonds due or to become due in accordance with the terms and provisions hereof, then and in that case this Indenture and the rights hereby granted shall cease, terminate and be void and the Trustee shall thereupon cancel and discharge this Indenture and execute and deliver to the Issuer, the Company and the Provider such instruments in writing as shall be requisite to evidence the discharge hereof, otherwise this Indenture shall be and remain in full force and effect.

THIS TRUST INDENTURE FURTHER WITNESSETH, and it is expressly declared, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered, and all of the Trust Estate is to be dealt with and disposed of, under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes hereinafter expressed, and the Issuer has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with the respective Owners, from time to time, of the Bonds, or any part thereof, as follows:

## ARTICLE I

### DEFINITIONS AND RULES OF CONSTRUCTION

*Section 1.01. General Definitions.* The terms defined in this Section 1.01 shall have the meanings provided herein for all purposes of this Indenture and the Agreement, unless the context clearly requires otherwise.

“Act” means Sections 90-5-101 to 90-5-114, inclusive, Montana Code Annotated, as from time to time supplemented and amended.

“Additional Collateral” means any form of collateral delivered by the Company pursuant to Section 4.09 of the Agreement.

“Agreement” or “Loan Agreement” means the Loan Agreement, dated as of December 1, 2010, between the Issuer and the Company, as amended and supplemented from time to time.

“Authorized Company Representative” means any Senior Vice President, any Vice President, its Treasurer or any Assistant Treasurer of the Company and each other person designated to act on behalf of the Company by written certificate furnished to the Issuer, the Provider and the Trustee containing the specimen signature of such person and signed on behalf of the Company by its President, any Senior Vice President, any Vice President, its Secretary,

any Assistant Secretary, its Treasurer or any Assistant Treasurer. Such certificate may designate an alternate or alternates.

*“Authorized Denomination”* means (i) \$100,000 or any integral multiple of \$5,000 in excess of \$100,000 when the Bonds bear interest at a Daily Interest Rate, a Weekly Interest Rate or a Flexible Interest Rate; and (ii) \$5,000 or any integral multiple of \$5,000 when the Bonds bear interest at a Term Interest Rate.

*“Available Moneys”* means:

(a) during such time as the Credit Facility then in effect consists of a direct pay letter of credit,

(i) moneys on deposit in trust with the Trustee as agent and bailee for the Owners of the Bonds for a period of at least 123 days prior to and during which no petition in bankruptcy or similar insolvency proceeding has been filed by or against the Company or the Issuer (or any subsidiary of the Company, any guarantor of the Company or any insider (as defined in the United States Bankruptcy Code), to the extent that such moneys were deposited by any of such subsidiary, guarantor or insider) or is pending (unless such petition shall have been dismissed and such dismissal shall be final and not subject to appeal) and

(ii) (A) proceeds of the issuance of refunding bonds (including proceeds from the investment thereof), and

(B) any other moneys, if, in the written opinion of nationally recognized counsel experienced in bankruptcy matters selected by the Company (which opinion shall be in a form acceptable to the Trustee, to Moody’s, if the Bonds are then rated by Moody’s, and to S&P, if the Bonds are then rated by S&P and shall be delivered to the Trustee at or prior to the time of the deposit of such proceeds with the Trustee), the deposit and use of such proceeds (referred to in clause (A) above) or other moneys (referred to in clause (B) above) will not constitute a voidable preference under Section 547 of the United States Bankruptcy Code in the event either the Issuer or the Company were to become a debtor under the United States Bankruptcy Code, and

(b) during such time as the Credit Facility then in effect is not a direct pay letter of credit or there is no Credit Facility then in effect, any moneys on deposit with the Trustee as agent and bailee for the Owners of the Bonds and proceeds from the investment thereof.

*“Beneficial Owner”* has, when the Bonds are held in book-entry form, the meaning ascribed to such term in Section 2.15 hereof.

*“Bond” or “Bonds”* means the Issuer’s Pollution Control Revenue Refunding Bonds (Avista Corporation Colstrip Project) Series 2010B, issued pursuant to this Indenture.

*“Bond Counsel”* means Chapman and Cutler LLP or any other firm of nationally recognized bond counsel familiar with the type of transactions contemplated under this Indenture selected by the Company.

*“Bond Documents”* means this Indenture, the Agreement and the Bonds.

*“Bond Fund”* means the trust fund by that name created pursuant to Section 6.01(a) hereof.

*“Bond Payment Date”* means any Interest Payment Date and any other date on which the principal of, and premium, if any, and interest on, the Bonds is to be paid to the Owners thereof, whether upon redemption, at maturity or upon acceleration of maturity of the Bonds.

*“Bond Resolution”* means the resolution duly adopted and approved by the City Council of the Issuer on December 6, 2010, authorizing the issuance and sale of the Bonds and the execution of this Indenture and the Agreement.

*“Business Day”* means any day except a Saturday, Sunday or other day (a) on which commercial banks located in the cities in which the Principal Office of the Provider, the Principal Office of the Trustee, the Principal Office of the Company, the Principal Office of the Remarketing Agent or the Principal Office of the Paying Agent are located are required or authorized by law or regulation to remain closed or are closed, or (b) on which The New York Stock Exchange is closed.

*“Change of Credit Facility”* means (a) the delivery of a Credit Facility (or evidence thereof) to the Trustee, (b) the termination of an existing Credit Facility or (c) a combination of (a) and (b), in each case in accordance with Section 4.07 of the Agreement.

*“Closing” and “Closing Date”* means the date of the first authentication and delivery of fully-executed and authenticated Bonds under this Indenture.

*“Code”* means the Internal Revenue Code of 1986, as amended. Each reference to a section of the Code herein shall be deemed to include the United States Treasury Regulations, including temporary and proposed regulations, relating to such section which are applicable to the Bonds or the use of the proceeds thereof.

*“1954 Code”* means the Internal Revenue Code of 1954, as amended. Each reference to a section of the 1954 Code herein shall be deemed to include the United States Treasury Regulations, including temporary and proposed regulations, relating to such section which are applicable to the Bonds or the use of the proceeds thereof.

“*Company*” means Avista Corporation, a corporation organized and existing under the laws of the State of Washington and formerly known as The Washington Water Power Company, or its successors and assigns pursuant to Section 5.01 of the Agreement.

“*Company Mortgage*” means (a) with respect to First Mortgage Bonds, the Mortgage and Deed of Trust, dated as of June 1, 1939, between the Company and the Company Mortgage Trustee, as heretofore and hereafter supplemented and amended, and (b) with respect to any Additional Collateral, references herein and in the Agreement to the Company Mortgage shall instead mean the mortgage and deed of trust or other agreement pursuant to which the Additional Collateral is issued, except as may be otherwise provided in a Supplemental Indenture entered into pursuant to Section 12.01(q) hereof or a supplement to the Agreement entered into pursuant to Section 12.05(l) hereof.

“*Company Mortgage Trustee*” means Citibank, N.A., formerly First National City Bank (successor by merger to First National City Trust Company, formerly City Bank Farmers Trust Company), its successors in trust and their assigns. Upon delivery of any Additional Collateral that is not First Mortgage Bonds, references herein and in the Agreement to the Company Mortgage Trustee shall instead mean the trustee with respect to such Additional Collateral, except as may be otherwise provided in a Supplemental Indenture entered into pursuant to Section 12.01(q) hereof or a supplement to the Agreement entered into pursuant to Section 12.05(l) hereof.

“*Company Supplemental Indenture*” means a supplemental indenture supplementing the Company Mortgage and providing for the issuance of First Mortgage Bonds or Additional Collateral, as the case may be.

“*Credit Facility*” means a facility provided in accordance with Section 4.07 of the Agreement to provide security or liquidity for the Bonds. The term “*Credit Facility*” includes, by way of example and not of limitation, one or more letters of credit, bond insurance policies, standby bond purchase agreements, lines of credit, First Mortgage Bonds, other Company mortgage bonds and other security instruments or liquidity devices. A Credit Facility may have an expiration date earlier than the maturity of the Bonds. The initial Credit Facility shall be First Mortgage Bonds.

“*Credit Facility Agreement*” means, for any Credit Facility that is not First Mortgage Bonds, any agreement between the Company and the Provider and relating to the Credit Facility then in effect. For a Credit Facility that consists of First Mortgage Bonds, Credit Facility Agreement shall mean the Company Mortgage.

“*Credit Facility Fund*” means the trust fund by that name created pursuant to Section 6.01(b) hereof.

“*Daily Interest Rate*” means the interest rate on the Bonds established pursuant to Section 2.03 hereof.



*“Daily Interest Rate Period”* means each period during which a Daily Interest Rate is in effect.

*“Delivery Office of the Trustee”* means the office designated as such by the Trustee in writing to the Remarketing Agent, the Registrar, the Issuer, the Provider and the Company.

*“Determination of Taxability”* shall have the meaning set forth in Section 8.03 of the Agreement. The Trustee shall give notice of a Determination of Taxability as provided in Section 10.05 hereof.

*“DTC”* means The Depository Trust Company and its successors and assigns.

*“DTC Participants”* means those brokers, securities dealers, banks, trust companies, clearing corporations and certain other organizations from time to time for which DTC holds Bonds as securities depository.

*“DTC Representation Letter”* has the meaning assigned thereto in Section 2.15(c) hereof.

*“Eligible Account”* means an account that is either (a) maintained with a federal or state-chartered depository institution or trust company that has a S&P short-term debt rating of at least A-2 (or, if no short-term debt rating, a long-term debt rating of at least BBB+); or (b) maintained with the corporate trust department of a federal depository institution, trust company or state-chartered depository institution subject to regulations regarding fiduciary funds on deposit, which, in either case, has corporate trust powers and is acting in its fiduciary capacity. In the event that an account required to be an “Eligible Account” no longer complies with the requirement, the Trustee (upon having actual knowledge of such non-compliance) should promptly (and, in any case, within not more than 30 calendar days) move such account to another financial institution such that the Eligible Account requirement will again be satisfied.

*“Event of Default”* means any occurrence or event specified in Section 9.01 hereof

*“Executive Officer”* means the Mayor of the Issuer.

*“Exempt Facilities”* means facilities which qualify as “sewage or solid waste disposal facilities” or “air or water pollution control facilities” as defined in the 1954 Code and which qualify as a “project” under the Act.

*“Favorable Opinion of Bond Counsel”* means an opinion of Bond Counsel addressed to the Issuer and the Trustee to the effect that the proposed action is not prohibited by the Act or the Indenture or the Loan Agreement, as applicable, and will not adversely affect the Tax-Exempt status of the Bonds. The Favorable Opinion of Bond Counsel may be in such form and with such disclosures that such opinion will not be treated as a “covered opinion” for purposes of the Treasury Department Regulations governing practice before the Internal Revenue Service (Circular 230), 31 CFR Part 10.

*“First Mortgage Bonds”* means a series of first mortgage bonds issued and delivered under the Company Mortgage, and held by the Trustee as Additional Collateral, a Credit Facility, or both, as may be designated in writing to the Trustee by an Authorized Company Representative at the time the Company delivers such First Mortgage Bonds to the Trustee.

*“Flexible Interest Rate”* means, with respect to any Bond, the interest rate or rates associated with such Bond established in accordance with Section 2.06 hereof.

*“Flexible Interest Rate Period”* means each period comprised of Flexible Segments during which Flexible Interest Rates are in effect.

*“Flexible Segment”* means, with respect to each Bond bearing interest at a Flexible Interest Rate, the period established in accordance with Section 2.06(a) hereof.

*“Government Obligations”* means direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed as to full and timely payment by, the United States of America, which are not subject to redemption or prepayment prior to stated maturity.

*“Indenture”* means this Trust Indenture between the Issuer and the Trustee relating to issuance of the Bonds, as amended or supplemented from time to time as permitted herein.

*“Information Services”* means Financial Information, Inc.’s *“Daily Called Bond Service,”* 30 Montgomery Street, 10th Floor, Jersey City, New Jersey 07302, Attention: Editor; Standard & Poor’s J. J. Kenny’s *“Called Bond Service,”* 55 Water Street, 45th Floor, New York, New York 10041; Mergent’s *“Municipal and Government Manual,”* 60 Madison Avenue, New York, New York 10010, Attention: Customer Service and the Municipal Securities Rulemaking Board, CDI, 1900 Duke Street, Alexandria, Virginia 22314, Attention: MSIL Dept.; or, in accordance with then-current guidelines of the Securities and Exchange Commission, such other addresses and/or such other services providing information with respect to called bonds, or no such services, as the Company may designate in a certificate delivered to the Trustee.

*“Interest Account”* means the trust account by that name established in the Bond Fund pursuant to Section 6.01 hereof.

*“Interest Component”* means the maximum amount stated in the Credit Facility (as reduced and reinstated from time to time in accordance with the terms thereof), which may be drawn upon with respect to payment of accrued interest in accordance with Section 2.16(a) hereof or the portion of the purchase price of Bonds delivered pursuant to Section 3.01 and Section 3.02 hereof corresponding to interest accrued on the Bonds on or prior to the stated maturity thereof.

*“Interest Coverage Rate”* means the interest rate specified in a Credit Facility as being the rate used to determine the amount of interest on the Bonds covered by such Credit Facility.

*“Interest Coverage Period”* means the number of days specified in the Credit Facility, as the case may be, which is used to determine the Interest Component.

*“Interest Payment Date”* means:

(a) with respect to any Daily or Weekly Interest Rate Period, the first Business Day of each calendar month,

(b) with respect to any Term Interest Rate Period, any day in the sixth month following the commencement of the Term Interest Rate Period and any day in each sixth month thereafter, each as designated by the Company,

(c) with respect to any Flexible Segment, the Business Day next succeeding the last day of such Flexible Segment, and

(d) with respect to any Rate Period, the day next succeeding the last day thereof.

*“Investment Securities”* means any of the following obligations or securities, to the extent permitted by law and subject to the provisions of Article VII hereof, on which neither the Company nor any of its subsidiaries is the obligor.

(a) Government Obligations;

(b) Obligations of any of the following federal agencies, which obligations represent the full faith and credit of the United States of America:

- Export-Import Bank
- Farm Credit System Financial Assistance Corporation
- Rural Economic Community Development Administration (formerly the 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
- Federal Financing Bank;

(c) Direct obligations of any of the following federal agencies which obligations are not fully guaranteed by the full faith and credit of the United States of America:

- Senior debt obligations rated “Aaa” by Moody’s and “AAA” by S&P issued by the Federal National Mortgage Association (FNMA) or Federal Home Loan Mortgage Corporation (FHLMC)

- Obligations of the Resolution Funding Corporation (REFCORP)
- Senior debt obligations of the Federal Home Loan Bank System
- Senior debt obligations of other government-sponsored agencies approved by the Provider;

(d) U.S. dollar denominated deposit accounts, federal funds, trust funds, trust accounts, interest bearing deposits, interest bearing money market accounts, time deposits, overnight bank deposits, demand deposits and bankers' acceptances with domestic commercial banks (including the Trustee or any of its affiliates) 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 or "P-1" by Moody's and maturing no more than 360 days after the date of purchase or are fully FDIC-insured. (Ratings on holding companies are not considered as the rating of the bank.);

(e) Commercial paper which is rated at the time of purchase in the single highest classification, "A-1+" by S&P or "P-1" by Moody's and which matures not more than 270 days after the date of purchase;

(f) Investments in a money market mutual fund rated having a rating in the highest investment category granted thereby from S&P or Moody's, including, without limitation any mutual fund for which the Trustee or an affiliate of the Trustee serves as investment manager, administrator, shareholder servicing agent, and/or custodian or subcustodian, notwithstanding that (i) the Trustee or an affiliate of the Trustee receives fees from funds for services rendered, (ii) the Trustee collects fees for services rendered pursuant to this Indenture, which fees are separate from the fees received from such funds, and (iii) services performed for such funds and pursuant to this Indenture may at times duplicate those provided to such funds by the Trustee or an affiliate of the Trustee;

(g) 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

(1) which are rated, based on an irrevocable escrow account or fund (the "escrow"), in the highest rating category of S&P and Moody's or any successors thereto; or

(2) (i) which are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or Government Obligations, 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 (ii) 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 clause (g) on the maturity date or dates specified in the irrevocable instructions referred to above, as appropriate;

(h) General obligations of states with a rating of at least “A2/A” or higher by both Moody’s and S&P;

(i) Investment agreements approved in writing by the Provider supported by opinions of counsel to the investment agreement provider with notice to Moody’s and S&P; and

(j) Other forms of investments (including repurchase or reverse repurchase agreements, including those of the Trustee or any of its affiliates) approved in writing by the Provider with notice to Moody’s and S&P.

“*Issue Date*” means the date of the initial authentication and delivery of the Bonds, being December 15, 2010.

“*Issuer*” means the City of Forsyth, Montana, and its successors, and any political subdivision resulting from or surviving any consolidation or merger to which it or its successors may be a party.

“*Loan Payments*” means the payments required to be made by the Company pursuant to Section 4.01(a) of the Agreement.

“*Mail*” means by first-class mail postage prepaid.

“*Maturity Date*” means March 1, 2034.

“*Maximum Interest Rate*” means (a) while a Credit Facility is in effect that specifies an Interest Coverage Rate, the lesser of 18% per annum or the Interest Coverage Rate specified in the Credit Facility, and (b) at all other times, 18% per annum.

“*Moody’s*” means Moody’s Investors Service, a corporation organized and existing under the laws of the State of Delaware, its successors and assigns, and, if such corporation shall for any reason no longer perform the functions of a securities rating agency, “*Moody’s*” shall be deemed to refer to any other nationally recognized rating agency designated by the Company by notice to the Issuer, the Trustee and the Remarketing Agent.

“*Outstanding*” or “*Bonds Outstanding*” or “*Outstanding Bonds*” means, as of any given date, all Bonds which have been authenticated and delivered by the Trustee under this Indenture, except:

(a) Bonds canceled or purchased by or delivered to the Trustee for cancellation;

(b) Bonds that have become due (at maturity or on redemption, acceleration or otherwise) and for the payment, including premium if any, and interest accrued to the due date, of which sufficient moneys are held by the Trustee;

(c) Bonds deemed paid in accordance with Section 6.04 and Article VIII hereof; and

(d) Bonds in lieu of which others have been authenticated under Section 2.10 (relating to transfer and exchange of Bonds) or Section 2.12 (relating to mutilated, lost, stolen, destroyed or undelivered Bonds) or Bonds paid pursuant to Section 2.12;

*provided, however*, that if the principal of or interest due on Bonds is paid by the Provider pursuant to the Credit Facility, such Bonds shall remain Outstanding for all purposes of this Indenture until the Provider receives payment therefor as contemplated by the Credit Facility.

Bonds purchased by the Trustee or the Company pursuant to Article III hereof will continue to be Outstanding until the Company has paid or caused to be paid to the Trustee an amount sufficient to provide for the payment of all accrued interest on such Bonds and the Company has directed the Trustee to cancel such Bonds. Bonds purchased pursuant to tenders and not delivered to the Trustee for payment are not Outstanding, but there will be Outstanding Bonds authenticated and delivered in lieu of such undelivered Bonds as contemplated by Section 3.03 hereof.

“*Owner*” or “*Owners*” or “*Owner of Bonds*” or “*Owners of Bonds*” means the registered owner of any Bond; *provided however*, when used in the context of the Tax-Exempt status of the Bonds, the term “*Owners*” shall include a Beneficial Owner.

“*Paying Agent*” means any paying agent appointed as provided in Section 10.23 hereof, or any successor thereto.

“*Person*” means one or more individuals, estates, joint ventures, joint-stock companies, partnerships, associations, corporations, limited liability companies, trusts or unincorporated organizations, and one or more governments or agencies or political subdivisions thereof.

“*Plant*” means the Colstrip Plant Units 3 and 4 coal-fired steam electric generating plant, located in Rosebud County, Montana.

“*Pledged Bonds*” means Bonds purchased with moneys drawn under a Credit Facility, which consists of a direct pay letter of credit, following the tender thereof pursuant to Section 3.01 or Section 3.02 hereof to be deemed owned by the Company for purposes of granting a first priority lien upon Pledged Bonds hereunder, registered in the name of the Provider, as pledgee, or in the name of the Trustee (or its nominee), as agent for the Provider, delivered to or upon the direction of the Provider pursuant to Section 3.06(a)(iii) hereof.

“*Pollution Control Facilities*” means those items of machinery, equipment, structures, improvements, other facilities and related property, which have been or will be acquired,

constructed and improved at the Plant and are particularly described in *Exhibit A* to the Agreement, as said *Exhibit A* may be from time to time amended.

“*Principal Account*” means the trust account by that name established within the Bond Fund pursuant to Section 6.01 hereof.

“*Principal Office of the Company*” means the office of the Company specified in or designated pursuant to Section 3.06(c) hereof.

“*Principal Office of the Paying Agent*” means the office designated in writing by the Paying Agent (which may or may not be its principal corporate office) to the Trustee, the Issuer, the Company, the Registrar, the Provider and the Remarketing Agent.

“*Principal Office of the Provider*” means the office of the Provider located in the United States of America and designated as the Principal Office of the Provider by the Provider in writing to the Company, the Issuer, the Registrar, the Remarketing Agent and the Trustee.

“*Principal Office of the Registrar*” means the office or offices designated as such by the Registrar (which may or may not be its principal corporate office) in writing to the Trustee, the Company, the Issuer, the Provider and the Remarketing Agent.

“*Principal Office of the Remarketing Agent*” means the office designated in writing by the Remarketing Agent to the Trustee, the Issuer, the Company, the Provider, the Registrar and the Paying Agent.

“*Principal Office of the Trustee*” means the office designated as such by the Trustee (which may or may not be its principal corporate office) in writing to the Remarketing Agent, the Registrar, the Provider, the Issuer and the Company.

“*Prior Agreement*” means the Loan Agreement between the Issuer and the Company, dated as of December 1, 2008, pursuant to which the Company is obligated to provide for payment of the Prior Bonds.

“*Prior Bond Fund*” means the bond fund created under Section 6.01(a) of the Prior Indenture from which payments of principal and interest on the Prior Bonds are made.

“*Prior Bonds*” means the City of Forsyth, Montana, Pollution Control Revenue Refunding Bonds (Avista Corporation Colstrip Project) Series 2008 which are being refunded pursuant to the Refunding with the proceeds of the Bonds.

“*Prior Indenture*” means the Trust Indenture between the Issuer and the Prior Trustee, dated as of December 1, 2008, pursuant to which the Prior Bonds were issued.

“*Prior Trustee*” means The Bank of New York Mellon Trust Company, N.A., as trustee under the Prior Indenture.

“*Project*” means the Company’s 15% undivided interest in the Pollution Control Facilities.

“*Project Certificate*” means the Company’s certificate or certificates, delivered concurrently with the initial authentication and delivery of the Bonds, with respect to certain facts which are within the knowledge of the Company to enable Bond Counsel to determine whether interest on the Bonds is includible in the gross income of the Owners thereof under applicable provisions of the Code.

“*Provider*” and “*Provider of the Credit Facility*” means the provider of the Credit Facility; *provided, however*, Provider shall not include the Company as provider of the First Mortgage Bonds.

“*Provider Default*” means any of the following events:

(a) the failure of the Provider to make any payment required under the Credit Facility when the same shall become due and payable or the Credit Facility shall for any reason cease to be in full force and effect;

(b) a decree or order for relief shall be entered by a court or insurance regulatory authority having jurisdiction over the Provider in an involuntary case under an applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, custodian, trustee, sequestrator (or similar official) of the Provider or for any substantial part of the property of the Provider or ordering the winding-up or liquidation of the affairs of the Provider, and the continuance of any such decree or order shall be unstayed and remain in effect for a period of 60 consecutive days thereafter; or

(c) the Provider shall commence a voluntary case under any applicable federal or state bankruptcy, insolvency or other similar law now or hereafter in effect, or the Provider shall consent to or acquiesce in the entry of an order for relief in an involuntary case under any such law, or the Provider shall consent to the appointment of or taking of possession by a receiver, liquidator, trustee, custodian, sequestrator (or similar official) of the Provider or for any substantial part of its property, or the Provider shall make a general assignment for the benefit of creditors, or the Provider shall fail generally or admit in writing its inability to pay its debts as such debts become due, or the Provider shall take corporate action in contemplation or furtherance of any of the foregoing.

“*Rate*” means any Daily Interest Rate, Weekly Interest Rate, Flexible Interest Rate or Term Interest Rate.

“*Rate Period*” means any Daily Interest Rate Period, Weekly Interest Rate Period, Flexible Interest Rate Period or Term Interest Rate Period.



“*Rating Category*” means one of the generic rating categories of either Moody’s or S&P, without regard to any refinement or gradation of such rating category by a numerical modifier or otherwise.

“*Rebate Fund*” means the trust fund by that name created pursuant to Section 6.01(c) hereof.

“*Record Date*” means:

(a) with respect to any Interest Payment Date in respect of any Daily Interest Rate Period, Weekly Interest Rate Period or Flexible Segment, the Business Day next preceding such Interest Payment Date,

(b) with respect to any Interest Payment Date in respect of any Term Interest Rate Period (except as provided in clause (d) below), the fifteenth day of the month preceding such Interest Payment Date, and

(c) for any Interest Payment Date established pursuant to clause (d) of the definition of “*Interest Payment Date*” in this Section 1.01 in respect of a Term Interest Rate Period, the Business Day next preceding such Interest Payment Date.

“*Redemption Date*” means December 15, 2010, the date upon which the Prior Bonds are to be redeemed.

“*Refunding*” means the series of transactions whereby the Prior Bonds are refunded and cancelled with the proceeds of the Bonds and other money provided by the Company.

“*Registrar*” means the Trustee or any successor Registrar appointed in accordance with Section 10.22.

“*Remarketing Agent*” means any Person serving from time to time as Remarketing Agent under this Indenture.

“*Remarketing Agreement*” means the remarketing agreement between the Company and the Remarketing Agent pursuant to which the Remarketing Agent agrees to act as Remarketing Agent for the Bonds, as such remarketing agreement may be amended and supplemented from time to time.

“*Responsible Officer*” means, when used with respect to the Trustee, the president, any vice president, any assistant vice president, the secretary, any assistant secretary, the treasurer, any assistant treasurer, senior associate, associate or any other officer of the Trustee within the Principal Office of the Trustee (or any successor corporate trust office) customarily performing 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 at the Principal Office of the Trustee because of such person’s knowledge of and familiarity with the particular subject and having direct responsibility for the administration of this Indenture.

“*Revenues*” means all moneys pledged hereunder and paid or payable to the Trustee for the account of the Issuer in accordance with the Agreement, the First Mortgage Bonds and the Credit Facility, and all receipts credited under the provisions of this Indenture against such payments; *provided however*, that “*Revenues*” shall not include moneys held by the Trustee in the Rebate Fund or to pay the purchase price of Bonds subject to purchase pursuant to Article III hereof.

“*S&P*” means Standard & Poor’s Ratings Services, a Division of The McGraw-Hill Companies, Inc., a corporation organized and existing under the laws of the State of New York, its successors and assigns, and, if such corporation shall for any reason no longer perform the functions of a securities rating agency, “*S&P*” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Company by notice to the Issuer, the Trustee and the Remarketing Agent.

“*Securities Depositories*” The Depository Trust Company, Call Notification Department, 55 Water Street, 50th Floor, New York, New York 10041-0099, Fax: (212) 855-7232, -7233, -7234, or -7235; or, in accordance with then-current guidelines of the Securities and Exchange Commission, such other addresses and/or such other securities depositories, or no such depositories, as the Company may designate in a certificate delivered to the Trustee.

“*SIFMA Swap Index*” means, on any date, a rate determined on the basis of the seven-day high grade market index of tax-exempt variable rate demand obligations, as produced by Municipal Market Data, Inc., and published or made available by the Securities Industry & Financial Markets Association (formerly the Bond Market Association) (“*SIFMA*”) or any person acting in cooperation with or under the sponsorship of SIFMA and effective from such date; *provided, however*, that if such index is no longer provided by Municipal Market Data, Inc. or its successor, the “*SIFMA Swap Index*” shall mean such other reasonably comparable index selected by the Remarketing Agent.

“*State*” means the State of Montana.

“*Supplemental Indenture*” means any indenture supplemental to this Indenture entered into between the Issuer and the Trustee pursuant to the provisions of Section 12.01 or Section 12.02 hereof.

“*Tax Certificate*” means the Tax Exemption Certificate and Agreement relating to the Bonds to be executed by the Company, the Issuer and the Trustee on the date of the initial authentication and delivery of the Bonds, as amended and supplemented from time to time.

“*Tax-Exempt*” means, with respect to interest on any obligations of a state or local government, including the Bonds, that such interest is excludable from in gross income of the owners of such obligations for federal income tax purposes, except for interest on any such obligations for any period during which such obligations are owned by a person who is a “*substantial user*” of any facilities financed or refinanced with such obligations or a “*related person*” within the meaning Section 103(b)(13) of the Internal Revenue Code of 1954, whether or not such interest is includible as an item of tax preference or otherwise includible directly or

indirectly for purposes of calculating other tax liabilities, including any alternative minimum tax or environmental tax under the Code.

“*Term Interest Rate*” means the interest rate on the Bonds established in accordance with Section 2.05 hereof.

“*Term Interest Rate Period*” means each period of six months or more during which a Term Interest Rate is in effect.

“*Treasury Regulations*” means the United States Treasury Regulations dealing with the tax-exempt bond provisions of the Code.

“*Trustee*” means The Bank of New York Mellon Trust Company, N.A., as trustee under this Indenture, and any successor Trustee appointed hereunder.

“*Trust Estate*” means all right, title and interest of the Issuer in and to the Agreement (except for amounts payable to, and the rights of, the Issuer under Section 4.04, Section 4.06(a), Section 5.03, Section 5.06, Section 5.07, Section 5.08 and Section 7.05 thereof, and, prior to an Event of Default, the Issuer’s right to give approvals and consents thereunder, and the Issuer’s right to receive notices, certificates, requests, requisitions, directions and other communications thereunder), including, without limitation, all right, title and interest of the Issuer in the Revenues, any Credit Facility and any Additional Collateral held by the Trustee, all moneys and other obligations which are, from time to time, deposited or required to be deposited with or held or required to be held by or on behalf of the Trustee in trust in the Bond Fund under any of the provisions of this Indenture (except moneys or obligations deposited with or paid to the Trustee for payment or redemption of Bonds that are deemed no longer Outstanding hereunder), the Credit Facility, and all other rights, title and interest which are subject to the lien of this Indenture; *provided, however*, that the “*Trust Estate*” shall not include (a) moneys held by the Trustee in the Rebate Fund or to pay the purchase price of Bonds subject to purchase pursuant to Article III hereof or (b) the Plant, the Pollution Control Facilities, the Project or any part thereof.

“*Wall Street Journal*” means *The Wall Street Journal* or any other newspaper or journal printed in the English language and customarily published on each business day devoted to financial news and selected by the Trustee, whose decision shall be final.

“*Weekly Interest Rate*” means the interest rate on the Bonds established in accordance with Section 2.04 hereof.

“*Weekly Interest Rate Period*” means each period during which a Weekly Interest Rate is in effect.

**Section 1.02. Rules of Construction.** Unless the context otherwise requires:

- (a) an accounting term not otherwise defined has the meaning assigned to it in accordance with generally accepted accounting principles;

(b) references to Articles and Sections are to the Articles and Sections of this Indenture or the Agreement, as the case may be;

(c) words importing the singular number shall include the plural number and vice versa and words importing the masculine shall include the feminine and vice versa; and

(d) the headings and Table of Contents herein are solely for convenience of reference and shall not constitute a part of this Indenture nor shall they affect its meanings, construction or effect.

## ARTICLE II

### THE BONDS

**Section 2.01. Authorization and Terms of Bonds.** (a) There is hereby authorized and created under this Indenture an issue of bonds designated as City of Forsyth, Montana, Pollution Control Revenue Refunding Bonds (Avista Corporation Colstrip Project) Series 2010B. The total aggregate principal amount of Bonds that may be issued and Outstanding under this Indenture is expressly limited to \$17,000,000 exclusive of Bonds executed and authenticated as provided in Section 2.07 hereof; *provided however*, that no Bonds shall be delivered hereunder until the Trustee receives a request and authorization of the Issuer signed by the Executive Officer to authenticate and deliver the principal amount of the Bonds therein specified to the purchaser or purchasers therein identified upon payment to the Prior Trustee, for the account of the Issuer, of the sum specified in such request and authorization.

(b) The Bonds shall be issued as registered Bonds, without coupons, in Authorized Denominations and shall all be dated as of the Issue Date. The Bonds shall mature, subject to prior redemption as provided in Article IV hereof, upon the terms and conditions hereinafter set forth, on the Maturity Date. The Bonds shall bear interest at the rate or rates determined as provided in this Article II.

(c) The Bonds shall be numbered consecutively from 1 upward. Each Bond shall bear interest from the Interest Payment Date next preceding the date of registration and authentication thereof unless it is registered and authenticated on or prior to the first Interest Payment Date, in which event it shall bear interest from the Issue Date; *provided, however*, that if, as shown by the records of the Paying Agent, interest on the Bonds shall be in default, Bonds issued in exchange for Bonds surrendered for registration of transfer or exchange shall bear interest from the last date to which interest has been paid in full or duly provided for on the Bonds, or, if no interest has been paid or duly provided for on the Bonds, from the Issue Date. Payment of the interest on any Bond shall be made to the person appearing on the bond registration books of the Registrar as the registered Owner thereof on the Record Date, such interest to be paid by the Paying Agent to such registered Owner, as follows:

(1) in respect of any Bond which is registered in the book-entry system pursuant to Section 2.15 hereof, in immediately available funds by no later than 2:30 p.m., New York, New York time, and

(2) in respect of any Bond which is not registered in the book-entry system pursuant to Section 2.15 hereof, (i) by bank check mailed by first-class mail on the Interest Payment Date, to such Owner's address as it appears on the registration books of the Registrar or at such other address as has been furnished to the Registrar in writing by such Owner, or (ii) during any Rate Period other than a Term Interest Rate Period, in immediately available funds on the Interest Payment Date (by wire transfer or by deposit to the account of the Owner of any such Bond if such account is maintained with the Paying Agent), but in respect of any Owner of Bonds during a Daily Interest Rate Period, a Weekly Interest Rate Period or a Flexible Interest Rate Period, only to any Owner which owns Bonds in an aggregate principal amount of at least \$1,000,000 on the Record Date, according to the written instructions given by such Owner to the Paying Agent or, if no such instructions have been provided as of the Record Date, by bank check mailed by first-class mail on the Interest Payment Date to the Owner at such Owner's address as it appears as of the Record Date on the registration books of the Registrar, except, in each case, that, if and to the extent that there shall be a default in the payment of the interest due on such Interest Payment Date, such defaulted interest shall be paid to the Owners in whose name any such Bonds are registered as of a special record date to be fixed by the Trustee, notice of which shall be given to such Owners not less than ten (10) days prior thereto.

Both the principal of and premium, if any, on the Bonds shall be payable upon surrender thereof in lawful money of the United States of America at the Principal Office of the Paying Agent. Notwithstanding the foregoing, interest on any Bond bearing a Flexible Interest Rate and not registered in the book-entry system pursuant to Section 2.15 hereof shall be paid only upon presentation to the Trustee of the Bond on which such payment is due.

**Section 2.02. Interest Rates and Rate Periods.** (a) *General.* The Bonds shall bear interest from and including the Issue Date until final payment of the principal or redemption price thereof shall have been made or provided for in accordance with the provisions hereof, whether at maturity, upon redemption or otherwise, at the lesser of (A) the Maximum Interest Rate or (B) the interest rate or rates determined as provided in this Article II. Such rate or rates shall be effective for the periods set forth in this Article II. During any Rate Period other than a Term Interest Rate Period, interest on the Bonds shall be computed upon the basis of a 365- or 366-day year, as applicable, for the number of days actually elapsed. During any Term Interest Rate Period, interest on the Bonds shall be computed upon the basis of a 360-day year, consisting of twelve 30-day months. Notwithstanding any other provision of this Indenture, it shall not be required that all Bonds bear interest at the same rate, *provided* that only one Rate Period may apply to the Bonds. Not later than 11:15 a.m. (New York, New York time) on the Business Day immediately following the day on which there has been a change in the rate of interest applicable to the Bonds, the Remarketing Agent shall give notice of such change to the Trustee by facsimile or electronic mail. The Trustee hereby agrees to give telephonic notice to the Company, promptly confirmed in writing (which may be by electronic mail or facsimile), on each Record

Date of the amount of interest to be due and payable on the Bonds on the next succeeding Interest Payment Date.

(b) *Rate Periods.* The term of the Bonds shall be divided into consecutive Rate Periods during which the Bonds shall bear interest at the Daily Interest Rate, Weekly Interest Rate, Term Interest Rate or at Flexible Interest Rates. During the initial Rate Period, the Bonds shall bear interest at a Term Interest Rate.

(c) *Initial Rate Period.* The Bonds shall initially bear interest at the Weekly Interest Rate of 1.50%. Thereafter, the Bonds shall bear interest as provided herein.

(d) *Determination Conclusive.* The determination of each Flexible Interest Rate, Daily Interest Rate, Weekly Interest Rate and Term Interest Rate and each Flexible Segment by the Remarketing Agent shall be conclusive and binding upon such parties, the Trustee, the Paying Agent, the Issuer, the Company, the Owners of the Bonds and the Provider.

(e) *Adjustment or Continuation of Rate Period.* At any time, the Company, by written notice to the Issuer, the Trustee, the Paying Agent, the Provider and the Remarketing Agent may, subject to Section 2.02(g), elect that the Bonds shall bear interest at a different Rate or, in the case of a Term Interest Rate Period, shall continue to bear interest at a Term Interest Rate. Such notice (A) shall specify the effective date of such adjustment to a different Rate, which shall be (1) a Business Day not earlier than the fifteenth day following the fifth Business Day after the date of receipt by the Trustee and the Paying Agent of such notice (or the fifteenth day following such shorter period after the date of such receipt as shall be acceptable to the Trustee), and (2) a day on which the Bonds would be permitted to be redeemed at the option of the Company pursuant to Section 4.02(b) hereof; *provided, however*, that if prior to the Company's mailing of notice of such election, any Bonds shall have been called for redemption and such redemption shall not have theretofore been effected, the effective date of the new Rate Period shall not precede such redemption date; and (B) if the adjustment is (1) from a Term Interest Rate Period having a duration in excess of one year or (2) to a Term Interest Rate Period, unless such Term Interest Rate Period immediately succeeds a Term Interest Rate Period of the same duration and is subject to the same optional redemption rights under Section 4.02(b)(iii) hereof, shall be accompanied by a Favorable Opinion of Bond Counsel with respect to such adjustment; *provided that*, in the case of an adjustment to a Flexible Interest Rate Period, the Favorable Opinion of Bond Counsel described in clause (B) above, if required, shall be reaffirmed as of the effective date of such adjustment.

(f) *Notice of Adjustment or Continuation of Rate Period.* The Trustee shall give notice by Mail of an adjustment to a different Rate Period or the continuation of a Term Interest Rate Period to the Owners not less than 15 days prior to the effective date of such Rate Period. Such notice shall state (A) that the interest rate on the Bonds will be adjusted to a different Rate or, in the case of a Term Interest Rate Period, will continue to bear interest at a Term Interest Rate (subject to the Company's ability to rescind its election as provided in Section 2.07 hereof), (B) the effective date of such adjustment or continuation, (C) that such Bonds are subject to mandatory purchase on such effective date, (D) the procedures for such mandatory purchase, (E) the purchase price of such Bonds on such effective date (expressed as a percentage of the

principal amount thereof), and (F) that the Owners of such Bonds do not have the right to retain their Bonds on such effective date.

(g) *Adjustments Subject to Compliance With Credit Facility Agreement.* The Bonds shall not be adjusted from one Rate Period to a different Rate Period unless any applicable conditions precedent to such adjustment specified in the Credit Facility Agreement (unless a Provider Default shall have occurred and be continuing) have been satisfied.

**Section 2.03. Daily Interest Rate.** During each Daily Interest Rate Period, the Bonds shall bear interest at the Daily Interest Rate determined by the Remarketing Agent on each Business Day for such Business Day. The Daily Interest Rate shall be the rate determined by the Remarketing Agent (based on an examination of Tax-Exempt obligations comparable to the Bonds known by the Remarketing Agent to have been priced or traded under then-prevailing market conditions) to be the lowest rate which would enable the Remarketing Agent to sell the Bonds on the effective date of such rate at a price (without regard to accrued interest) equal to 100% of the principal amount thereof. If the Remarketing Agent shall not have determined a Daily Interest Rate for any day by 9:30 a.m., New York, New York time, the Daily Interest Rate for such day shall be 100% of the most recent SIFMA Swap Index. The Remarketing Agent shall notify the Company, the Trustee, the Provider and the Paying Agent of each Daily Interest Rate on the date of the determination thereof by written notice communicated by electronic mail, by facsimile or by other means acceptable to the Company, the Trustee, the Provider and the Paying Agent.

**Section 2.04. Weekly Interest Rate.** During each Weekly Interest Rate Period, the Bonds shall bear interest at the Weekly Interest Rate determined by the Remarketing Agent no later than the first day of such Weekly Interest Rate Period and thereafter no later than Tuesday of each week during such Weekly Interest Rate Period, unless any such Tuesday shall not be a Business Day, in which event the Weekly Interest Rate shall be determined by the Remarketing Agent no later than the Business Day next preceding such Tuesday. The Weekly Interest Rate shall be the rate determined by the Remarketing Agent (based on an examination of Tax-Exempt obligations comparable to the Bonds known by the Remarketing Agent to have been priced or traded under then prevailing market conditions) to be the lowest rate which would enable the Remarketing Agent to sell the Bonds on the effective date of such rate at a price (without regard to accrued interest) equal to 100% of the principal amount thereof. If the Remarketing Agent shall not have determined a Weekly Interest Rate for any period, the Weekly Interest Rate shall be 110% of the most recent SIFMA Swap Index. The first Weekly Interest Rate determined for each Weekly Interest Rate Period shall apply to the period commencing on the first day of such Weekly Interest Rate Period and ending on the next succeeding Tuesday. Thereafter, each Weekly Interest Rate shall apply to the period commencing on each Wednesday and ending on the next succeeding Tuesday, unless such Weekly Interest Rate Period shall end on a day other than Tuesday, in which event the last Weekly Interest Rate for such Weekly Interest Rate Period shall apply to the period commencing on the Wednesday preceding the last day of such Weekly Interest Rate Period and ending on such last day. The Remarketing Agent shall notify the Company, the Trustee, the Provider and the Paying Agent of each Weekly Interest Rate on the date of the determination thereof by written notice communicated by electronic mail, by facsimile or by other means acceptable to the Company, the Trustee, and the Paying Agent.

**Section 2.05. Term Interest Rate.** (a) *Determination of Term Interest Rate.* During each Term Interest Rate Period, the Bonds shall bear interest at the Term Interest Rate determined by the Remarketing Agent on a Business Day selected by the Remarketing Agent, but not more than 60 days prior to and not later than the effective date of such Term Interest Rate Period. The Term Interest Rate shall be the rate determined by the Remarketing Agent on such date as being the lowest rate (based on an examination of Tax-Exempt obligations comparable to the Bonds known by the Remarketing Agent to have been priced or traded under then prevailing market conditions) which would enable the Remarketing Agent to sell the Bonds on the effective date of such Term Interest Rate Period at a price (without regard to accrued interest) equal to 100% of the principal amount thereof, *provided however*, that if, for any reason, a Term Interest Rate for any Term Interest Rate Period shall not be determined or become effective, then (A) in the event the then-current Term Interest Rate Period is for one year or less, the Rate Period for the Bonds shall automatically adjust to a Daily Interest Rate Period and (B) in the event the current Term Interest Rate Period is for more than one year, the Rate Period for the Bonds shall automatically adjust to a Term Interest Rate Period of one year and one day; *provided, however*, that if the last day of any successive Term Interest Rate Period shall not be a day immediately preceding a Business Day, then such successive Term Interest Rate Period shall end on the first day immediately preceding the Business Day next succeeding such day or, if such Term Interest Rate Period would end after the day prior to the final maturity date of the Bonds, the next succeeding Rate Period shall be a Term Interest Rate Period ending on the day prior to the final maturity date of the Bonds; *provided further* that in the case of clause (B) above, if the Company delivers to the Trustee a Favorable Opinion of Bond Counsel prior to the end of the then-effective Term Interest Rate Period, the Rate Period for the Bonds will adjust to a Daily Interest Rate Period. If the Daily Interest Rate for the first day of a Daily Interest Rate Period described in clause (A) above is not determined as provided in Section 2.03 hereof the Daily Interest Rate for the first day of such Daily Interest Rate Period shall be 110% of the most recent SIFMA Swap Index. If a Term Interest Rate for any such Term Interest Rate Period described in clause (B) above is not determined as described in the first sentence of this Section 2.05(a), the Term Interest Rate for such Term Interest Rate Period shall be 110% of the most recent One-Year Note Index theretofore published in *The Bond Buyer* (or, if *The Bond Buyer* is no longer published or no longer publishes the One-Year Note Index, the one-year note index contained in the publication determined by the Remarketing Agent, or, if the Remarketing Agent is the Trustee, determined by the Company, as the most comparable to *The Bond Buyer*). The Remarketing Agent shall notify the Company, the Trustee, the Provider and the Paying Agent of each Term Interest Rate on the date of the determination thereof by written notice communicated by electronic mail, by facsimile or by other means acceptable to the Company, the Trustee, the Provider and the Paying Agent.

(b) *Automatic Adjustment to Daily Interest Rate Period or Continuation of Term Interest Rate Period.* If, by 15 days prior to the end of the then-current Term Interest Rate Period, the Trustee shall not have received notice of the Company's election that the Bonds shall bear interest at a Daily Interest Rate, a Weekly Interest Rate, a Term Interest Rate or a Flexible Interest Rate, (A) in the event the then-current Term Interest Rate Period is for one year or less, the Rate Period for the Bonds shall automatically adjust to a Daily Interest Rate Period and (B) in the event the current Term Interest Rate Period is for more than one year, the Rate Period for the Bonds shall automatically adjust to a Term Interest Rate Period of one year and one day,



*provided however*, that if the last day of any successive Term Interest Rate Period shall not be a day immediately preceding a Business Day, then such successive Term Interest Rate Period shall end on the first day immediately preceding the Business Day next succeeding such day or, if such Term Interest Rate Period would end after the day prior to the Maturity Date, the next succeeding Rate Period shall be a Term Interest Rate Period ending on the day prior to the Maturity Date; *provided however*, that in the case of clause (B) above, if the Company delivers to the Trustee a Favorable Opinion of Bond Counsel prior to the end of the then-effective Term Interest Rate Period, the Rate Period for the Bonds will adjust to a Daily Interest Rate Period. If the Daily Interest Rate for the first day of a Daily Interest Rate Period described in clause (A) above is not determined as provided in Section 2.03(a) hereof, the Daily Interest Rate for the first day of such Daily Interest Rate Period shall be 110% of the most recent SIFMA Swap Index. If a Term Interest Rate for any such Term Interest Rate Period described in clause (B) above is not determined as described in the first sentence of this Section 2.05(a), the Term Interest Rate for such Term Interest Rate Period shall be 110% of the most recent One-Year Note Index theretofore published in *The Bond Buyer* (or, if *The Bond Buyer* is no longer published or no longer publishes the One-Year Note Index, the one-year note index contained in the publication determined by the Remarketing Agent, or, if the Remarketing Agent is the Trustee, determined by the Company, as the most comparable to *The Bond Buyer*).

(c) *Successive Term Interest Rate Periods; Alternate Optional Redemption Provisions.* At the same time that the Company elects to have the Bonds bear interest at a Term Interest Rate or to continue to bear interest at a Term Interest Rate, the Company may also elect that such Term Interest Rate Period shall be automatically renewed for successive Term Interest Rate Periods each having the same duration as the Term Interest Rate Period so specified; *provided however*, that such election must be accompanied by a Favorable Opinion of Bond Counsel with respect to such continuing automatic renewals of such Term Interest Rate Period. If such election is made, no Favorable Opinion of Bond Counsel shall be required in connection with the commencement of each successive Term Interest Rate Period determined in accordance with such election. Further, at the same time that the Company elects to have the Bonds bear interest at a Term Interest Rate or continue to bear interest at a Term Interest Rate, subject to the provisions of Section 4.02(c) hereof the Company may also specify to the Trustee optional redemption prices and periods different from those set out in Section 4.02 hereof during the Term Interest Rate Period(s) with respect to which such election is made.

(d) *Consecutive Term Interest Rate Periods.* At the time the Company so elects an adjustment to or continuation of a Term Interest Rate Period, the Company may specify two or more consecutive Term Interest Rate Periods.

**Section 2.06. Flexible Interest Rate.** (a) *Determination of Flexible Segments and Flexible Interest Rates.* During each Flexible Interest Rate Period, each Bond shall bear interest during each Flexible Segment for such Bond at the Flexible Interest Rate for such Bond as described herein. Each Flexible Segment and Flexible Interest Rate for each Bond shall be the Flexible Segment and Flexible Interest Rate determined by the Remarketing Agent. Each Flexible Segment for any Bond shall be a period of not less than one nor more than 270 days (subject to any limitations set forth in the Remarketing Agreement), determined by the Remarketing Agent to be, in its judgment, the period which, together with all other Flexible

Segments for the Bonds then outstanding, is likely to result in the lowest overall net interest expense on the Bonds; *provided however*, that (A) any such Bond purchased on behalf of the Company and remaining unsold in the hands of the Remarketing Agent as of the close of business on the effective date of the Flexible Segment for such Bond shall have a Flexible Segment of one day or, if such Flexible Segment would not end on a day immediately preceding a Business Day, a Flexible Segment of more than one day ending on the day immediately preceding the next Business Day and (B) each Flexible Segment shall end on a day which immediately precedes a Business Day and no Flexible Segment shall extend beyond the final maturity date of the Bonds.

The Flexible Interest Rate for each Flexible Segment for each Bond shall be the rate determined by the Remarketing Agent (based on an examination of Tax-Exempt obligations comparable to the Bonds known by the Remarketing Agent to have been priced or traded under then prevailing market conditions) no later than the first day of such Flexible Segment (and in the case of a Flexible Segment of one day, no later than 12:30 p.m. New York, New York time, on such date) to be the lowest rate which would enable the Remarketing Agent to sell the Bonds on the effective date of such rate at a price (without regard to accrued interest) equal to 100% of the principal amount thereof. If a Flexible Segment or a Flexible Interest Rate for a Flexible Segment is not determined or effective, the Flexible Segment for such Bond shall be a Flexible Segment of one day, and the interest rate for such Flexible Segment of one day shall be 110% of the most recent SIFMA Swap Index. The Remarketing Agent shall notify the Company, the Trustee, the Provider and the Paying Agent of each Flexible Interest Rate and Flexible Segment on the date of the determination thereof by written notice communicated by electronic mail, by facsimile or by other means acceptable to the Company, the Trustee, the Provider and the Paying Agent.

(b) *Special Provisions for an Adjustment From Flexible Interest Rates.* If at any time during a Flexible Interest Rate Period, the Company elects, pursuant to Section 2.02(e) that the Bonds shall no longer bear interest at Flexible Interest Rates and shall instead bear interest as otherwise permitted under this Indenture, the Company shall notify the Issuer, the Trustee, the Paying Agent, the Provider and the Remarketing Agent of such election by Mail and shall instruct the Remarketing Agent to determine Flexible Segments of such duration that, as soon as possible, all Flexible Segments shall end on the same date, not earlier than the day that would permit the notice required by Sections 2.02(f) to be given, and such date shall be the last day of the then current Flexible Interest Rate Period. Upon the establishment of such Flexible Segments, the day next succeeding the last day of all such Flexible Segments shall be the effective date of the Rate Period elected by the Company. The Remarketing Agent, promptly upon the determination thereof, shall give written notice of such last day and such effective dates to the Issuer, the Company, the Trustee and the Paying Agent.

**Section 2.07. Rescission of Election.** Notwithstanding anything herein to the contrary, the Company may rescind any election by it to adjust to or, in the case of a Term Interest Rate Period, continue a Rate Period pursuant to Section 2.02(e) hereof prior to the effective date of such adjustment or continuation, by giving written notice thereof to the Issuer, the Trustee, the Paying Agent, the Provider and the Remarketing Agent prior to such effective date. At the time that the Company gives notice of rescission, it may also elect in such notice to continue the Rate

Period then in effect; *provided however*, that if the Rate Period then in effect is a Term Interest Rate Period, the subsequent Term Interest Rate Period shall not be of a different duration than the Term Interest Rate Period then in effect unless the Company provides to the Trustee a Favorable Opinion of Bond Counsel prior to the expiration of the then-current Term Interest Rate Period. If the Trustee receives notice of such rescission prior to the time the Trustee has given notice to the Owners of the Bonds of the change in or continuation of Rate Periods pursuant to Section 2.02(f) hereof, then such notice of change in or continuation of Rate Periods shall be of no force and effect and shall not be given to the Owners. If the Trustee receives notice of such rescission after the Trustee has given notice to the Owners of the Bonds pursuant to Section 2.02(f) hereof of an adjustment from any Rate Period other than a Term Interest Rate Period in excess of one year or if an attempted adjustment from one Rate Period (other than a Term Interest Rate Period in excess of one year) to another Rate Period does not become effective for any other reason, and if the Company does not elect to continue the Rate Period then in effect, then the Rate Period for the Bonds shall automatically adjust to or continue in a Daily Interest Rate Period and the Trustee shall promptly give notice thereof to the Owners of the Bonds. If the Trustee receives notice of such rescission after the Trustee has given notice to the Owners of the Bonds pursuant to Section 2.02(f) hereof of an adjustment from a Term Interest Rate Period in excess of one year to another Rate Period (including a Term Interest Rate Period of a different duration), or if an attempted adjustment from a Term Interest Rate Period in excess of one year to another Rate Period (including a Term Interest Rate Period of a different duration) does not become effective for any reason and if the Company does not elect to continue the Rate Period then in effect, then the Rate Period for the Bonds shall continue to be a Term Interest Rate Period of the same duration as the immediately preceding Term Interest Rate Period, subject to the second proviso contained in Section 2.05(a); *provided* that if the Company delivers to the Trustee a Favorable Opinion of Bond Counsel prior to the end of the then-effective Term Interest Rate Period, the Rate Period for the Bonds shall be as directed by the Company in writing. If a Daily Interest Rate for the first day of any Daily Interest Rate Period to which a Rate Period is adjusted under this Section 2.07 is not determined as provided in Section 2.03 hereof, the Daily Interest Rate for the first day of such Daily Interest Rate Period shall be 110% of the most recent SIFMA Swap Index. The Trustee shall promptly give written notice of each such automatic adjustment to a Rate Period pursuant to this Section 2.07 to the Owners in the form provided in Section 2.02(f) hereof.

Notwithstanding the rescission by the Company of any notice to adjust to or from or continue a Rate Period, if notice has been given to Owners pursuant to Section 2.02(f), the Bonds shall be subject to mandatory purchase as specified in such notice.

**Section 2.08. Form of Bonds.** The Bonds and the certificate of authentication to be executed thereon shall be in substantially the form attached hereto as *Exhibit A*, with such appropriate variations, omissions and insertions as are permitted or required by this Indenture. Upon adjustment to a Term Interest Rate Period, the form of Bond may include a summary of the mandatory and optional redemption provisions to apply to the Bonds during such Term Interest Rate Period, or a statement to the effect that the Bonds will not be optionally redeemed during such Term Interest Rate Period; *provided* that the Registrar shall not authenticate such a revised Bond form prior to receiving a Favorable Opinion of Bond Counsel that such Bond form satisfies

the requirements of the Act and of this Indenture and that authentication thereof will not adversely affect the Tax-Exempt status of the Bonds.

**Section 2.09. Execution of Bonds.** The Bonds shall be signed in the name and on behalf of the Issuer with the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of the City Clerk. The Bonds shall then be delivered to the Registrar for authentication by it. In case any officer who shall have signed any of the Bonds shall cease to be such officer before the Bonds so signed or attested shall have been authenticated or delivered by the Registrar or issued by the Issuer, such Bonds may nevertheless be authenticated, delivered and issued and, upon such authentication, delivery and issuance, shall be as binding upon the Issuer as though those who signed and attested the same had continued to be such officers of the Issuer. Also, any Bond may be signed on behalf of the Issuer by such persons as on the actual date of the execution of such Bond shall be the proper officers although on the nominal date of such Bond any such person shall not have been such officer.

Only such of the Bonds as shall bear thereon a certificate of authentication in the form set forth in *Exhibit A* hereto, manually executed by an authorized signatory of the Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this Indenture, and such certificate of the Registrar shall be conclusive evidence that the Bonds so authenticated have been duly authenticated and delivered hereunder and are entitled to the benefits of this Indenture.

Upon authentication of any Bond, the Registrar shall set forth on such Bond (1) the date of such authentication and (2) in the case of a Bond bearing interest at a Flexible Interest Rate and not registered in the book-entry system pursuant to Section 2.15 hereof, such Flexible Interest Rate, the last day of the applicable Flexible Segment, the number of days comprising such Flexible Segment and the amount of interest to accrue during such Flexible Segment.

**Section 2.10. Transfer and Exchange of Bonds.** Registration of any Bond may, in accordance with the terms of this Indenture, be transferred at the Principal Office of the Registrar, upon the books of the Registrar required to be kept pursuant to the provisions of Section 2.11 hereof, by the Person in whose name it is registered, in person or by its attorney duly authorized in writing, upon surrender of such Bond for cancellation, accompanied by a written instrument of transfer in a form approved by the Registrar, duly executed. The Registrar shall require the payment by the Owner of the Bond requesting such transfer of any tax or other governmental charge required to be paid and there shall be no other charge to any Owners for any such transfer. Whenever any Bond shall be surrendered for registration of transfer, the Issuer shall execute and the Registrar shall authenticate and deliver a new Bond or Bonds of the same tenor and of Authorized Denominations. Except with respect to Bonds purchased pursuant to Sections 3.01 and 3.02 hereof, no registration of transfer of Bonds shall be required to be made for a period of fifteen (15) days next preceding the date on which the Trustee Mails any notice of redemption, nor shall any registration of transfer of Bonds called for redemption be required, except the unredeemed portion of any Bond being redeemed in part.

Bonds may be exchanged at the Principal Office of the Registrar for a like aggregate principal amount of Bonds of the same tenor and of Authorized Denominations. The Registrar shall require the payment by the Owner of the Bond requesting such exchange of any tax or other

governmental charge required to be paid with respect to such exchange, and there shall be no other charge to any Owners for any such exchange. Except with respect to Bonds purchased pursuant to Section 3.01 and Section 3.02 hereof, no exchange of Bonds shall be required to be made for a period of fifteen (15) days next preceding the date on which the Trustee provides notice of redemption in accordance with Section 4.05 hereof, nor shall any exchange of Bonds called for redemption be required, except the unredeemed portion of any Bond being redeemed in part.

The Issuer, the Registrar, the Trustee and any agent of the Issuer, the Registrar or the Trustee may treat the person in whose name the Bond is registered as the owner thereof for the purpose of receiving payment as herein provided and for all other purposes, whether or not the Bond be overdue, and neither the Issuer, the Registrar, the Trustee, any paying agent nor any such agent shall be affected by notice to the contrary.

**Section 2.11. Bond Register.** The Registrar will keep or cause to be kept at its Principal Office sufficient books for the registration and the registration of transfer of the Bonds, which shall at all times, during regular business hours, be open to inspection by the Issuer, the Trustee, the Provider, the Remarketing Agent and the Company; and, upon presentation for such purpose, the Registrar shall under such reasonable regulations as it may prescribe, register the transfer or cause to be registered the transfer, on said books, Bonds as hereinbefore provided.

**Section 2.12. Bonds Mutilated, Lost, Destroyed or Stolen.** If any Bond shall become mutilated, the Issuer, upon the request and at the expense of the Owner of said Bond, shall execute, and the Registrar shall thereupon authenticate and deliver, a new Bond of like tenor and number in exchange and substitution for the Bond so mutilated and provision of indemnity satisfactory to the Registrar, but only upon surrender to the Registrar of the Bond so mutilated. Every mutilated Bond so surrendered to the Registrar shall be canceled by it and delivered to the Company. If any Bond issued hereunder shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Issuer, the Company and the Registrar, and if such evidence shall be satisfactory to them and indemnity satisfactory to them shall be given, the Issuer, at the expense of the Owner, shall execute, and the Registrar shall thereupon authenticate and deliver, a new Bond of like tenor in lieu of and in substitution for the Bond so lost, destroyed or stolen (or if any such Bond shall have matured or shall be about to mature, instead of issuing a substitute Bond the Registrar may pay the same without surrender thereof). The Issuer may require payment of a reasonable fee for each new Bond issued under this Section and payment of the expenses which may be incurred by the Issuer and the Registrar. Any Bond issued under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the Issuer whether or not the Bond so alleged to be lost, destroyed or stolen be at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Indenture with all other Bonds secured by this Indenture.

To the extent permitted by law, the provisions of this Section are exclusive and shall preclude all other rights and remedies with respect to the replacement or payment of mutilated, lost, destroyed or stolen Bonds.

**Section 2.13. Bonds; Limited Obligations.** The Bonds, together with premium, if any, and interest thereon, shall be limited and not general obligations of the Issuer not constituting or giving rise to a pecuniary liability of the Issuer nor any charge against its general credit or taxing powers nor an indebtedness of or a loan of credit thereof within the meaning of any provision or limitation of the State Constitution or laws, shall be payable solely from the Revenues and other moneys pledged therefor under this Indenture, and shall be a valid claim of the respective Owners thereof only against the Bond Fund, the Revenues and other moneys held by the Trustee as part of the Trust Estate. The Issuer shall not be obligated to pay the purchase price of Bonds from any source.

THE BONDS SHALL NOT BE DEEMED TO CONSTITUTE A DEBT, LIABILITY OR GENERAL OBLIGATION OF THE ISSUER, THE STATE OR OF ANY POLITICAL SUBDIVISION THEREOF, OR A PLEDGE OF THE FAITH AND CREDIT OF THE ISSUER, THE STATE OR OF ANY SUCH POLITICAL SUBDIVISION, BUT SHALL BE PAYABLE SOLELY FROM THE REVENUES AND PROCEEDS PROVIDED THEREFOR. THE ISSUER SHALL NOT BE OBLIGATED TO PAY THE SAME NOR INTEREST THEREON EXCEPT FROM THE REVENUES AND PROCEEDS PLEDGED THEREFOR, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE ISSUER, THE STATE OR OF ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THE BONDS.

No recourse shall be had for the payment of the principal of, or premium, if any, or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement contained in this Indenture, the Bonds, the Agreement or any other related documents, against any past, present or future officer, elected official agent or employee of the Issuer, or any incorporator, officer, director or member of any successor corporation, as such, either directly or through the Issuer or any successor corporation, 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 incorporator, officer, director or member as such is hereby 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 2.14. Disposal of Bonds.** Upon payment of the principal of, premium, if any, and interest represented thereby or transfer or exchange pursuant to Section 2.10 hereof or, replacement pursuant to Section 2.12 hereof, any Bond shall be canceled and such Bond shall be disposed of by the Registrar in accordance with its customary procedures and the Registrar shall provide evidence satisfactory to the Company of such cancellation and disposition.

**Section 2.15. Book-Entry System.** (a) Unless otherwise determined by the Issuer, the Bonds shall be issued in the form of a single certificated fully-registered Bond, registered in the name of Cede & Co., as nominee of DTC, or any successor nominee (the "Nominee"). The actual owners of the Bonds (the "Beneficial Owners") will not receive physical delivery of Bond certificates except as provided herein. Except as provided in paragraph (d) below, all of the outstanding Bonds shall be so registered in the registration books kept by the Registrar, and the provisions of this Section shall apply thereto.

(b) With respect to Bonds registered on the registration books kept by the Registrar in the name of the Nominee, the Issuer, the Company, the Paying Agent, the Registrar, the Trustee and the Remarketing Agent shall have no responsibility or obligation to any DTC Participant or the Beneficial Owners. Without limiting the immediately preceding sentence, the Issuer, the Company, the Paying Agent, the Registrar, the Trustee and the Remarketing Agent shall have no responsibility or obligation to DTC, any DTC Participant or any Beneficial Owner with respect to (1) the accuracy of the records of DTC, the Nominee or any DTC Participant with respect to any ownership interest in the Bonds, (2) the delivery by DTC or any DTC Participant of any notice with respect to the Bonds, including any notice of redemption, or (3) the payment to any DTC Participant or Beneficial Owner of any amount with respect to principal or purchase price of, or premium, if any, or interest on, the Bonds. The Issuer, the Company, the Paying Agent, the Registrar, the Trustee and the Remarketing Agent may treat and consider the person in whose name each Bond is registered in the registration books kept by the Registrar as the owner and absolute owner of such Bond for the purpose of payment of principal purchase price, premium and interest with respect to 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 Bond, and for all other purposes whatsoever. The Paying Agent shall pay all principal of and premium if any, and interest on, the Bonds only to or upon the order of the respective Owners, as shown in the registration books kept by the Registrar, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer's obligations with respect to payment of principal of, and premium, if any, and interest on, the Bonds to the extent of the sum or sums so paid. No person other than an Owner, as shown in the registration books kept by the Registrar, shall receive a certificated Bond evidencing the obligation of the Issuer to make payments of principal, premium, if any, and interest pursuant to this Indenture.

(c) The Issuer, the Paying Agent, the Remarketing Agent and the Trustee shall execute and deliver to DTC a letter of representations in customary form with respect to the Bonds in book-entry form (the "*DTC Representation Letter*"), but such DTC Representation Letter shall not in any way limit the provisions of the foregoing paragraph (b) or in any other way impose upon the Issuer, the Trustee or the Paying Agent any obligation whatsoever with respect to persons having interests in the Bonds other than the Owners, as shown on the registration books kept by the Registrar. The Trustee, the Remarketing Agent and the Paying Agent shall take all action necessary for all representations of the Issuer in the DTC Representation Letter with respect to the Trustee, the Remarketing Agent and the Paying Agent to be complied with at all times, including but not limited to, the giving of all notices required under the DTC Representation Letter. The Trustee and Paying Agent are hereby authorized by the Issuer to enter into the DTC Representation Letter.

(d) DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving reasonable notice to the Issuer or the Trustee and discharging its responsibilities with respect thereto under applicable law. The Issuer, with the consent of the Company, may terminate the services of DTC with respect to the Bonds. Upon the discontinuance or termination of the services of DTC with respect to the Bonds, unless a substitute securities depository is appointed to undertake the functions of DTC hereunder, the Issuer, at the expense of the Company, is obligated to deliver Bond certificates to the Beneficial

Owners of such Bonds, as described in this Indenture, and such Bonds shall no longer be restricted to being registered in the registration books kept by the Registrar in the name of the Nominee, but may be registered in whatever name or names Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Indenture.

(e) Notwithstanding any other provision of this Indenture to the contrary, so long as any Bond is registered in the name of the Nominee, all payments with respect to principal or purchase price of or, premium if any, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the DTC Representation Letter. Owners shall have no lien or security interest in any rebate or refund paid by DTC to the Paying Agent which arises from the payment by the Paying Agent of principal of, or premium, if any, or interest on, the Bonds in immediately available funds to DTC.

(f) So long as any Bond is held in book-entry form a Beneficial Owner (through its DTC Participant) shall give notice to the Trustee to elect to have its Bonds purchased, and shall effect delivery of such Bonds by causing such DTC Participant to transfer its interest in the Bonds equal to such Beneficial Owner's interest on the records of DTC to the Trustee's participant account with DTC. The requirement for physical delivery of the Bonds in connection with any purchase pursuant to Section 3.01 and Section 3.02 hereof shall be deemed satisfied when the ownership rights in the Bonds are transferred by DTC Participants on the records of DTC to the Trustee's participant account.

**Section 2.16. Credit Facility Provisions.** So long as the Credit Facility shall be in effect, the Trustee, Registrar and Paying Agent shall observe the following provisions respecting the Credit Facility:

(a) During such time as there is in effect a Credit Facility that consists of a direct pay letter of credit, the Trustee shall draw upon the Credit Facility in accordance with its terms in an amount which, together with moneys referred to in Section 6.03(c)(i) and 6.03(d)(i) hereof, will be sufficient, together with any moneys then on deposit in the Credit Facility Fund, to pay, on any Bond Payment Date, principal of and interest on the Bonds. The Trustee shall draw moneys under such Credit Facility in accordance with Section 3.06(c) hereof and in accordance with its terms to ensure timely payment thereof to the extent necessary to pay to the Trustee the purchase price of Bonds delivered or deemed to be delivered to the Trustee in accordance with Sections 3.01 or 3.02 hereof. In no event shall the Trustee draw upon the Credit Facility to make any payment of principal or purchase price of or interest on Pledged Bonds or Bonds held of record by or, to the extent that the Company notified a Responsible Officer of the Trustee in writing of such ownership, on behalf of the Company or any subsidiary or affiliate of the Company.

Immediately following a drawing under the Credit Facility and not as a condition to such drawing, the Trustee shall give telephonic, electronic mail or facsimile notice to the Company that such a drawing under the Credit Facility was made.

(b) If at any time there shall cease to be any Bonds Outstanding hereunder, the Trustee shall promptly surrender the Credit Facility then in effect to the Provider thereof



in accordance with the terms thereof and of this Indenture for cancellation. Following a Change of Credit Facility, the Trustee shall promptly after such Change surrender the Credit Facility which has been changed to the Provider thereof, in accordance with the terms thereof and of this Indenture, for cancellation; *provided, however*, that the Trustee shall only surrender a Credit Facility, which consists of a direct pay letter of credit, after all draws on such Credit Facility pursuant to Section 3.02(c) hereof have been honored by the Provider thereof; and , *provided, further*, that the Trustee shall only surrender First Mortgage Bonds in accordance with Section 5.12(c) hereof.

(c) In the event Bonds are to be purchased pursuant to Section 3.02(a)(iii) hereof due to a Change of Credit Facility, the notice of mandatory purchase shall be given by the Trustee in accordance with Section 3.08 hereof. If, prior to the fifth day next preceding the date fixed for a mandatory purchase pursuant to Section 3.02(a)(iii) hereof, subsequent to the giving of such notice pursuant to Section 3.08 hereof, the term of the existing Credit Facility shall have been extended or the Company notifies the Trustee that the delivery of an alternate Credit Facility or the termination of the then existing Credit Facility pursuant to Section 4.07 of the Agreement shall not occur, then the Trustee shall give notice of such extension of the term of the existing Credit Facility or that the delivery of an alternate Credit Facility or the termination of the then existing Credit Facility pursuant to Section 4.07 of the Agreement shall not occur, which notice shall specify (w) that the notice of a Change of Credit Facility has been given, (x) that subsequent to the giving of such notice the term of the existing Credit Facility has been extended or the Company has notified the Trustee that delivery of an alternate Credit Facility or the termination of the existing Credit Facility pursuant to Section 4.07 of the Agreement shall not occur, (y) the date that the term of the Credit Facility will expire and (z) that the mandatory purchase for which notice was given will not occur. Such notice that the term of the Credit Facility has been extended or that the Company has notified the Trustee that delivery of an alternate Credit Facility or the termination of the then existing Credit Facility pursuant to Section 4.07 of the Agreement shall not occur, shall be given by the Trustee by Mail to the Owners of the Bonds not more than five days following such extension or the receipt by the Trustee of such notice from the Company.

(d) The Trustee shall not sell, assign or otherwise transfer the Credit Facility or any interest in the Revenues except to a successor Trustee hereunder and in accordance with the terms of the Credit Facility or the Agreement, as the case may be.

(e) While a book-entry system is in effect for the Bonds, the Trustee shall give written notice of a Change of Credit Facility to DTC at least twenty (20) days prior to the effective date of the Change of Credit Facility. In the event that notice cannot be given within such twenty-day period, the Trustee shall provide such notice as soon as practicable.

(f) If the Credit Facility then in effect shall be an insurance policy, in addition to those rights granted the Provider under this Indenture, the Provider shall, to the extent it makes payment of principal of or interest on the Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Credit

Facility, and to evidence such subrogation (i) in the case of subrogation as to claims for past due interest, the Registrar shall note the Provider's rights as subrogee on the registration books of the Issuer maintained by the Registrar upon receipt from the Provider of proof of the payment of interest thereon to the Owners, and (ii) in the case of subrogation as to claims for past due principal, the Registrar shall note the Provider's rights as subrogee on the registration books of the Issuer maintained by the Registrar upon surrender of the Bonds by the Owners thereof, together with proof of the payment of principal thereof.

**Section 2.17. CUSIP Numbers.** The Issuer in issuing the Bonds may use "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use CUSIP numbers in notices of redemption as a convenience to Owners; *provided* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Bonds or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Bonds, and any such redemption shall not be affected by any defect in or omission of such numbers. The Issuer or the Company will promptly notify the Trustee and the Registrar of any change in any CUSIP number(s).

Neither the Issuer, the Registrar nor the Trustee shall have any responsibility for any defect in the CUSIP number that appears on any Bond, check, advice of payment or redemption notice, and any such document may contain a statement to the effect that CUSIP numbers have been assigned by an independent service for convenience of reference and that neither the Issuer, the Registrar nor the Trustee shall be liable for any inaccuracy in such matters.

### ARTICLE III

#### PURCHASE AND REMARKETING OF BONDS

**Section 3.01. Owner's Option to Tender for Purchase.** (a) *Daily Interest Rate Period.* During any Daily Interest Rate Period, any Bond or portion thereof in an Authorized Denomination shall be purchased at the option of the Owner thereof on any Business Day at a purchase price equal to 100% of the principal amount thereof plus accrued interest, if any, from the Interest Payment Date next preceding the date of purchase to the date of purchase (unless the date of purchase shall be an Interest Payment Date, in which case the purchase price shall be equal to the principal amount thereof), upon (i) delivery to the Trustee at the Delivery Office of the Trustee and to the Remarketing Agent at the Principal Office of the Remarketing Agent, by no later than 10:00 a.m., New York, New York time, on such Business Day, of an irrevocable written notice (which may be by facsimile or other writing) which states the principal amount and certificate number (if the Bonds are not then held in book-entry form) of such Bond and the date on which the same shall be purchased, and (ii) subject to Section 2.15(f) hereof and the last paragraph of Section 3.03 hereof, delivery of such Bond tendered for purchase to the Trustee at the Delivery Office of the Trustee, accompanied by an instrument of transfer thereof in a form satisfactory to the Trustee, executed in blank by the Owner thereof with the signature of such Owner guaranteed by a member or participant in a "signature guarantee program" as provided in the form of assignment attached to such Bond, at or prior to 1:00 p.m., New York, New York

time, on the purchase date. The Trustee shall keep a written record of each notice described in clause (i) above.

(b) *Weekly Interest Rate Period.* During any Weekly Interest Rate Period, any Bond or portion thereof in an Authorized Denomination shall be purchased at the option of the Owner thereof on any Business Day at a purchase price equal to 100% of the principal amount thereof plus accrued interest, if any, from the Interest Payment Date next preceding the date of purchase to the date of purchase (unless the date of purchase shall be an Interest Payment Date, in which case the purchase price shall be equal to the principal amount thereof), upon (i) delivery to the Trustee at the Delivery Office of the Trustee, with a copy to the Remarketing Agent at the Principal Office of the Remarketing Agent, of an irrevocable written notice (which may be by facsimile or other writing), by 5:00 p.m., New York, New York time, on any Business Day, which states the principal amount of such Bond and the certificate number (if the Bonds are not then held in book-entry form) and the date on which the same shall be purchased, which date shall not be prior to the seventh day next succeeding the date of the delivery of such notice to the Trustee, and (ii) subject to Section 2.15(f) hereof and the last paragraph of Section 3.03 hereof, delivery of such Bond to the Trustee at the Delivery Office of the Trustee, accompanied by an instrument of transfer thereof in a form satisfactory to the Trustee, executed in blank by the Owner thereof with the signature of such Owner guaranteed by a member or participant in a “signature guarantee program” as provided in the form of assignment attached to such Bond, at or prior to 1:00 p.m., New York, New York time, on the purchase date. The Trustee shall keep a written record of each notice described in clause (i) above.

(c) *Term Interest Rate Period.* Any Bond or portion thereof in an Authorized Denomination shall be purchased at the option of the Owner thereof on the first day of any Term Interest Rate Period which is preceded by a Term Interest Rate Period of equal duration at a purchase price equal to 100% of the principal amount thereof upon (x) delivery to the Trustee at the Delivery Office of the Trustee, with a copy to the Remarketing Agent at the Principal Office of the Remarketing Agent, of an irrevocable notice in writing by 5:00 p.m., New York, New York time, on any Business Day not less than fifteen days before the purchase date, which states the principal amount and certificate number (if the Bonds are not then held in book-entry form) of such Bond to be purchased, and (y) subject to Section 2.15(f) hereof and the last paragraph of Section 3.03 hereof delivery of such Bond to the Trustee at the Delivery Office of the Trustee, accompanied by an instrument of transfer thereof in a form satisfactory to the Trustee, executed in blank by the Owner thereof with the signature of such Owner guaranteed by a member or participant in a “signature guarantee program” as provided in the form of assignment attached to such Bond, at or prior to 1:00 p.m. New York, New York time, on the purchase date. The Trustee shall keep a written record of each notice described in clause (x) above.

(d) If any Bond is to be purchased in part pursuant to Section 3.01(a), Section 3.01(b) or Section 3.01(c) hereof, the amount so purchased and the amount not so purchased must each be an Authorized Denomination.

**Section 3.02. Mandatory Purchase.** (a) The Bonds shall be subject to mandatory purchase at a purchase price equal to 100% of the principal amount thereof, plus accrued interest,

if any, to the purchase date described below, upon the occurrence of any of the events stated below:

(i) as to any Bond, on the effective date of any change in a Rate Period with respect to such Bond, other than the effective date of a Term Interest Rate Period which was preceded by a Term Interest Rate Period of the same duration;

(ii) as to each Bond in a Flexible Interest Rate Period, on the Business Day next succeeding the last day of any Flexible Segment with respect to such Bond;

(iii) as to any Bond, on the date set forth in any notice of a Change of Credit Facility given by the Company pursuant to Section 4.07(b) of the Agreement, which shall be a date that is on or before the effective date of such Change of Credit Facility; *provided, however*, that if such Change of Credit Facility consists of the termination of the then existing Credit Facility, the purchase date shall be the Business Day immediately preceding such termination; *provided, further*, that if the Bonds are then subject to optional redemption pursuant to Section 4.02(b)(iii), the purchase price shall include any premium that would have been payable upon such redemption had the Bonds been redeemed;

(iv) as to any Bond, if the Credit Facility then in effect consists of a direct pay letter of credit, on the second Business Day following the day that the Trustee receives notice from the Provider that, following a drawing on such Credit Facility on an Interest Payment Date for the payment of unpaid interest on the Bonds, such Credit Facility will not be reinstated in accordance with its terms;

(v) as to any Bond, if a Credit Facility is in effect, on the second Business Day following the day that the Trustee receives notice from the Provider directing such mandatory purchase upon the occurrence and continuance of an event of default under the Credit Facility Agreement; or

(vi) as to each Bond in a Daily Interest Rate Period or a Weekly Interest Rate Period, on any Business Day designated by the Company, with the consent of the Provider and the Remarketing Agent.

(b) When Bonds are called for redemption pursuant to Section 4.02(b)(iii) hereof and if the Company gives notice to the Trustee on or before the Business Day prior to the redemption date that the Company elects to have the Bonds purchased in lieu of redemption, all or any portion of the Bonds that the Company elects to purchase shall be subject to mandatory purchase on such redemption date at a purchase price equal to 100% of the principal amount thereof plus an amount equal to any premium that would have been payable upon such redemption had the Bonds been redeemed. If the Bonds are purchased in lieu of redemption on or prior to the applicable Record Date, the purchase price shall include accrued interest from the Interest Payment Date next preceding the date of purchase to the date of purchase (unless the date of purchase shall be an Interest Payment Date, in which case the purchase price shall be equal to the

amount specified in the preceding sentence). If the Bonds are purchased in lieu of redemption after such Record Date, the purchase price shall not include accrued interest.

(c) The Trustee shall by 3:00 p.m., New York, New York time, on the Business Day preceding the day that the Bonds are subject to mandatory purchase pursuant to Section 3.02(a)(iii) draw on the then existing Credit Facility in an amount sufficient to pay the principal and interest which will be due on the purchase date and hold such amount uninvested and without any liability for interest until the purchase date when such amount shall be applied to pay the amounts due to the Owners of the Bonds on the purchase date.

(d) The Trustee shall, if the Credit Facility then in effect consists of a direct pay letter of credit, (i) immediately following receipt of notice from the Provider pursuant to Section 3.02(a)(iv) or (ii) by 3:00 p.m., New York, New York time, on the Business Day preceding the day that the Bonds are subject to mandatory purchase pursuant to Section 3.02(a)(v), draw on that Credit Facility in an amount sufficient to pay the principal and interest which will be due on the purchase date and hold such amount uninvested and without any liability for interest until the purchase date when such amount shall be applied to pay the amounts due to the Owners of the Bonds on the purchase date.

**Section 3.03. Payment of Purchase Price.** If Bonds are to be purchased pursuant to Section 3.01 or Section 3.02, the Trustee shall pay the purchase price of such Bonds but solely from the following sources in the order of priority indicated, and the Trustee shall not have any obligation to use funds from any other source:

(a) moneys which constitute Available Moneys and are furnished by the Company to the Trustee pursuant to Section 8.02 of the Agreement for purchase of Bonds;

(b) proceeds of the remarketing and sale of such Bonds (other than Bonds sold to the Company, any subsidiary or guarantor of the Company, or the Issuer or any “insider” (as defined in the United States Bankruptcy Code)) pursuant to Section 3.04 hereof and which proceeds are on deposit with the Trustee prior to 12:00 noon New York, New York time, on the purchase date;

(c) moneys (which constitute Available Moneys or moneys provided pursuant to a Credit Facility on which neither the Company nor any affiliate thereof is the obligor for the payment of the purchase price of the Bonds) furnished to the Trustee pursuant to Article VIII hereof, such moneys to be applied only to the purchase of Bonds which are deemed to be paid in accordance with Article VIII hereof;

(d) moneys furnished to the Trustee representing moneys provided pursuant to a Credit Facility on which neither the Company nor any affiliate thereof is the obligor for the payment of the purchase price of the Bonds; and

(e) any other moneys furnished by or on behalf of the Company to the Trustee for purchase of the Bonds, including, without limitation, any moneys from Additional Collateral;

*provided, however*, that funds for the payment of the purchase price of Bonds which are deemed to be paid in accordance with Article VIII hereof shall be derived only from the sources described in Section 3.03(c); *provided, further*, that if the Credit Facility then in effect consists of a direct pay letter of credit, the Trustee shall pay the purchase price of the Bonds, *first*, from moneys described in clause (b) above, *second*, and only to the extent such moneys were provided pursuant to the Credit Facility, from moneys described in clause (c) above, *third*, from moneys described in clause (d) above, and *last*, from the remaining sources and in the order of priority of such remaining sources described above.

Subject to Section 2.15 hereof, the Registrar shall register new Bonds as directed by the Remarketing Agent and make such Bonds available for delivery on the date of such purchase. Payment of the purchase price of any Bond shall be made in immediately available funds for Bonds in a Flexible, Daily, Weekly or Term Interest Rate Period (subject to Section 2.15(f) hereof) in each case only upon presentation and surrender of such Bond to the Trustee.

If moneys sufficient to pay the purchase price of Bonds to be purchased pursuant to Section 3.01 or Section 3.02 hereof shall be held by the Trustee on the date such Bonds are to be purchased, such Bonds shall be deemed to have been purchased and shall be purchased according to the terms hereof, for all purposes of this Indenture, irrespective of whether or not such Bonds shall have been delivered to the Trustee, and the former Owner of such Bonds shall have no claim under this Indenture or otherwise, for any amount due with respect to such Bonds other than the purchase price thereof.

**Section 3.04. Remarketing of Bonds by Remarketing Agent.** (a) Whenever any Bonds are subject to purchase pursuant to Section 3.01 or Section 3.02 hereof, the Remarketing Agent shall offer for sale and use its best efforts to remarket such Bonds to be so purchased, any such remarketing to be made at a price equal to 100% of the principal amount thereof, plus accrued interest, if any, to the purchase date. The Company may, with the consent of the Provider, direct the Remarketing Agent from time to time to cease and to resume sales efforts with respect to some of or all of the Bonds.

(b) The Remarketing Agent shall continue its efforts to remarket any Pledged Bonds without the Provider having tendered such Bonds, and any failure to timely pay principal of and interest on such Pledged Bonds to the Provider shall not constitute an Event of Default hereunder. Upon the remarketing of Pledged Bonds, the Remarketing Agent shall immediately provide telephonic notice, promptly confirmed in writing, of such remarketing to the Company and the Provider and electronic mail or facsimile notice to the Trustee, specifying in said notice the aggregate principal amount, the purchase price (which shall include any accrued interest), the purchase date and the purchaser thereof, and thereupon the Trustee or the Provider, whichever has possession of such Bonds, shall, subject to Section 3.06(a)(iii) hereof, immediately release such Bonds to the Trustee.

(c) If the Remarketing Agent is remarketing the Bonds after the date notice has been given of the redemption of such Bonds pursuant to Section 4.02 or 4.03 hereof (and prior to the redemption date thereof), the Remarketing Agent shall provide to the Trustee the names of the Persons to whom the Bonds are being remarketed so that the Trustee can provide the notice required by Section 3.05(a) hereof.

(d) Promptly, but in no event later than 11:30 a.m., New York, New York time, on the Business Day following the day on which the Trustee receives notice from any Owner of its demand to have the Trustee purchase Bonds pursuant to Section 3.01(b) or Section 3.01(c) hereof, the Trustee shall give facsimile, electronic mail or telephonic notice, confirmed in writing thereafter, to the Remarketing Agent specifying the principal amount of Bonds which such Owner has demanded to have purchased and the date on which such Bonds are demanded to be purchased.

**Section 3.05. Limits on Remarketing.** Any Bond purchased pursuant to Sections 3.01 and 3.02 hereof from the date notice is given of redemption pursuant to Sections 4.02 and 4.03 hereof through the date of such redemption shall not be remarketed unless the Person buying such Bonds has been given notice in writing by the Trustee that such Bonds are to be redeemed. Furthermore, in addition to the requirements of the preceding sentence, if the Bonds are subject to redemption pursuant to Section 4.03 hereof, the Person buying such Bonds shall also be given notice in writing by the Trustee that a Determination of Taxability has occurred and that such Bonds are subject to mandatory redemption pursuant to Section 4.03 hereof.

**Section 3.06. Delivery of Bonds; Delivery of Proceeds of Remarketing Sale; Payments from Credit Facility.**

(a) DELIVERY OF BONDS. Bonds purchased pursuant to Section 3.01 or Section 3.02 hereof shall be delivered as follows:

(i) *Delivery of Remarketed Bonds.* Subject to Section 2.15 hereof, Bonds remarketed by the Remarketing Agent pursuant to Section 3.04 hereof shall be delivered to the purchasers thereof upon payment of the purchase price therefor.

(ii) *Delivery of Bonds Purchased by the Company.* Bonds delivered to the Trustee and purchased with moneys furnished by the Company shall at the direction of the Company, be (A) held by the Trustee for the account of the Company, (B) delivered to the Trustee for cancellation or (C) delivered to the Company.

(iii) *Delivery of Pledged Bonds.* Bonds delivered to the Trustee and purchased with moneys provided pursuant to a Credit Facility, which consists of a direct pay letter of credit, shall constitute Pledged Bonds, and shall be held by the Trustee for the benefit of the Provider in a separate and segregated account to be designated as the “City of Forsyth, Montana, Pollution Control Revenue Refunding Bonds (Avista Corporation Colstrip Project), Series 2010B – Custody Account” (the “Custody Account”). Notwithstanding anything herein to the contrary, if the Trustee holds Pledged Bonds in the Custody Account as agent of the Provider, the Trustee shall not release to the

purchaser thereof or to the Remarketing Agent Pledged Bonds remarketed pursuant to Section 3.04(b) hereof unless the Trustee shall have received written notice (which may be given by electronic mail or facsimile) from the Provider that it has been paid in full for the Pledged Bonds and that such Credit Facility has been reinstated. The Trustee will comply with any DTC procedures applicable to the Pledged Bonds.

(iv) *Delivery of Defeased Bonds.* Bonds purchased by the Remarketing Agent with moneys described in Section 3.03(c) hereof shall not be remarketed and shall be delivered to the Trustee for cancellation.

(b) **REGISTRATION OF DELIVERED BONDS.** Bonds delivered as provided in this Section 3.06 shall be registered in the manner directed by the recipient thereof.

(c) **NOTICE OF FAILED REMARKETING.** In the event that any Bonds are not remarketed, the Remarketing Agent shall notify the Company by telephone, promptly confirmed in writing by facsimile, and the Trustee in writing (which may be delivered by facsimile) no later than 11:15 a.m., New York, New York time, on any day on which Bonds are delivered or deemed delivered for purchase under this Indenture, of the aggregate principal amount of Bonds not remarketed on such date and the aggregate principal amount of Bonds remarketed on such date but for which the purchase price has not been paid (which Bonds for purposes of this Indenture shall be considered to not be remarketed), as follows:

(i) Such notice to the Company shall be given to the Principal Office of the Company, as follows:

Avista Corporation  
1411 East Mission Avenue  
Spokane, Washington 99220  
Attention: Treasurer  
Telephone: (509) 495-8045  
Facsimile: (509) 495-4879

The Company may, by notice given in accordance with Section 13.08 hereof to the Remarketing Agent and the Trustee, designate any further or different addresses to which subsequent such notices may be given.

(ii) Such notice to the Trustee shall be given to the Trustee, as follows:



The Bank of New York Mellon Trust Company, N.A.  
Two Union Square, Suite 520  
601 Union Street  
Seattle, Washington 98101-2321  
Attention: Corporate Trust Administration  
Telephone: (206) 667-8902  
Facsimile: (206) 667-8905

The Trustee may, by notice given in accordance with Section 13.08 hereof to the Company and the Trustee, designate any further or different addresses to which subsequent such notices may be given.

If the Credit Facility then in effect consists of a direct pay letter of credit, after the receipt of such notice or if the Trustee has not received such notice by such time, the Trustee shall, by 12:00 noon, New York, New York time, on the purchase date, take the action specified in such Credit Facility to the extent necessary, after taking into account moneys referred to in Section 3.03(a), Section 3.03(b) and Section 3.03(c) hereof, as the case may be, to receive the moneys required to pay the purchase price of such Bonds.

(d) **PROCEEDS OF SALE HELD FOR SELLER OF BONDS.** Moneys deposited with the Trustee for the purchase of Bonds pursuant to Section 3.01 and Section 3.02 hereof shall be held uninvested in trust in one or more separate accounts, which shall be Eligible Accounts, and shall be paid to the former Owners of such Bonds upon presentation thereof. The Trustee shall notify the Company in writing within five days after the date of purchase if the Bonds have not been delivered, and if so directed by the Company, shall give notice by Mail to each Owner whose Bonds are deemed to have been purchased pursuant to Section 3.01 and Section 3.02 hereof stating that interest on such Bonds ceased to accrue on the date of purchase and that moneys representing the purchase price of such Bonds are available against delivery thereof at the Delivery Office of the Trustee. Bonds deemed purchased pursuant to Section 3.01 and Section 3.02 hereof shall cease to accrue interest on the date of purchase. The Trustee shall hold moneys deposited for the purchase of Bonds without liability for interest thereon, for the benefit of the former Owner of the Bond on such date of purchase, who shall thereafter be restricted exclusively to such moneys for any claim of whatever nature on its part under this Indenture or on, or with respect to, such Bond. Any moneys so deposited with and held by the Trustee not so applied to the payment of Bonds within six months after such date of purchase shall be paid by the Trustee to the Company upon the written direction of an Authorized Company Representative, and thereafter the Trustee shall have no further liability with respect to such moneys and the former Owners shall be entitled to look only to the Company for payment, and then only to the extent of the amount so repaid to the Company, and the Company shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

**Section 3.07. No Remarketing Sales After Certain Events.** Anything in this Indenture to the contrary notwithstanding, there shall be no sales of Bonds pursuant to a remarketing in accordance with Section 3.04 hereof, if (a) there shall have occurred and not have been cured or waived an Event of Default described in Section 9.01(a), Section 9.01(b) or Section 9.01(c) hereof of which an authorized officer in the Principal Office of the Remarketing Agent and an

authorized officer of the corporate trust department of the Trustee have actual knowledge or (b) the Bonds have been declared to be immediately due and payable pursuant to Section 9.02 hereof and such declaration has not been rescinded pursuant to Section 9.02(d) hereof.

**Section 3.08. Notice of Mandatory Purchase.** (a) The Trustee shall give notice by Mail of a proposed Change of Credit Facility pursuant to Section 4.07(b) of the Agreement and mandatory purchase of the Bonds to the Owners not less than 15 days prior to the effective date of such Change of Credit Facility. In addition to the requirement of Section 3.08(f), the notice of mandatory purchase shall (i) describe the proposed Change of Credit Facility (subject to the Company's ability to rescind its election to make such Change of Credit Facility) and (ii) state the effective date of such Change of Credit Facility.

(b) The Trustee shall, as soon as practicable, but in no event later than one Business Day prior to the date the Bonds are subject to mandatory purchase pursuant to Section 3.02(a)(iv) or (v), give written notice by electronic mail, by facsimile or by overnight mail service of a mandatory purchase of Bonds pursuant to Section 3.02(a)(iv) or (v) to the Remarketing Agent and to the Owners.

(c) The Trustee shall give notice by Mail of an election by the Company to trigger a mandatory purchase pursuant to Section 3.02(a)(vi) hereof to the Owners not less than 15 days prior to the date designated by the Company for such mandatory purchase.

(d) The Trustee shall give notice by Mail of a mandatory purchase pursuant to Section 3.02(a)(ii) hereof to the Owners not less than 15 days prior to the last day of the applicable Flexible Segment.

(e) The Trustee shall give notice by Mail of a mandatory purchase in accordance with the provisions of Section 2.02(f).

(f) Each notice of a mandatory purchase shall (i) state the purchase date, (ii) identify the particular clause of Section 3.02(a) that triggers the mandatory purchase, (iii) describe the procedures for such mandatory purchase, (iv) state the purchase price of such Bonds on such date (expressed as a percentage of the principal amount thereof), (v) state that the Owners of such Bonds do not have the right to retain their Bonds on such date, and (vi) state such other matters as the Company may direct.

**Section 3.09. Pledged Bonds.** If a beneficial interest in a Bond is purchased with moneys drawn under a Credit Facility, which consists of a direct pay letter of credit, pursuant to the provisions hereof, that beneficial interest shall be designated on the books of the Remarketing Agent as a Pledged Bond until released as herein provided. Provided there is no Event of Default under this Indenture, the Remarketing Agent shall use its best efforts to remarket beneficial interests in Pledged Bonds. If the Remarketing Agent remarkets any beneficial interest in a Pledged Bond, the Remarketing Agent shall give notice by electronic mail or facsimile to the Provider of such remarketing, and shall direct the purchaser of such beneficial interest to transfer, by 12:00 noon, New York, New York time, on the purchase date, the purchase price of such remarketed beneficial interest to the Trustee for deposit into the Custody

Account. The Trustee shall immediately give notice by electronic mail or facsimile to the Provider and the Remarketing Agent of the receipt of the purchase price for such beneficial interest in such Pledged Bond, which notice shall also request the Provider promptly advise the Trustee and the Company of amounts that remain due and owing to the Provider pursuant to the Credit Facility Agreement as a result of a draw on such Credit Facility. Upon receipt by the Trustee of such purchase price and written notice (which may be given by electronic mail or facsimile) from the Provider of the reinstatement of such Credit Facility, such Pledged Bond shall be considered released from the pledge to the Provider. The Trustee shall immediately transfer such purchase price to the Provider upon receipt thereof to the extent that amounts remain due and owing the Provider pursuant to the Credit Facility Agreement as a result of a draw on such Credit Facility and give all required notices, in accordance with the terms of such Credit Facility. If moneys remain on deposit with the Trustee in the Custody Account after payment is made to the Provider of all amounts due and owing to the Provider in accordance with the preceding sentence, such moneys shall be paid to, or upon the order of, the Company.

If the Bonds are no longer held in a book-entry only system and a Bond is purchased with moneys drawn under a Credit Facility that consists of a direct pay letter of credit, hereunder, that Bond shall be delivered to and held by the Trustee in the Custody Account. Any Bond so delivered to the Trustee shall be registered in the name of the Company, or, at the request of the Provider, in the name of the Provider or its nominee, and shall thereafter constitute a Pledged Bond until released as herein provided. Provided there is no Event of Default under this Indenture, the Remarketing Agent shall use its best efforts to remarket Pledged Bonds. If the Remarketing Agent remarkets any Pledged Bond, the Remarketing Agent shall give notice by electronic mail or facsimile to the Provider of such remarketing and shall direct the purchaser of such Pledged Bond to transfer, by 12:00 noon, New York, New York time, on the purchase date, the purchase price of such remarketed Pledged Bond to the Trustee for deposit into the Custody Account. The Trustee shall immediately give notice by electronic mail or facsimile to the Provider of the receipt of the purchase price for such Pledged Bond, which notice shall also request the Provider promptly advise the Trustee and the Company of amounts that remain due and owing to the Provider pursuant to the Credit Facility Agreement as a result of a draw on such Credit Facility. Upon receipt by the Trustee of such purchase price and written notice (which may be given by electronic mail or facsimile) from the Provider that such Credit Facility has been reinstated, such Pledged Bond shall be considered released from the pledge of the Provider. The Trustee shall transfer such purchase price to the Provider upon receipt thereof to the extent that amounts remain due and owing to the Provider pursuant to the Credit Facility Agreement as a result of a draw on such Credit Facility and give all required notices, in accordance with the terms of such Credit Facility. If moneys remain on deposit with the Trustee in the Custody Account after payment is made to the Provider of all amounts due and owing to the Provider in accordance with the preceding sentence, such moneys shall be paid to, or upon the order of, the Company. The Trustee shall deliver the remarketed Pledged Bonds to the purchasers thereof in accordance with Section 3.06(a)(i) hereof.

To the extent amounts are due and owing to the Provider under the Credit Facility Agreement, the proceeds of the remarketing of Pledged Bonds (or beneficial interests therein) shall be deposited into the Custody Account and held by the Trustee for the account of, and

solely for, the Provider, shall not be commingled with any other moneys held by the Trustee, as appropriate, and shall be paid over immediately to the Provider.

On each Interest Payment Date prior to the release of Pledged Bonds (or beneficial interests therein) held by the Remarketing Agent or by the Trustee, the Trustee shall (i) if the Bonds are held in a book-entry only system, cause the Remarketing Agent to notify DTC that the Remarketing Agent has waived payment on such Interest Payment Date with respect to such Pledged Bonds, and that the Trustee shall be paying the Provider with respect thereto directly from the Bond Fund, and (ii) whether or not the Bonds are held in a book-entry only system, apply moneys on deposit in the Bond Fund to the payment of the principal of and interest on such Pledged Bonds through direct transfer thereof to the Provider (receipt of which payment shall promptly be acknowledged by the Provider by notice by electronic mail or facsimile to the Trustee and the Remarketing Agent). Under no circumstances shall the Trustee either (i) draw on the Credit Facility or use moneys in the Credit Facility Fund for purposes of making any payment with respect to Pledged Bonds, or (ii) apply moneys on deposit in the Bond Fund for transfer to DTC in payment of any Pledged Bond.

It is recognized and agreed by the Remarketing Agent and the Trustee that each Pledged Bond (or beneficial interest therein) is held for the benefit of the Provider pursuant to the terms of the Credit Facility Agreement.

If any Bonds constitute Pledged Bonds due to a failure in remarketing such Bonds on a mandatory tender date, the Remarketing Agent shall be entitled to determine a new Daily Interest Rate, Weekly Interest Rate or Flexible Interest Rate with respect to such Bonds, as appropriate (under the conditions and subject to the limitations provided above), effective on such date as the Remarketing Agent is able to remarket such Pledged Bonds in whole. Such new rate with respect to such Bonds shall be established by the Remarketing Agent in its sole judgment having due regard for prevailing financial market conditions at the lowest rate which will permit the Pledged Bonds to be sold at a price of par plus accrued interest to such delivery date. The determination of a new Daily Interest Rate, Weekly Interest Rate or Flexible Interest Rate with respect to such Bonds, as appropriate, by the Remarketing Agent shall be conclusive and binding upon the Issuer, the Company, the Trustee, the Provider and the Owners of the Bonds.

## ARTICLE IV

### REDEMPTION OF BONDS

**Section 4.01. Redemption of Bonds Generally.** (a) The Bonds are subject to redemption if and to the extent the Company is entitled or required to make and makes a prepayment pursuant to Article VIII of the Agreement. Except as specifically provided in Section 4.03 hereof, the Trustee shall not give notice of any redemption under Section 4.05 hereof unless the Company has so directed in accordance with Section 8.01 of the Agreement; *provided* that the Trustee may require prepayment of Loan Payments under Section 4.01 of the Agreement in the case of mandatory redemption.

**Section 4.02. Redemption Upon Optional Prepayment.** (a) The Bonds shall be redeemed in whole or in part, and if in part by lot, at any time at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date, upon receipt by the Trustee of a written notice from the Company stating that any of the following events has occurred and that the Company therefore intends to exercise its option to prepay the payments due under the Agreement in whole or in part pursuant to Section 8.01 of the Agreement and thereby effect the redemption of Bonds in whole or in part to the extent of such prepayments:

(i) the Company shall have determined or concurred in a determination that the continued operation of the Plant is impracticable, uneconomical or undesirable for any reason;

(ii) all or substantially all of the Plant shall have been condemned or taken by eminent domain;

(iii) the operation of the Plant shall have been enjoined or shall have otherwise been prohibited by, or shall conflict with, any order, decree, rule or regulation of any court or of any federal, state or local regulatory body, administrative agency or other governmental body;

(iv) unreasonable burdens or excessive liabilities shall have been imposed upon the Company in respect of all or a part of the Pollution Control Facilities or the Plant including, without limitation, federal, state or other ad valorem, property, income or other taxes not being imposed on the date of the Agreement, as well as any statute or regulation enacted or promulgated after the date of the Agreement that prevents the Company from deducting interest in respect of the Agreement for federal income tax purposes; or

(v) all or substantially all of the Project shall be transferred or sold to any entity other than an affiliate of the Company.

(b) The Bonds shall be subject to redemption in whole, or in part by lot, prior to their maturity, following receipt by the Issuer and the Trustee of a written notice from the Company pursuant to Section 8.01 of the Agreement and upon prepayment of the Loan Payments at the option of the Company, as follows:

(i) While the Bonds bear interest at a Flexible Interest Rate or Rates, each Bond shall be subject to such redemption on the day next succeeding the last day of each Flexible Segment for such Bond at a redemption price equal to 100% of the principal amount thereof plus accrued interest, if any, to the redemption date.

(ii) While the Bonds bear interest at a Daily Interest Rate or a Weekly Interest Rate, the Bonds shall be, with the consent of the Provider, subject to such redemption on any Business Day at a redemption price equal to 100% of the principal amount thereof plus accrued interest, if any, to the redemption date.

(iii) While the Bonds bear interest at a Term Interest Rate, the Bonds shall be subject to such redemption (1) on the day next succeeding the last day of each Term Interest Rate Period at a redemption price equal to the principal amount of the Bonds being redeemed plus accrued interest, if any, to the redemption date and (2) either (A) on the redemption dates and at the redemption prices specified by the Company pursuant to Section 4.02(c) hereof or (B) during the redemption periods specified below, in each case in whole or in part, at the redemption prices (expressed as percentages of principal amount) hereinafter indicated plus accrued interest, if any, to the redemption date:

LENGTH OF TERM INTEREST RATE PERIOD	REDEMPTION DATES AND PRICES
Greater than or equal to 11 years	At any time on or after the first day of the calendar month following the tenth anniversary of the effective date at 102% declining 1% annually to 100%
Less than 11 years	Not redeemable

(c) With respect to any Term Interest Rate Period, the Company may specify, pursuant to Section 2.05(c), redemption provisions, prices and periods other than those set forth above; *provided however*, at the time of such specification, the Company shall provide Favorable Opinion of Bond Counsel with respect to such changes in redemption dates and prices.

**Section 4.03. *Redemption Upon Mandatory Prepayment.*** The Bonds shall be subject to mandatory redemption in whole on any date from amounts which are to be prepaid by the Company under Section 8.03 of the Agreement, at a redemption price equal to 100% of the principal amount thereof plus interest accrued, if any, to the redemption date within one hundred eighty (180) days following a Determination of Taxability; *provided* that if, in the opinion of Bond Counsel delivered to the Trustee, the redemption of a specified portion of the Bonds outstanding would have the result that interest payable on the Bonds remaining outstanding after such redemption would remain Tax-Exempt, then the Bonds shall be redeemed in part by lot (in Authorized Denominations), in such amount as Bond Counsel in such opinion shall have determined is necessary to accomplish that result.

**Section 4.04. *Selection of Bonds for Redemption.*** If less than all of the Bonds are called for redemption the Trustee shall select the Bonds or any given portion thereof to be redeemed, from the outstanding Bonds or such given portion thereof not previously called for redemption, by lot. For the purpose of any such selection the Trustee shall (to the extent practicable) assign a separate number for each minimum Authorized Denomination of each Bond of a denomination of more than such minimum; *provided* that, following any such selection, both the portion of such Bond to be redeemed and the portion remaining shall be in Authorized Denominations. The Trustee shall promptly notify the Issuer and the Company in writing of the numbers of the Bonds or portions thereof so selected for redemption. Notwithstanding the foregoing provisions, Pledged Bonds shall be redeemed prior to any other Bonds.

**Section 4.05. Notice of Redemption.** (a) The Trustee, for and on behalf of the Issuer, shall give notice of the redemption of any Bond by Mail, postage prepaid, not less than twenty (20) nor more than sixty (60) days prior to the redemption date, to the Owner of such Bond at the address shown on the registration books of the Registrar on the date such notice is mailed and to the Remarketing Agent, any Provider, Moody's, S&P, the Securities Depositories, one or more of the Information Services and the Company Mortgage Trustee; *provided, however*, that failure to duly give notice by Mail to any Owner shall not affect the validity of any proceedings for the redemption of Bonds in respect of which no such failure has occurred. While the Bonds are held by DTC as Owner of the Bonds, notice of redemption shall be given to DTC in accordance with the DTC Representation Letter or in accordance with the requirements of DTC instead of being given by Mail. Notice of redemption to the Securities Depositories and the Information Services shall be given by registered mail. Each notice of redemption shall state the date of such notice, the date of issue of the Bonds to be redeemed, the redemption date, the redemption price, the place of redemption (including the name and appropriate address or addresses of the Paying Agent), the source of the funds to be used for such redemption, the principal amount, the CUSIP number (if any) of the maturity and, if less than all, the distinctive certificate numbers of the Bonds to be redeemed and, in the case of Bonds to be redeemed in part only, the respective portions of the principal amount thereof to be redeemed. Each such notice shall also state that the interest on the Bonds designated for redemption shall cease to accrue from and after such redemption date and that on said date there will become due and payable on each of said Bonds the principal amount thereof to be redeemed, interest accrued thereon, if any, to the redemption date and the premium, if any, thereon (such premium to be specified) and shall require that such Bonds be then surrendered at the address or addresses of the Paying Agent specified in the redemption notice. Notwithstanding the foregoing, failure by the Trustee to give notice pursuant to this Section 4.05 to the Company Mortgage Trustee or to any one or more of the Information Services or Securities Depositories or the insufficiency of any such notices shall not affect the sufficiency of the proceedings for redemption. Failure to give any required notice of redemption as to any particular Bond or to the Company Mortgage Trustee shall not affect the validity of the call for redemption of any Bonds in respect of which no such failure has occurred. Redemption notices may state that no representation is made as to the accuracy or correctness of the CUSIP numbers printed therein or on the Bonds.

(b) With respect to any notice of optional redemption of Bonds in accordance with Section 4.02 hereof, unless, upon the giving of such notice, such Bonds shall be deemed to have been paid within the meaning of Article VIII hereof, such notice may state that such redemption is conditioned upon the receipt by the Trustee, on or prior to the date fixed for such redemption, of Available Moneys sufficient to pay the principal of, and premium, if any, and interest on, such Bonds to be redeemed. In the event such Available Moneys are (i) not so received, (ii) no longer sufficient to pay the principal of, and premium, if any, and interest on, such Bonds or (iii) no longer considered Available Moneys, in each case, on the redemption date; the redemption shall not be made and the Trustee shall within a reasonable time thereafter give notice, in the manner in which the notice of redemption was given, that such redemption will not take place.

(c) The Trustee shall also provide the notice with respect to the Bonds to be redeemed as required by Section 3.05(a) hereof.

**Section 4.06. Partial Redemption of Bonds.** Upon surrender of any Bond redeemed in part only, the Registrar shall exchange the Bond redeemed for a new Bond of like tenor and in an Authorized Denomination without charge to the Owner in the principal amount of the portion of the Bond not redeemed. In the event of any partial redemption of a Bond which is registered in the name of Cede & Co., DTC may elect to make a notation on the Bond certificate which reflects the date and amount of the reduction in the principal amount of said Bond in lieu of surrendering the Bond certificate to the Registrar for exchange. The Issuer, the Company and the Trustee shall be fully released and discharged from all liability to the extent of payment of the redemption price for such partial redemption.

**Section 4.07. No Partial Redemption After Default.** Anything in this Indenture to the contrary notwithstanding, if there shall have occurred and be continuing an Event of Default (other than an Event of Default described in Section 9.01(d) hereof) of which a Responsible Officer of the Trustee has actual knowledge, there shall be no redemption of less than all of the Bonds at the time Outstanding.

**Section 4.08. Payment of Redemption Price.** For the redemption of any of the Bonds, the Issuer shall cause to be deposited in the Bond Fund, solely out of the Revenues and any other moneys constituting the Trust Estate, and which if the redemption is being made pursuant to Section 4.02 hereof, constitute Available Moneys, an amount sufficient to pay the principal of, and premium, if any, and interest to become due on, the Bonds called for redemption on the date fixed for such redemption; *provided, however*, that if the redemption is being made pursuant to Section 4.03 hereof and a Credit Facility is in effect and such Credit Facility consists of a direct pay letter of credit, then the deposit to the Bond Fund shall consist solely of amounts drawn under such letter of credit. The obligation of the Issuer to cause any such deposit to be made hereunder shall be reduced by the amount of moneys in the Bond Fund or any fund in Article VIII hereof available for and used on such redemption date for payment of the principal of, and premium, if any, and accrued interest on, the Bonds to be redeemed. The Trustee shall apply amounts as and when required available therefor in the Bond Fund or Credit Facility Fund to pay principal of, and premium, if any, and interest on, the Bonds.

**Section 4.09. Effect of Redemption.** Notice of redemption having been duly given as aforesaid, and moneys for payment of the redemption price being held by the Trustee if such redemption was conditioned thereon, the Bonds so called for redemption shall, on the redemption date designated in such notice, become due and payable at the redemption price specified in such notice, interest on the Bonds so called for redemption shall cease to accrue, said Bonds shall cease to be entitled to any lien, benefit or security under this Indenture, and the Owners of said Bonds shall have no rights in respect thereof except to receive payment of the redemption price thereof, without interest accrued on any funds held to pay such redemption price accruing after the date of redemption.

All Bonds fully redeemed pursuant to the provisions of this Article IV shall be canceled upon surrender thereof to the Paying Agent, which shall upon the written request of the Issuer, deliver to the Company a certificate evidencing such cancellation.



## ARTICLE V

### GENERAL COVENANTS; CREDIT FACILITY; AND ADDITIONAL COLLATERAL

**Section 5.01. Payment of Bonds.** (a) The Issuer covenants that it will promptly pay or cause to be paid the principal of, and premium, if any, and interest on, every Bond issued under this Indenture at the place, on the dates and in the manner provided herein and in the Bonds, *provided* that the principal, premium if any, and interest are payable by the Issuer solely from the Revenues, 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) Each and every covenant made herein by the Issuer is predicated upon the condition that the Issuer shall not in any event be liable for the payment of the principal of, or premium, if any, or interest on the Bonds, or for the payment of the purchase price of the Bonds, or the performance of any pledge, mortgage, obligation or agreement created by or arising under this Indenture or the Bonds from any property other than the Trust Estate; and, further, that neither the Bonds nor any such obligation or agreement of the Issuer shall be construed to constitute an indebtedness or a lending of credit of the Issuer within the meaning of any constitutional or statutory provision whatsoever, or constitute or give rise to a pecuniary liability of the Issuer or a charge against its general credit or taxing power.

(c) For the payment of interest on the Bonds, the Issuer shall cause to be deposited in the Interest Account or the Credit Facility Fund on or prior to each Interest Payment Date, solely out of Revenues and other moneys pledged therefor, an amount sufficient to pay the interest to become due on such Interest Payment Date; *provided, however*, that the obligation of the Issuer to cause any such deposit to be made hereunder shall be reduced by the amount of moneys in the Interest Account available on the Interest Payment Date for the payment of the interest on the Bonds.

(d) For payment of the principal of the Bonds upon redemption, maturity or acceleration of maturity, the Issuer shall cause to be deposited in the Principal Account or the Credit Facility Fund, on or prior to the redemption date or the maturity date (whether accelerated or not) of the Bonds, solely out of Revenues and other moneys pledged therefor, an amount sufficient to pay the principal of the Bonds; *provided, however*, that the obligation of the Issuer to cause any such deposit to be made hereunder shall be reduced by the amount of moneys in the Principal Account available on the redemption date or the maturity date (whether accelerated or not) for the payment of the principal of the Bonds; and *provided, further*, that the obligation of the Issuer to cause any such deposit to be made hereunder shall be deemed to be satisfied and discharged to the extent of the corresponding payment made by the Provider to the Trustee under the Credit Facility (unless the Credit Facility shall be an insurance policy, in which case such obligation of the Issuer shall not be deemed to be satisfied and discharged).

**Section 5.02. Performance of Covenants by Issuer; Authority; Due Execution.** The Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond executed,

authenticated and delivered hereunder and in all of its proceedings pertaining thereto. The Issuer represents that it is duly authorized under the Constitution and laws of the State to issue the Bonds and to execute this Indenture, to execute and deliver the Agreement, to assign the Agreement and amounts payable thereunder, and to pledge the amounts hereby pledged in the manner and to the extent herein set forth. The Issuer further represents that all action on its part for the issuance of the Bonds and the execution and delivery of this Indenture has been duly and effectively taken, and that the Bonds in the hands of the Owners thereof are and will be valid and binding limited obligations of the Issuer.

The Issuer shall fully cooperate with the Trustee and with the Owners of the Bonds to the end of fully protecting the rights and security of the Owners of any Bonds.

The Issuer represents that it now has, and covenants that it shall use its best efforts to maintain, complete and lawful authority and privilege to enter into and perform its obligations under this Indenture and the Agreement, and covenants that it will at all times use its best efforts to maintain its existence or provide for the assumption of its obligations under this Indenture and the Agreement.

Except to the extent otherwise provided in this Indenture, the Issuer shall not enter into any contract or take any action by which the rights of the Trustee or the Owners of the Bonds may be impaired and shall, from time to time, execute and deliver such further instruments and take such further action as may be reasonably required to carry out the purposes of this Indenture.

***Section 5.03. Immunities and Limitations of Responsibility of Issuer; Remedies.*** Without limiting the obligation of the Issuer to perform its covenants and obligations hereunder:

(a) The Issuer shall be entitled to the advice of counsel and shall be wholly protected as to action taken or omitted in good faith in reliance on such advice.

(b) The Issuer may rely conclusively on any communication or other document furnished to it hereunder and reasonably believed by it to be genuine.

(c) The Issuer shall not be liable for any action:

(i) taken by it in good faith and reasonably believed by it to be within its discretion or powers hereunder, or

(ii) in good faith omitted to be taken by it because such action was reasonably believed to be beyond its discretion or powers hereunder, or

(iii) taken by it pursuant to any direction or instruction by which it is governed hereunder, or

(iv) omitted to be taken by it by reason of the lack of any direction or instruction required hereby for such action; nor shall it be responsible for the consequences of any error of judgment made by it in good faith.

(d) The Issuer shall in no event be liable for the application or misapplication of funds or for other acts or defaults by any person, except its own officers and employees.

(e) When any payment or consent or other action by it is called for hereby, it may defer such action pending receipt of such evidence (if any) as it may require in support thereof.

(f) The Issuer shall not be required to take any remedial action (other than the giving of notice) unless reasonable indemnity satisfactory to it is furnished for any expense or liability to be incurred thereby.

(g) As provided herein and in the Agreement, the Issuer shall be entitled to reimbursement from the Company for its expenses reasonably incurred or advances reasonably made, with interest at a rate per annum equal to the rate of interest then in effect and as published in the Wall Street Journal as the composite prime lending rate for domestic commercial loans, in the exercise of its rights or the performance of its obligations hereunder, to the extent that it acts without previously obtaining indemnity.

(h) No permissive right or power to act which it may have shall be construed as a requirement to act, and no delay in the exercise of a right or power shall affect its subsequent exercise of that right or power.

**Section 5.04. Defense of Issuer's Rights.** The Issuer agrees that the Trustee may defend the Issuer's rights to the payments and other amounts due under the Agreement, for the benefit of the Owners of the Bonds, against the claims and demands of all persons whomsoever. The Issuer covenants that it will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such indentures supplemental hereto and such further acts, instruments and transfers as the Trustee may reasonably require for the better assuring, transferring, pledging, assigning and confirming to the Trustee all and singular the rights assigned hereby and the amounts pledged hereby to the payment of the principal of, and premium, if any, and interest on, the Bonds. The Issuer covenants and agrees that, except as herein and in the Agreement provided, it will not sell, convey, assign, pledge, encumber or otherwise dispose of any part of the Trust Estate.

**Section 5.05. Recording and Filing; Further Instruments.** (a) The Issuer and the Trustee shall cooperate with the Company in the Company's filing and recording of all documents, notices and financing statements related to this Indenture and to the Agreement which are necessary, as required by law, in order to perfect the lien of this Indenture in the Trust Estate. Concurrently with the execution and delivery of the Bonds and in accordance with the requirements of Section 5.04 of the Agreement, the Company shall cause to be delivered to the Trustee an opinion of counsel (i) stating that, in the opinion of such counsel either (A) such

action has been taken, as set forth therein, with respect to the recording and filing of such documents, notices and financing statements as is necessary to perfect the lien of this Indenture in the Trust Estate, or (B) no such action is necessary to perfect such lien, and (ii) stating the requirements for the filing of continuation statements or other documentation or notices in order to maintain the perfection of the lien of this Indenture in the Trust Estate.

(b) The Issuer shall upon the reasonable request of the Trustee (which request the Trustee is not required to make), from time to time execute and deliver such further instruments and take such further action as may be reasonable (and consistent with the Bond Documents) and as may be required to effectuate the purposes of this Indenture or any provisions hereof, *provided however*, that no such instruments or actions shall pledge the general credit or the full faith of the Issuer.

**Section 5.06. Rights Under Agreement.** The Agreement, a duly executed counterpart, of which has been filed with the Trustee, sets forth the covenants and obligations of the Issuer and the Company, including provisions that, subsequent to the issuance of the Bonds and prior to the payment in full or provision for payment thereof in accordance with the provisions hereof, the Agreement (except as expressly provided therein) may not be effectively amended, changed, modified, altered or terminated without the concurring written consent of the Trustee, as provided in Article XII hereof, and reference is hereby made to the Agreement for a detailed statement of such covenants and obligations of the Company, and the Issuer agrees that the Trustee in its name or (to the extent required by law) in the name of the Issuer may enforce all rights of the Issuer and all obligations of the Company under and pursuant to the Agreement, whether or not the Issuer is in default hereunder. The Issuer shall cooperate with the Trustee in enforcing the obligations of the Company to pay or cause to be paid all amounts payable by the Company under the Agreement.

**Section 5.07. Arbitrage and Tax Covenants.** The Issuer will not take or fail to take any action that would impair the exclusion of interest on the Bonds from gross income for federal income tax purposes. The Issuer further will not knowingly act or fail to act so as to cause the proceeds of the Bonds, any moneys derived, directly or indirectly, from the use or investment thereof and any other moneys on deposit in any fund or account maintained in respect of the Bonds (whether such moneys were derived from the proceeds of the sale of the Bonds or from other sources) to be used in a manner which would cause the Bonds to be treated as “*arbitrage bonds*” within the meaning of Section 148 of the Code, or which would otherwise adversely affect the Tax-Exempt status of the Bonds.

**Section 5.08. No Disposition of Trust Estate.** Except as permitted by this Indenture, the Issuer shall not sell lease, pledge, assign or otherwise encumber or dispose of its interest in the Trust Estate and will promptly pay (but only from the Revenues) or cause to be discharged, or make adequate provision to discharge, any lien or charge on any part thereof not permitted hereby.

**Section 5.09. Access to Books.** All books and documents in the possession of the Issuer relating to the Revenues and the Trust Estate shall at all reasonable times be open to inspection by such accountants or other agencies as the Trustee may from time to time designate.

**Section 5.10. Source of Payment of Bonds.** The Bonds are not general obligations of the Issuer but are limited obligations payable solely from the Revenues. The Revenues have been pledged and assigned as security for the equal and ratable payment of the Bonds and shall be used for no other purpose than to pay the principal of, and premium, if any, and interest on, the Bonds, except as may be otherwise expressly authorized in this Indenture or the Agreement.

**Section 5.11. Credit Facility.** The Trustee and the Paying Agent shall take action under the Credit Facility, in accordance with the terms and subject to the coverage thereof, to the extent necessary in order to cause amounts in respect of the principal of, interest on and, if applicable, the purchase price of the Bonds to be payable by the Provider pursuant to the Credit Facility to the Owners of the Bonds. The Trustee shall not sell, assign, transfer or surrender the Credit Facility except as described in Section 2.16 hereof and, in the case of First Mortgage Bonds that constitute a Credit Facility, except as described in Section 5.12 hereof.

**Section 5.12. First Mortgage Bonds.** In the event that the Trustee shall hold First Mortgage Bonds, whether delivered as a Credit Facility or as Additional Collateral, the Trustee shall observe the following provisions respecting the First Mortgage Bonds:

(a) *No Transfer of First Mortgage Bonds.* The Trustee shall not sell, assign or transfer any First Mortgage Bonds except to a successor trustee under this Indenture. First Mortgage Bonds may be held by and registered in the name of the Trustee's nominee, for the benefit of the Owners of the Bonds, without violating the provisions of the preceding sentence, *provided* that such nominee is under the control of the Trustee and that the ability of the Trustee to perform its obligations hereunder will not be adversely affected thereby.

(b) *Voting of First Mortgage Bonds.* The Trustee shall, as the holder of any First Mortgage Bonds, attend such meeting or meetings of bondholders under the Company Mortgage or, at its option, deliver its proxy in connection therewith, as related to matters with respect to which it is entitled to vote or consent. So long as no Event of Default of which a Responsible Officer of the Trustee has actual knowledge shall have occurred and be continuing, either at any such meeting or meetings, or otherwise when the consent of the holders of the first mortgage bonds issued under the Company Mortgage is sought without a meeting, the Trustee shall vote as the holder of any First Mortgage Bonds, or shall consent with respect thereto proportionately with the vote or consent of the holders of all other first mortgage bonds of the Company then outstanding under the Company Mortgage, the holders of which are eligible to vote or consent. Anything in this Indenture to the contrary notwithstanding:

(i) the proportionate votes or consents of the holders of first mortgage bonds (other than the First Mortgage Bonds) shall be exclusively evidenced for purposes of this Section 5.12(b) by a Bondholder's Certificate (as hereinafter defined) delivered to the Trustee; the Trustee shall have no duty or obligation to make any other determination of such proportionate votes or consents or to verify the accuracy of any Bondholder's Certificate; and the Trustee shall have no duty

or obligation to vote or consent with respect to the First Mortgage Bonds unless and until it shall have received a Bondholder's Certificate;

(ii) the Trustee shall not vote as such holder in favor of, or give its consent to, any amendment or modification of the Company Mortgage which, if it were an amendment or modification of this Indenture, would not be described in Section 12.01 hereof (and the Trustee shall be entitled to rely on an opinion of counsel to the Company or an opinion of Bond Counsel as to whether or not such amendment or modification of the Company Mortgage is described in Section 12.01 hereof) without (A) the prior consent and approval, obtained in the manner prescribed in Section 12.02 hereof, of Owners of Bonds which would be required under said Section 12.02 for such an amendment or modification of this Indenture and (B) the consent of the Provider (unless an Provider Default shall have occurred and be continuing); and

(iii) this Section 5.12(b) shall not apply to any vote or consent of bondholders under the Company Mortgage with respect to any matter if and to the extent that the instrument establishing the First Mortgage Bonds as a series under the Mortgage (and the terms of such series) shall provide that the holder of the First Mortgage Bonds shall be deemed to have voted or consented with respect to such matter in a manner specified in such instrument.

For purposes of this Section 5.12(b), "*Bondholder's Certificate*" means a certificate signed by the temporary chairman, the temporary secretary, the permanent chairman, the permanent secretary, or an inspector of votes at any meeting or meetings of bondholders under the Company Mortgage, or by the Company Mortgage Trustee in the case of consents of such bondholders which are sought without a meeting, which states what the signer thereof reasonably believes will be the proportionate votes or consents of the holders of all first mortgage bonds (other than the First Mortgage Bonds) outstanding under the Company Mortgage and counted for the purposes of determining whether such bondholders have approved or consented to the matter put before them.

Any action taken by the Trustee in accordance with the provisions of this Section 5.12(b) shall be binding upon the Issuer and the Owners of Bonds.

(c) *Surrender of First Mortgage Bonds.* The Trustee shall surrender any First Mortgage Bonds to the Company Mortgage Trustee only in accordance with the provisions of Section 4.07(b), Section 4.09(d) or Section 4.10(b) of the Agreement.

(d) *Notice to Company Mortgage Trustee.* In the event that a payment on any First Mortgage Bonds shall have become due and payable and shall not have been fully paid, the Trustee shall forthwith give notice thereof to the Company Mortgage Trustee signed by its President, a Vice President, a Senior Trust Officer or a Trust Officer, specifying, with respect to principal of such First Mortgage Bonds, the principal amount of First Mortgage Bonds then due and payable and the amount of funds required to make such payment and, with respect to interest on such First Mortgage Bonds, the last date to

which interest has been paid and the amount of funds required to make such payment. In the event that the Trustee shall have received written notice pursuant to Section 8.01 of the Agreement to the effect that any Bonds are to be redeemed pursuant to Section 4.02 or Section 4.03 hereof, the Trustee shall forthwith give notice thereof to the Company Mortgage Trustee specifying the principal amount, interest rate and redemption date of Bonds so to be redeemed. Any such notice given by the Trustee shall be signed by its President, a Vice President, an Assistant Vice President or an Assistant Treasurer thereof. The Trustee shall incur no liability for failure to give any such notice, and such failure shall have no effect on the obligations of the Company on any First Mortgage Bonds or on the rights of the Trustee or of the Owners of Bonds.

**Section 5.13. Additional Collateral.** The Trustee and the Paying Agent shall take action under any Additional Collateral, in accordance with the terms thereof and at the expense of the Company, to the extent necessary in order to cause amounts in respect of the principal of and interest on the Bonds to be payable by the Provider pursuant to the Additional Collateral to the Owners of the Bonds. The Trustee shall not sell, assign, transfer or surrender any Additional Collateral except to a successor Trustee hereunder and in accordance with the terms of the Additional Collateral or the Agreement, as the case may be.

## ARTICLE VI

### DEPOSIT OF BOND PROCEEDS; FUND AND ACCOUNTS; REVENUES

**Section 6.01. Creation of Bond Fund and Accounts; Credit Facility Fund; Rebate Fund.** (a) There is hereby created by the Issuer and ordered established a separate Bond Fund, which shall be an Eligible Account, to be held by the Trustee and to be designated “*City of Forsyth, Montana, Pollution Control Revenue Refunding Bonds (Avista Corporation Colstrip Project) Series 2010B Bond Fund*” and therein a Principal Account and an Interest Account.

(b) There is hereby created by the Issuer and ordered established a separate Credit Facility Fund, which shall be an Eligible Account, to be held by the Trustee and to be designated “*City of Forsyth, Montana, Pollution Control Revenue Refunding Bonds (Avista Corporation Colstrip Project) Series 2010B Credit Facility Fund.*”

(c) For purposes of complying with the requirements of Section 148 of the Code, the Rebate Fund is hereby established with the Trustee to make arbitrage payments as contemplated by the Tax Certificate. The Trustee shall deposit such amounts into the Rebate Fund and pay such amounts from the Rebate Fund as it shall be directed by an Authorized Company Representative. The Trustee shall have no responsibility for calculating the amount of arbitrage rebate with respect to the Bonds.

**Section 6.02. Disposition of Bond Proceeds and Certain Other Moneys.** In accordance with the direction contained in Section 3.03 of the Agreement, simultaneously with the initial authentication and delivery of the Bonds: (i) there shall be deposited with the Prior Trustee in the Prior Bond Fund and used for the purpose of the Refunding of the Prior Bonds, an amount equal to \$17,000,000, representing the principal proceeds received from the sale of the Bonds,

and (ii) there shall be deposited into the Interest Account the accrued interest on the Bonds, if any, from the Issue Date to the date of the initial authentication and delivery of the Bonds.

**Section 6.03. Deposits into the Bond Fund; Use of Moneys in the Bond Fund.** (a) The Trustee shall deposit into the Principal Account of the Bond Fund (i) payments made by the Company pursuant to the Agreement in respect of principal of or premium payable on the Bonds, including any payments of principal of and premium, if any, on Additional Collateral, (ii) moneys drawn under or paid on the Credit Facility for the payment of the principal of or premium, if any, on the Bonds upon redemption, maturity or acceleration of maturity and (iii) any other moneys required by this Indenture or the Agreement to be deposited into the Principal Account of the Bond Fund. The Trustee shall keep separate (A) moneys drawn under the Credit Facility and (B) Available Moneys and shall not commingle such moneys or Available Moneys, as the case may be, with other moneys in the Principal Account.

(b) The Trustee shall deposit into the Interest Account of the Bond Fund (i) payments made by the Company pursuant to the Agreement in respect of interest on the Bonds, including any payments of interest on Additional Collateral, (ii) moneys drawn under or paid on the Credit Facility to pay interest on the Bonds when due and (iii) any other moneys required by this Indenture or the Agreement to be deposited into the Interest Account of the Bond Fund. The Trustee shall keep separate (A) moneys drawn under the Credit Facility and (B) Available Moneys and shall not commingle such moneys or Available Moneys, as the case may be, with other moneys in the Interest Account.

(c) Except as provided in Sections 6.04, 6.05, 9.10 and 10.04 and Article VIII hereof and in the Tax Certificate, moneys in the Principal Account of the Bond Fund shall be used solely for the payment of principal of and premium if any, on the Bonds as the same shall become due and payable at maturity, upon redemption or upon acceleration of maturity. The Trustee shall at all times maintain accurate records of deposits into the Principal Account, and the sources and timing of such deposits, and shall apply moneys from such sources on any Bond Payment Date in the following order of priority:

- (i) Available Moneys;
- (ii) Moneys drawn under or paid on the Credit Facility on which neither the Company nor any affiliate thereof is the obligor; and
- (iii) Any other moneys paid by the Company pursuant to the Agreement or any other moneys in the Bond Fund;

*provided, however,* that if the Credit Facility then in effect consists of a direct pay letter of credit, the Trustee shall apply moneys drawn under the Credit Facility prior to the application of moneys from any other sources. In the event that any principal payment by the Company pursuant to the Agreement is on deposit in the Principal Account on a Bond Payment Date but does not constitute Available Moneys, or is received by the Trustee subsequent to such Bond Payment Date, and the Trustee has paid principal of the Bonds from the source described in clause (ii) of this paragraph, the Trustee shall, subject to Section 9.10 hereof, transfer to the



Provider on (or as promptly as practicable after) such Bond Payment Date or the date of receipt, if different, the amount of such principal of Bonds paid from such source and not reimbursed to the Provider under the Credit Facility Agreement as certified in writing to the Trustee and the Company by the Provider.

(d) Except as provided in Sections 6.04, 6.05, 9.10 and 10.04 and Article VIII hereof and in the Tax Certificate, moneys in the Interest Account of the Bond Fund shall be used solely to pay interest on the Bonds when due. The Trustee shall at all times maintain accurate records of deposits into the Interest Account and the sources of such deposits, and shall apply moneys from such sources on any Bond Payment Date in the following order of priority:

- (i) Available Moneys;
- (ii) Moneys drawn under or paid on the Credit Facility on which neither the Company nor any affiliate thereof is the obligor; and
- (iii) Any other moneys paid by the Company pursuant to the Agreement or any other moneys in the Bond Fund;

*provided, however,* that if the Credit Facility then in effect consists of a direct pay letter of credit, the Trustee shall apply moneys drawn under the Credit Facility prior to the application of moneys from any other sources. In the event that any interest payment by the Company pursuant to the Agreement is on deposit in the Interest Account on a Bond Payment Date but does not constitute Available Moneys, or is received by the Trustee subsequent to such Bond Payment Date, and the Trustee has paid interest on the Bonds from the source described in clause (ii) of this paragraph, the Trustee shall, subject to Section 9.10 hereof, transfer to the Provider on (or as promptly as practicable after) such Bond Payment Date or the date of receipt, if different, the amount of such interest on Bonds paid from such source and not reimbursed to the Provider under the Credit Facility Agreement, as certified in writing to the Trustee by the Provider.

The Trustee shall identify appropriate sources of moneys and apply such moneys to pay principal of, and premium, if any, and interest on, the Bonds as and when required by the terms of this Indenture.

**Section 6.04. Bonds Not Presented for Payment of Principal.** In the event any Bonds shall not be presented for payment when the principal thereof becomes due, either at maturity or at the date fixed for redemption thereof or the acceleration of maturity or in the event that any interest thereon is unclaimed, if moneys sufficient to pay such Bonds or interest are held by the Trustee, the Trustee shall segregate and hold such moneys in trust (but shall not invest such moneys), without liability for interest thereon, for the benefit of Owners of such Bonds who shall except as provided in the following paragraph, thereafter be restricted exclusively to such fund or funds for the satisfaction of any claim of whatever nature on their part under this Indenture or relating to said Bonds or interest. Such Bonds which shall not have been so presented for payment shall be deemed paid for any purposes of this Indenture.

Any moneys which the Trustee shall segregate and hold in trust for the payment of the principal of or interest on any Bond and remaining unclaimed for two years (subject to applicable escheat laws) after such principal or interest has become due and payable shall be paid by the Trustee to the Company upon request of an Authorized Company Representative to the Trustee, (i) be paid to the Provider to the extent of the amount, if any, certified in writing by the Provider to the Trustee and the Company to be payable under the Credit Facility Agreement, and (ii) the balance, if any, shall be paid by the Trustee to the Company if consented to in writing by the Provider. After the payment of such unclaimed moneys to the Company or the Provider, the Owner of such Bond shall look only to the Company for payment, and then only to the extent of the amount so repaid to the Provider and/or the Company, and the Company shall not be liable for any interest thereon and shall not be regarded as a trustee of such money, and all liability of the Issuer, the Trustee and the Provider with respect to such moneys shall thereupon cease.

Neither the Company nor the Issuer shall have any right, title or interest in or to any moneys held by the Trustee pursuant to this Section. The Trustee shall not be liable to the Issuer or any Owner for interest on funds held by it for the payment and discharge of the principal, interest, or premium on any of the Bonds to any Owner.

**Section 6.05. Payment to the Company.** After the right, title and interest of the Trustee in and to the Trust Estate and all covenants, agreements and other obligations of the Issuer to the Owners shall have ceased, terminated and become void and shall have been satisfied and discharged in accordance with Section 6.04 and Article VIII hereof, and all fees, expenses and other amounts payable to the Registrar, the Paying Agent, the Trustee, the Remarketing Agent, the Provider and the Issuer pursuant to any provision of this Indenture or the Credit Facility Agreement shall have been paid, any moneys remaining in the Bond Fund and the Rebate Fund shall be paid to the Company upon request of an Authorized Company Representative, other than any unclaimed moneys held pursuant to Section 6.04. The Trustee may conclusively rely on certificates of the Remarketing Agent and the Provider as to the amount of any fees, expenses and other amounts owing to them.

## ARTICLE VII

### INVESTMENTS

**Section 7.01. Investment of Moneys in Funds.** Subject to Section 5.07 hereof and the provisions of the Tax Certificate, moneys in the Bond Fund and the Rebate Fund may be invested and reinvested in Investment Securities. Such investments shall be made by the Trustee as specifically directed and designated by the Company in a certificate of an Authorized Company Representative. Each such certificate shall contain a statement that each investment so designated by the Company constitutes an Investment Security and can be made without violation of any provision hereof or of the Agreement or of the Tax Certificate. The Trustee shall be entitled to rely on each such certificate or advice and shall incur no liability for making any such investment so designated or for any loss, fee, tax or other charge incurred in selling such investment or for any action taken pursuant to this Section that causes the Bonds to be treated as "arbitrage bonds" within the meaning of Section 148 of the Code. No investment

instructions shall be given by the Company if the investments to be made pursuant thereto would violate any covenant set forth in Section 5.07 hereof or the provisions of the Agreement or the Tax Certificate. The Trustee may act as principal or agent in the acquisition or disposition of investments. The Trustee shall not be responsible for any loss on any investment made in accordance herewith. The Trustee shall not invest any cash held by it hereunder in the absence of timely and specific written direction from the Company or the Provider. The Issuer and the Company acknowledge that regulations of the Comptroller of the Currency grant the right to receive brokerage confirmations of the security transactions as they occur, at no additional cost. To the extent permitted by law, the Issuer and the Company specifically waive compliance with 12 C.F.R. 12 and hereby notifies the Trustee that no brokerage confirmations need be sent relating to the security transactions as they occur.

Moneys in the Credit Facility Fund, including money provided pursuant to a draw on the Credit Facility to pay the purchase of Bonds pursuant to Section 3.01 or Section 3.02 hereof and proceeds of Remarketed Bonds shall be held uninvested.

**Section 7.02. Conversion of Investment to Cash.** As and when any amounts so invested may be needed for disbursements from the Bond Fund or the Rebate Fund, the Trustee shall cause a sufficient amount of such investments to be sold or otherwise converted into cash to the credit of such fund. As long as no Event of Default shall have occurred and be continuing, the Company shall have the right to designate the investments to be sold and to otherwise direct the Trustee in the sale or conversion to cash of such investments (otherwise, the Provider shall have the right to make such designations and give such directions; *provided*, that if, at the time there is no Provider or a Provider Default shall have occurred and be continuing, the Trustee shall sell or otherwise convert into cash all such investments and hold such cash uninvested in the applicable fund or funds); *provided* that the Trustee shall be entitled to conclusively assume the absence of any Event of Default unless it has notice thereof within the meaning of Section 10.05 hereof.

**Section 7.03. Credit for Gains and Charge for Losses.** Gains from investments shall be credited to and held in and losses shall be charged to the fund or account from which the investment is made.

## ARTICLE VIII

### DEFEASANCE

If the Issuer shall pay or cause to be paid to the Owner of any Bond secured hereby the principal of, and premium, if any, and interest due and payable, and thereafter to become due and payable, upon such Bond or any portion of such Bond in an Authorized Denomination thereof, such Bond or portion thereof shall cease to be entitled to any lien, benefit or security under this Indenture.

If the Issuer shall pay or cause to be paid the principal of, and premium if any, and interest due and payable on, all Outstanding Bonds, and thereafter to become due and payable thereon, and shall pay or cause to be paid all other sums payable hereunder by the Issuer,

including any necessary and proper fees, compensation and expenses of the Trustee, the Paying Agent, the Registrar, the Provider and the Remarketing Agent, then, and in that case, the right, title and interest of the Trustee in and to the Trust Estate shall thereupon cease, terminate and become void. In such event, the Trustee shall assign, transfer and turn over the Trust Estate to the Company and any surplus in the Bond Fund and any balance remaining in any other fund created under this Indenture shall be paid to the Company upon the request of an Authorized Company Representative, other than any unclaimed moneys held pursuant to Sections 3.06(d) and 6.04. The Trustee may conclusively rely on certificates of the Remarketing Agent and the Provider as to the amount of any fees, expenses and other amounts owing to them. Notwithstanding anything herein to the contrary, in the event that the principal of and interest due on any Bonds shall be paid by the Provider pursuant to the Credit Facility and the Provider has not been reimbursed for such payment or arrangements satisfactory to the Provider for such reimbursement have not been made, such Bonds shall remain Outstanding for all purposes, shall not be defeased or otherwise satisfied and shall not be considered paid by the Issuer, and the assignment and pledge of the Trust Estate and all covenants, agreements and other obligations of the Issuer to such Owners shall continue to exist and shall run to the benefit of the Provider and the Provider shall be subrogated to the rights of such Owners.

All or any portions of Bonds (in Authorized Denominations) shall, prior to the maturity or redemption date thereof, be deemed to have been paid within the meaning of this Article VIII and for all purposes of this Indenture when:

(a) in the event said Bonds or portions thereof have been selected for redemption in accordance with Section 4.04 hereof, the Trustee shall have given, or the Company shall have given to the Trustee in form satisfactory to it irrevocable instructions to give, on a date in accordance with the provisions of Section 4.05 hereof, notice of redemption of such Bonds or portions thereof;

(b) there shall have been deposited with the Trustee moneys, which constitute Available Moneys or moneys drawn on the Credit Facility (other than a Credit Facility that consists solely of a facility on which either the Company or any affiliate thereof is the obligor), in an amount sufficient (without relying on any investment income) to pay when due the principal of, and premium, if any, and interest due and to become due (which amount of interest to become due shall be calculated at the Maximum Interest Rate unless the interest rate borne by all of such Bonds is not subject to adjustment prior to the maturity or redemption thereof, in which case the amount of interest shall be calculated at the rate borne by such Bonds) on said Bonds or portions thereof on and prior to the redemption date or maturity date thereof, as the case may be; *provided, however*, that if such payment is to be made upon redemption pursuant to Section 4.02 hereof, such payment shall be made from Available Moneys;

(c) in the event said Bonds or portions thereof do not mature and are not to be redeemed within the next succeeding 60 days, the Issuer at the direction of the Company shall have given the Trustee in form satisfactory to it irrevocable instructions to give, as soon as practicable in the same manner as a notice of redemption is given pursuant to Section 4.05 hereof, a notice to the Owners of said Bonds or portions thereof and to the

Provider that the deposit required by clause (b) above has been made with the Trustee and that said Bonds or portions thereof are deemed to have been paid in accordance with this Article VIII and stating the maturity or redemption date upon which moneys are to be available for the payment of the principal of, and premium, if any, and interest on, said Bonds or portions thereof;

(d) the Issuer, the Company, the Trustee and the Provider shall have received written evidence from Moody's, if the Bonds are then rated by Moody's, and S&P, if the Bonds are then rated by S&P, that such action will not result in a reduction, suspension or withdrawal of the rating; and

(e) the Issuer, the Company, the Trustee, Moody's, if the Bonds are then rated by Moody's, S&P, if the Bonds are then rated by S&P, and the Provider shall have received a Favorable Opinion of Bond Counsel with respect to such deposit.

In the event the requirements of the next succeeding paragraph can be satisfied, the preceding paragraph shall not apply, and the following two paragraphs shall be applicable (the final two paragraphs of this Section shall apply in either case).

Any Bond shall be deemed to be paid within the meaning of this Article VIII and for all purposes of this Indenture when:

(a) payment of the principal of and premium if any, on such Bond, plus interest thereon to the due date thereof (whether such due date is by reason of maturity or acceleration or upon redemption as provided herein) either (A) shall have been made or caused to be made in accordance with the terms thereof or (B) shall have been provided for by irrevocably depositing with the Trustee in trust and irrevocably set aside exclusively for such payment (1) moneys, which shall be Available Moneys or moneys drawn under the Credit Facility (other than a Credit Facility that consists solely of a facility on which either the Company or any affiliate thereof is the obligor), sufficient to make such payment, and/or (2) Government Obligations purchased with Available Moneys or moneys drawn under the Credit Facility (other than a Credit Facility that consists solely of a facility on which either the Company or any affiliate thereof is the obligor) and maturing as to principal and interest in such amount and at such time as will insure, without reinvestment, the availability of sufficient moneys to make such payment; *provided, however*, that if such payment is to be made upon redemption pursuant to Section 4.02 hereof, such payment shall be made from Available Moneys or from Government Obligations purchase with Available Moneys;

(b) all necessary and proper fees, compensation and expenses of the Issuer, the Trustee, the Remarketing Agent, the Provider, the Paying Agent and the Registrar pertaining to the Bonds with respect to which such deposit is made shall have been paid or the payment thereof provided for to the satisfaction of the Trustee, the Trustee being able to conclusively rely on certificates of the Remarketing Agent and the Provider as to the amount of any fees, compensation and expenses owing to them; and

(c) an opinion of an independent public accountant of nationally recognized standing, selected by the Company, to the effect that such moneys and/or Government Obligations will insure, without reinvestment, the availability of sufficient moneys to make such payment, and a Favorable Opinion of Bond Counsel with respect to such deposit shall have been delivered to the Trustee. At such times as a Bond shall be deemed to be paid hereunder, as aforesaid, such Bond shall no longer be secured by or entitled to the benefits of this Indenture, except for the purposes of registration and exchange of Bonds and of any such payment from such moneys or Government Obligations.

The foregoing provisions of this paragraph shall apply only if (x) such Bond is to mature or be called for redemption prior to the next date upon which such Bond is subject to purchase pursuant to Section 3.01 and 3.02 hereof; and (y) the Company has waived, to the satisfaction of the Trustee, its right to adjust the interest rate borne by such Bond.

No deposit under clause (a)(B) of the preceding paragraph shall be deemed a payment of such Bonds as aforesaid until: (i) proper notice of redemption of such Bonds shall have been previously given in accordance with Section 4.05 hereof, or in the event said Bonds are not to be redeemed within the next succeeding 60 days, until the Company shall have given the Trustee on behalf of the Issuer, in form satisfactory to the Trustee, irrevocable instructions to notify, as soon as practicable, the Owners of the Bonds and the Provider in accordance with Section 4.05 hereof, that the deposit required by clause (a)(B) above has been made with the Trustee and that said Bonds are deemed to have been paid in accordance with this Article VIII and stating the maturity or redemption date upon which moneys are to be available for the payment of the principal of and the applicable redemption premium, if any, on said Bonds, plus interest thereon to the due date thereof; or (ii) the maturity of such Bonds.

Moneys deposited with the Trustee pursuant to this Article VIII shall not be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of, premium, if any, and interest on said Bonds or portions thereof, or for the payment of the purchase price of Bonds in accordance with Section 3.03 hereof; *provided* that such moneys, if not then needed for such purpose, shall to the extent practicable, be invested and reinvested in Government Obligations maturing on or prior to the earlier of (i) the date moneys may be required for the purchase of Bonds pursuant to Section 3.03 hereof or (ii) the Interest Payment Date next succeeding the date of investment or reinvestment, and interest earned from such investments shall be paid over to the Company, as received by the Trustee, free and clear of any trust, lien or pledge. If payment of less than all the Bonds is to be provided for in the manner and with the effect provided in this Article VIII, the Trustee shall select such Bonds or portion of such Bonds in the manner specified by Section 4.04 hereof for selection for redemption of less than all Bonds in the principal amount designated to the Trustee by the Company.

Notwithstanding that all or any portion of the Bonds are deemed to be paid within the meaning of this Article VIII, the provisions of this Indenture relating to (i) the registration and exchange of Bonds, (ii) the delivery of Bonds to the Trustee for purchase and the related obligations of the Trustee with respect thereto, (iii) replacement of mutilated, lost, destroyed or stolen Bonds, (iv) payment of the Bonds from the moneys deposited as described in this Article

and (v) payment, compensation, reimbursement and indemnification of the Trustee, shall remain in full force and effect with respect to all Bonds until the Maturity Date or the last date fixed for redemption of all Bonds prior to maturity and, in the case of clause (v), shall survive the termination of this Indenture.

## ARTICLE IX

### DEFAULTS AND REMEDIES

**Section 9.01. Events of Default.** Each of the following events shall constitute and is referred to in this Indenture as an “*Event of Default*”:

(a) a failure to pay the principal of or premium, if any, on any of the Bonds when the same shall become due and payable at maturity, upon redemption or otherwise, subject, however, to Section 3.04(b) hereof;

(b) a failure to pay an installment of interest on any of the Bonds, which failure shall continue for a period of (i) 60 days after the date upon which such interest has become due and payable if the Bonds bear interest at a Term Interest Rate, or (ii) two Business Days after the date upon which such interest has become due and payable if the Bonds bear interest at a Flexible Interest Rate, a Daily Interest Rate or a Weekly Interest Rate, subject, however, to Section 3.04(b) hereof;

(c) a failure to pay an amount due in respect of the purchase price of Bonds pursuant to Section 3.01 and Section 3.02 hereof after such payment has become due and payable;

(d) a failure by the Issuer to observe and perform any covenant, condition, agreement or provision (other than as specified in Section 9.01(a), Section 9.01(b) and Section 9.01(c)) contained in the Bonds or in this Indenture on the part of the Issuer to be observed or performed, which failure shall continue for a period of 90 days after written notice, specifying such failure and requesting that it be remedied, shall have been given to the Issuer and the Company by the Trustee by registered or certified mail which may give such notice in its discretion and shall give such notice at the written request of the Owners of not less than 33-1/3% in principal amount of the Bonds then Outstanding, unless the Trustee, or the Trustee and the Owners of a principal amount of Bonds not less than the principal amount of Bonds the Owners of which requested such notice, as the case may be, shall agree in writing to an extension of such period prior to its expiration; *provided however*, that the Trustee, or the Trustee and the Owners of such principal amount of Bonds, as the case may be, shall be deemed to have agreed to an extension of such period if corrective action is initiated by the Issuer or the Company on behalf of the Issuer within such period and is being diligently pursued, which extension shall end 180 days after the date of the written notice of default;

(e) an “*Event of Default*” under the Agreement;

(f) if the Trustee holds First Mortgage Bonds or Additional Collateral, a “*Completed Default*” as such term is defined in Section 65 of the Company Mortgage or an event of default under the Company Mortgage applicable to the Additional Collateral; or

(g) the Trustee’s receipt of written notice (which may be given by facsimile) from the Provider of an event of default under and as defined in the Credit Facility Agreement and stating that such notice is given pursuant to Section 9.01 of the Indenture and directing acceleration.

If on the date on which payment of principal of, interest on or other amount in any respect of the Bonds is due, sufficient moneys are not available to make such payment, the Trustee shall promptly give telephonic, electronic mail or facsimile notice of such insufficiency to the Company (in the case of telephonic notice, given to the person at the telephone number provided for in Section 3.06(c) hereof).

**Section 9.02. Acceleration; Other Remedies.** (a) If an Event of Default described in Section 9.01(a), Section 9.01(b), Section 9.01(c), Section 9.01(f) or Section 9.01(g) hereof or an Event of Default described in Section 9.01(e) hereof resulting from an “*Event of Default*” under Section 7.01(a) or Section 7.01(c) of the Agreement (to the extent that the Trustee shall have received written notice or be deemed to have notice pursuant to the provisions of Section 10.05 hereof) has occurred and has not been cured or waived, then (i) the Trustee may, with the consent of the Provider (unless a Provider Default shall have occurred and be continuing) or (ii) the Trustee shall (A) upon the written direction of the Provider (unless a Provider Default shall have occurred and be continuing), (B) upon the written request of the Owners of not less than 33-1/3% in principal amount of the Bonds then Outstanding and with the consent of the Provider (unless a Provider Default shall have occurred and be continuing), or (C) if the Trustee then holds First Mortgage Bonds, upon the acceleration of the First Mortgage Bonds pursuant to the provisions of the Company Mortgage, by written notice by registered or certified mail to the Issuer, the Company and the Provider, declare the Bonds to be immediately due and payable and, during the period the Credit Facility is in effect, with accrued interest on the Bonds payable on the Bond Payment Date fixed pursuant to the last paragraph of Section 9.10 hereof, anything in this Indenture or in the Bonds to the contrary notwithstanding, and the Trustee shall give notice thereof to the Issuer, the Company, the Remarketing Agent and the Provider and shall give notice thereof by Mail to all Owners of Outstanding Bonds, and the Trustee shall as promptly as practicable draw moneys under the Credit Facility to the extent available thereunder, in an amount sufficient to pay principal of and accrued interest on the Bonds payable on the Bond Payment Date established by the Trustee pursuant to the last paragraph of Section 9.10 hereof.

(b) The provisions of Section 9.02(a) are subject further to the condition that if, so long as no Credit Facility is in effect, after the principal of the Bonds shall have been so declared to be due and payable and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, the Issuer shall cause to be deposited with the Trustee a sum sufficient to pay all matured installments of interest upon all Bonds, any unpaid purchase price and the principal of any and all Bonds which shall have become due otherwise than by reason of such declaration (with interest upon such principal and, to the extent



permissible by law, on overdue installments of interest, at the rate per annum then borne by the Bonds) and such amount as shall be sufficient to cover reasonable compensation and reimbursement of expenses payable to the Trustee and all Events of Default (other than nonpayment of the principal of Bonds which shall have become due by said declaration) shall have been remedied, then, in every such case, such Event of Default shall be deemed waived and such declaration and its consequences rescinded and annulled, and the Trustee shall promptly give written notice of such waiver, rescission or annulment to the Issuer and the Company, and shall give notice thereof by Mail to all Owners of Outstanding Bonds; *provided, however*, that no such waiver, rescission and annulment shall extend to or affect any other Event of Default or subsequent Event of Default or impair any right, power or remedy consequent thereon.

The provisions of Section 9.02(a) are further subject to the condition that, if an Event of Default described in clause (g) of Section 9.01 hereof shall have occurred and if the Trustee shall thereafter have received written notice from the Provider (i) that the notice which caused such Event of Default to occur has been withdrawn and (ii) that the amounts available to be drawn on the Credit Facility to pay (A) the principal of the Bonds or the portion of purchase price equal to principal and (B) interest on the Bonds and the portion of purchase price equal to accrued interest have been reinstated to an amount equal to the principal amount of the Bonds Outstanding plus accrued interest thereon for the applicable Interest Coverage Period at the Interest Coverage Rate, then, in every such case, such Event of Default shall be deemed waived and its consequences rescinded and annulled, and the Trustee shall promptly give written notice of such waiver, rescission and annulment to the Issuer, the Company, the Provider and the Remarketing Agent, and, if notice of the acceleration of the Bonds shall have been given to the Owners of Bonds, shall give notice thereof by Mail to all Owners of Outstanding Bonds; but no such waiver, rescission and annulment shall extend to or affect any subsequent Event of Default or impair any right or remedy consequent thereon.

If the Trustee holds First Mortgage Bonds or Additional Collateral, the provisions of Section 9.02(a) are, further, subject to the condition that any waiver of any “*Completed Default*” or event of default under the Company Mortgage and a rescission and annulment of its consequences (assuming that the First Mortgage Bonds or the Additional Collateral are not otherwise to be mandatorily redeemed at the time of such waiver, rescission and annulment) shall constitute a waiver of the corresponding Event or Events of Default and a rescission and annulment of the consequences thereof; *provided, however*, in the event that the Credit Facility has been drawn upon to pay the principal of and interest on the Bonds upon acceleration, no “*Completed Default*” or event of default under the Company Mortgage shall be waived unless (in addition to the applicable conditions as aforesaid) the Trustee shall have received written notice from the Provider that the amounts available to be drawn on the Credit Facility to pay (A) the principal of the Bonds or the portion of purchase price equal to principal and (B) interest on the Bonds and the portion of purchase price equal to accrued interest have been reinstated to an amount equal to the principal amount of the Bonds Outstanding plus accrued interest thereon for the applicable Interest Coverage Period at the Interest Coverage Rate. The Trustee shall promptly give written notice of such waiver, rescission or annulment to the Issuer, the Company and the Provider and shall give notice thereof by Mail to all Owners of Outstanding Bonds; *provided* that it is deemed to have notice thereof under Section 10.05 hereof; but no such waiver,

rescission and annulment shall extend to or affect any other Event of Default or any subsequent Event of Default or impair any right or remedy consequent thereon.

(c) Upon the occurrence and continuance of any Event of Default, then and in every such case the Trustee in its discretion, with the consent of the Provider (unless a Provider Default shall have occurred and be continuing) may, and upon the written request of the Owners of not less than 33-1/3% in principal amount of the Bonds then Outstanding and with the consent of the Provider (unless a Provider Default shall have occurred and be continuing) and upon receipt of indemnity to its satisfaction (except against negligence or willful misconduct) shall in its own name and as the Trustee of an express trust:

(i) by mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Owners under, and require the Issuer, the Company or the Provider to carry out any agreements with or for the benefit of the Owners of Bonds and to perform its or their duties under, the Act, the Agreement, this Indenture, the Credit Facility and the Credit Facility Agreement, *provided* that any such remedy may be taken only to the extent permitted under the applicable provisions of the Agreement or this Indenture, as the case may be;

(ii) bring suit upon the Bonds;

(iii) by action or suit in equity require the Issuer to account as if it were the trustee of an express trust for the Owners of Bonds;

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

(v) if the Trustee holds First Mortgage Bonds and except as otherwise limited by this Indenture or the Company Supplemental Indenture, exercise any and all rights then available to the Trustee as a holder of the First Mortgage Bonds under the Company Mortgage.

Anything in this Indenture to the contrary notwithstanding, upon the occurrence and continuance of an Event of Default, the Provider (unless a Provider Default shall have occurred and be continuing) shall be entitled (subject to Section 9.04) to control and direct the enforcement of all rights and remedies granted to the Owners of the Bonds or the Trustee for the benefit of such Owners under this Indenture and shall be entitled to consent to any request or direction of the Owners as a condition to the effectiveness of any such request or direction.

(d) The Trustee shall waive any Event of Default hereunder and its consequences and rescind any declaration of acceleration of principal upon (i) the written direction of the Provider (unless a Provider Default shall have occurred and be continuing) and (ii) the written request of the Owners of (A) more than a majority in principal amount of all Outstanding Bonds in respect of which default in the payment of principal or purchase price of or interest on the Bonds exists or (B) more than a majority in principal amount of all Outstanding Bonds in the case of any other Event of Default; *provided, however*, that any Event of Default under Section 9.01(g) hereof may

be waived only as provided in the second paragraph of 9.02(b); *provided, further*, that (x) there shall not be waived any Event of Default specified in Section 9.01(a), Section 9.01(b) or Section 9.01(c) hereof unless prior to such waiver or rescission the Issuer shall have caused to be deposited with the Trustee a sum sufficient to pay all matured installments of interest upon all Bonds and the principal and purchase price of any and all Bonds which shall have become due otherwise than by reason of such declaration of acceleration (with interest upon such principal and, to the extent permissible by law, on overdue installments of interest, at the rate per annum then borne by the Bonds), (y) in the event that the Credit Facility has been drawn upon to pay the principal of and interest on the Bonds upon acceleration, no Event of Default shall be waived unless (in addition to the applicable conditions as aforesaid) the Trustee shall have received written notice from the Provider that the amounts available to be drawn on the Credit Facility to pay (A) the principal of the Bonds or the portion of purchase price equal to principal and (B) interest on the Bonds and the portion of purchase price equal to accrued interest have been reinstated to an amount equal to the principal amount of the Bonds Outstanding plus accrued interest thereon for the applicable Interest Coverage Period at the Interest Coverage Rate and (z) no Event of Default shall be waived unless (in addition to the applicable conditions as aforesaid) there shall have been deposited with the Trustee such amount as shall be sufficient to cover reasonable compensation and reimbursement of expenses payable to the Trustee. In case of any waiver or rescission described above, or in case any proceeding taken by the Trustee on account of any such Event of Default shall have been discontinued or concluded or determined adversely, then and in every such case the Issuer, the Trustee and the Owners of Bonds shall be restored to their former positions and rights hereunder, respectively; *provided, further*, that no such waiver or rescission shall extend to any subsequent or other Event of Default, or impair any right consequent thereon.

(e) Nothing herein shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Owner of Bonds any plan of reorganization, arrangement, adjustment, or composition affecting the Bonds or the rights of any Owner of Bonds thereof, or to authorize the Trustee to vote in respect of the claim of any Owner of Bonds in any such proceeding without the approval of the Owners of Bonds so affected.

**Section 9.03. Restoration to Former Position.** In the event that any proceeding taken by the Trustee to enforce any right under this Indenture shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then the Issuer, the Trustee and the Owners of Bonds shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies and powers of the Trustee shall continue as though no such proceeding had been taken.

**Section 9.04. Owners' Right to Direct Proceedings.** Anything in this Indenture to the contrary notwithstanding, upon the occurrence and continuance of an Event of Default, the Provider (provided that a Provider Default shall not have occurred and be continuing) or the Owners of a majority in principal amount of the Bonds then Outstanding, with the consent of the Provider (provided that a Provider Default shall not have occurred and be continuing), shall have the right, by an instrument in writing executed and delivered to the Trustee and upon furnishing to the Trustee indemnity satisfactory to it (except against negligence or willful misconduct), to direct the time, method and place of conducting all remedial proceedings available to the Trustee

under this Indenture or exercising any trust or power conferred on the Trustee by this Indenture; *provided* that such direction shall not be other than in accordance with the provisions of law, the Agreement and this Indenture and shall not result in any personal liability of the Trustee.

**Section 9.05. *Limitation on Owners' Right to Institute Proceedings.*** No Owner shall have any right to institute any suit, action or proceeding in equity or at law for the execution of any trust or power hereunder, or any other remedy hereunder or in the Bonds, unless such Owner previously shall have given to the Trustee written notice of an Event of Default as herein above provided and unless the Owners of not less than 33-1/3% in principal amount of the Bonds then Outstanding shall have made written request of the Trustee so to do after the right to institute said suit, action or proceeding under Section 9.02 hereof shall have accrued, and shall have afforded the Trustee a reasonable opportunity to proceed to institute the same in either its or their name, and unless there also shall have been offered to the Trustee security and indemnity satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby (except against negligence or willful misconduct), and the Trustee shall not have complied with such request within a reasonable time; and 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 institution of said suit, action or proceeding, it being understood and intended that no one or more of the Owners shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security of this Indenture, or to enforce any right hereunder or under the Bonds, except in the manner herein provided, and that all suits, actions and proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Owners.

**Section 9.06. *No Impairment of Right to Enforce Payment.*** Notwithstanding any other provision in this Indenture, the right of any Owner to receive payment of the principal or purchase price of, and premium, if any, and interest on, its Bond, on or after the respective due dates expressed therein, or to institute suit for the enforcement of any such payment on or after the respective due dates expressed therein, shall not be impaired or affected without the consent of such Owner.

**Section 9.07. *Proceedings by Trustee Without Possession of Bonds.*** All rights of action under this Indenture or under any of the Bonds secured hereby which are enforceable by the Trustee may be enforced by it without the possession of any of the Bonds, or the production thereof at the trial or other proceedings relative thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in its name for the equal and ratable benefit of the Owners, subject to the provisions of this Indenture.

**Section 9.08. *No Remedy Exclusive.*** Except as provided in Section 2.12, no remedy herein conferred upon or reserved to the Trustee or to the Owners 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 every other remedy given hereunder or under the Agreement, or now or hereafter existing at law or in equity or by statute; *provided, however*, that any conditions set forth herein to the taking of any remedy to enforce the provisions of this Indenture, the Bonds or the Agreement shall also be conditions to seeking any remedies under any of the foregoing pursuant to this Section 9.08.

**Section 9.09. No Waiver of Remedies.** No delay or omission of the Trustee, the Provider or of any Owner 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 an acquiescence therein; and every power and remedy given by this Article IX to the Trustee, the Provider and to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient.

**Section 9.10. Application of Moneys.** Any moneys received by the Trustee, by any receiver or by any Owner pursuant to any right given or action taken under the provisions of this Article IX, after payment of the fees, costs and expenses, liabilities and advances incurred or made by the Trustee or its agents or counsel (*provided* that moneys received under the Credit Facility for the principal of interest on the Bonds, remarketing proceeds or other moneys held for Bonds not presented for payment or deemed paid pursuant to Section 3.06(d), Section 6.04 or Article VIII hereof shall not be used for purposes other than payment of such Bonds), shall be deposited in the Bond Fund and all moneys so deposited in the Bond Fund during the continuance of an Event of Default (other than moneys for the payment of Bonds which had matured or otherwise become payable prior to such Event of Default or for the payment of interest due prior to such Event of Default) shall be applied as follows:

(a) Unless the principal of all the Bonds shall have been declared due and payable, all such moneys shall be applied (i) first, to the payment to the persons entitled thereto of all installments of interest then due on each Bond, with interest on overdue installments of interest, if lawful at the rate per annum then borne by such Bond, in the order of maturity of the installments of such interest and, if the amount available shall not be sufficient to pay in full any particular installment of interest, then to the payment ratably, according to the amounts due on such installment, and (ii) second, to the payment to the persons entitled thereto of the unpaid principal of any of the Bonds which shall have become due (other than Bonds called for redemption for the payment of which money is held pursuant to the provisions of this Indenture) with interest on each Bond at its rate from the respective dates upon which it became due and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal and interest due on such date, in each case to the persons entitled thereto, without any discrimination or privilege.

(b) If the principal of all the Bonds shall have been declared due and payable, all such moneys shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds, with interest on overdue interest and principal as aforesaid, without preference or priority of principal over interest or interest over principal or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or privilege.

(c) 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 subparagraph (b) of this

Section 9.10 which shall be applicable in the event that the principal of all the Bonds shall later become due and payable, the moneys shall be applied in accordance with the provisions of subparagraph (a) of this Section 9.10.

Anything herein to the contrary notwithstanding, in no event shall the Trustee draw on the Credit Facility to make any payment of principal of Pledged Bonds or Bonds held of record by the Company or any payment of interest on any Interest Payment Date on Bonds which as of the Record Date for such Interest Payment Date were Pledged Bonds or Bonds held of record by the Company.

Whenever moneys are to be applied pursuant to the provisions of this Section 9.10, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the Bond Payment Date upon which such application is to commence and upon such Bond Payment Date interest on the amounts of principal and interest to be paid on such Bond Payment Date shall cease to accrue. When the Credit Facility is in effect, such Bond Payment Date may be fixed as the date of acceleration or the first or second Business Day thereafter; *provided, however*, that the Bond Payment Date shall not be later than the date of acceleration unless moneys shall be available to be drawn under the Credit Facility to pay accrued interest on the Bonds payable on such Bond Payment Date. The Trustee shall give notice of the deposit with it of any such moneys and of the fixing of any such Bond Payment Date by Mail to the Provider and all Owners of Outstanding Bonds and shall not be required to make payment to any Owner until such Bond shall be presented to the Trustee for appropriate endorsement or cancellation if fully paid.

**Section 9.11. Severability of Remedies.** It is the purpose and intention of this Article IX to provide rights and remedies to the Trustee, the Provider and the Owners which may be lawfully granted under the provisions of the Act, but should any right or remedy herein granted be held to be unlawful the Trustee, the Provider and the Owners shall be entitled, as above set forth, to every other right and remedy provided in this Indenture and by law.

## ARTICLE X

### TRUSTEE; PAYING AGENT; REGISTRAR; REMARKETING AGENT

**Section 10.01. Acceptance of Trusts.** The Issuer appoints The Bank of New York Mellon Trust Company, N.A., as Trustee and Paying Agent. The Trustee hereby accepts and agrees to execute the trusts hereby created, but only upon the additional terms set forth in this Article X, to all of which the Issuer agrees and the respective Owners agree by their acceptance of delivery of any of the Bonds. The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default, undertakes to perform such duties and only such duties as are specifically set forth herein and no implied covenant shall be read into this Indenture.

**Section 10.02. No Responsibilities for Recitals.** The recitals, statements and representations contained in this Indenture or in the Bonds, save only the Trustee's authentication upon the Bonds, shall not be taken and construed as made by or on the part of the Trustee, and the Trustee does not assume, and shall not have, any responsibility or obligation for the correctness of any thereof or for the validity, sufficiency or priority of this Indenture, the Agreement, or any First Mortgage Bonds, or the perfection or the maintenance of the perfection of any security interest granted hereby, or for the validity, enforceability or the priority of the lien of the Company Mortgage.

**Section 10.03. Limitations on Liability.** The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, receivers or employees, and shall be entitled to advice of counsel concerning all matters of trust and its duties hereunder and shall not be answerable for the conduct of any such attorney, agent, receiver or employee if appointed by the Trustee with reasonable care, and the advice of any such counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted hereunder in good faith and reliance thereon. The Trustee shall not be answerable for the exercise of any discretion or power under this Indenture or for anything whatsoever in connection with the trusts created hereby, except only for its own negligence or willful misconduct.

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 Provider or the Owners of a majority in aggregate principal amount of the Bonds Outstanding relating to the time, method and place of conducting any proceeding or any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture.

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.

The permissive rights of the Trustee to do things enumerated in this Trust Indenture shall not be construed as a duty unless so specified herein.

The Trustee shall not be liable for any error of judgment made in good faith by an officer, director or employee unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts.

The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the Provider or the Owners pursuant to the provisions of this Trust Indenture unless such Owners shall have offered to the Trustee security or indemnity satisfactory to it against the costs, expenses and liabilities which may be incurred therein or thereby, except for drawings on the Credit Facility and for declaring an acceleration of the Bonds under Section 9.02 hereof.

Whether or not expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of the Trustee shall be subject to the provisions of this Article X and shall extend to the Registrar, Paying Agents, and employees and agents of the Trustee.

The Trustee shall not be liable to the parties hereto or deemed in breach or default hereunder if and to the extent its performance hereunder is prevented by reason of force majeure. The term “force majeure” means an occurrence that is beyond the control of the Trustee and could not have been avoided by exercising due care. Force majeure shall include acts of God, terrorism, war, riots, strikes, fire, floods, earthquakes, epidemics or other similar occurrences.

The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent by unsecured electronic mail, facsimile transmission or other similar unsecured electronic methods; *provided, however*, that, the Trustee shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the Issuer or the Company elects to give the Trustee electronic mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee acts upon such instructions, the Trustee’s understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee’s reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The Issuer and the Company agree 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.

The Trustee shall have no responsibility or liability with respect to any information, statements or recitals in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of these Bonds.

The Trustee shall not be accountable for the use or application by the Company of any of the Bonds or the proceeds thereof or for the use or application of any money paid over by the Trustee in accordance with the provisions of this Indenture.

In acting or omitting to act pursuant to the Agreement, the Tax Certificate or any other document executed in connection herewith, the Trustee shall be entitled to all of the rights, immunities and indemnities accorded to it under this Indenture and the Agreement, including, but not limited to, this Article X.

**Section 10.04. Compensation, Expenses and Advances.** The Trustee, the Paying Agent and the Registrar shall be entitled to such compensation as shall be agreed in writing with the Company for their services rendered hereunder (not limited by any provision of law in regard to the compensation of the trustee of an express trust) and to reimbursement for their actual out-of-pocket expenses (including reasonable counsel fees and expenses) reasonably incurred in connection therewith except as a result of their negligence or willful misconduct. If the Issuer shall fail to perform any of the covenants or agreements contained in this Indenture, the Trustee



may, in its uncontrolled discretion and without notice to the Owners, at any time and from time to time, make advances to effect performance of the same on behalf of the Issuer, but the Trustee shall be under no obligation so to do; and any and all such advances shall bear interest at a rate per annum equal to the lesser of the Maximum Interest Rate and the rate of interest then in effect and as published in the Wall Street Journal as the composite prime lending rate for domestic commercial loans; but no such advance shall operate to relieve the Issuer from any Event of Default. In no event shall the Trustee be liable for any claims resulting from any decision on its part not to advance funds as permitted in the immediately preceding sentence. In the Agreement, the Company has agreed that it will pay to the Trustee, the Paying Agent, and the Registrar compensation and reimbursement of expenses and advances and certain indemnities, but the Company may, without creating an Event of Default, contest in good faith the reasonableness of any such expenses. If the Company shall have failed to make any payment to the Trustee, the Paying Agent or the Registrar under the Agreement, then each of the Trustee, the Paying Agent and the Registrar shall have, in addition to any other rights hereunder, a claim, prior to the claim of the Owners, for the payment of their compensation and indemnities and the reimbursement of their expenses and any advances made by them, as provided in this Section 10.04, upon the moneys and obligations in the Bond Fund, except for moneys received under the Credit Facility, remarketing proceeds and moneys or obligations deposited with or paid to the Trustee for the redemption or payment of Bonds which are deemed to have been paid in accordance with Article VIII hereof, or funds held pursuant to Section 6.04 hereof.

Without prejudice to any other rights available to the Trustee under applicable law, when the Trustee incurs expenses or renders services in connection with an Event of Default specified in Section 7.01(c) of the Agreement, the expenses (including the reasonable charges and expenses of its counsel) and the compensation for the services are intended to constitute expenses of administration under any applicable federal or state bankruptcy, insolvency or other similar law.

The provisions of this Section 10.04 shall survive the termination of this Indenture and the earlier removal or resignation of the Trustee.

**Section 10.05. Notice of Events of Default and Determination of Taxability.** The Trustee shall not be required to take notice, or be deemed to have notice (a) of any default or Event of Default, other than an Event of Default under Section 9.01(a), Section 9.01(b) or Section 9.01(c) hereof, (b) of any Provider Default, (c) of any declaration of acceleration of any First Mortgage Bonds, or (d) any waiver of any “*Completed Default*” under the Company Mortgage or any rescission or annulment of its consequences unless a Responsible Officer of the Trustee shall have been specifically notified in writing at the Principal Office of the Trustee, Attention: Corporate Trust Administration, of such Event of Default or Provider Default by the Owners of at least 25% in principal amount of the Bonds then Outstanding, the Issuer, the Company, the Provider or the Remarketing Agent. The Trustee may (but is not obligated to), however, at any time, in its discretion, require of the Issuer full information and cooperation as to the performance of any of the covenants, conditions and agreements contained herein. Such inquiry shall not for the purposes of this Section 10.05 constitute notice of any Event of Default. The Issuer shall not be required to take notice, or be deemed to have notice, of any Event of Default, other than an Event of Default of which it shall have actual knowledge. If an Event of Default

occurs after the Trustee has notice of the same as provided in this Section 10.05, or if a Determination of Taxability occurs of which the Trustee has actual knowledge, then the Trustee shall give notice thereof by Mail to the Provider, the Remarketing Agent and the Owners of Outstanding Bonds.

**Section 10.06. Action by Trustee.** Except as provided in Section 2.16, Section 3.03 and Section 9.02 hereof and except for the payment of principal of, and premium, if any, and interest on, the Bonds when due from moneys held by the Trustee as part of the Trust Estate, the Trustee shall be under no obligation to take any action in respect of any Event of Default or toward the execution or enforcement of any of the trusts hereby created, or to institute, appear in or defend any suit or other proceeding in connection therewith, unless requested in writing so to do by the Provider or the Owners of at least 33-1/3% in principal amount of the Bonds then Outstanding and, unless furnished, from time to time as often as it may require, with security and indemnity satisfactory to it (except against negligence or willful misconduct); but the foregoing provisions are intended only for the protection of the Trustee, and shall not affect any discretion or power given by any provisions of this Indenture to the Trustee to take action in respect of any Event of Default without such notice or request from the Owners, or without such security or indemnity.

Notwithstanding any other provision of this Indenture, in determining whether the rights of the Owners will be adversely affected by any action taken pursuant to the terms and provisions of this Indenture, the Trustee shall consider the effect on the Owners as if there were no Credit Facility.

**Section 10.07. Good-Faith Reliance.** The Trustee, the Registrar, the Provider and the Remarketing Agent, shall be protected and shall incur no liability in acting or proceeding in good faith upon any resolution, notice, telegram, telex or facsimile transmission, request, consent, waiver, certificate, statement, affidavit, voucher, bond, requisition or other paper or document which it shall in good faith believe to be genuine and to have been passed or signed by the proper board, body or person or to have been prepared and furnished pursuant to any of the provisions of this Indenture, the Agreement, the Credit Facility Agreement or the Company Mortgage (if the Trustee holds First Mortgage Bonds), or upon the written opinion of any attorney, engineer, accountant or other expert believed, without independent investigation, by the Trustee, the Registrar, the Provider or the Remarketing Agent, as the case may be, to be qualified in relation to the subject matter. The Trustee, the Registrar, the Provider and the Remarketing Agent, shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument, but may accept and rely upon the same as conclusive evidence of the truth and accuracy of such statements; *provided, however*, that the Trustee may, in its discretion, make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation it shall be entitled to examine the books, records and premises of the Company personally or by agent or attorney. Neither the Trustee, the Registrar, the Provider nor the Remarketing Agent shall be bound to recognize any person as an Owner or to take any action at such person's request unless satisfactory evidence of the ownership of such Bond shall be furnished to such entity.

Whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the

Trustee (unless other evidence be herein specifically prescribed) may, in the absence of negligence or bad faith on its part, request and conclusively rely upon a certificate of an Authorized Company Representative or an Executive Officer.

The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.

Notwithstanding anything elsewhere in this Indenture contained, the Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any Bonds or the taking of any other action whatsoever within the purview of this Indenture or the Agreement, any showings, certificates, opinions or other information, or corporate action or evidence thereof, in addition to those by the terms hereof or thereof required as a condition of such action which are reasonably deemed desirable by the Trustee for the purpose of establishing the right of the Issuer or the Company to request the taking of such action by the Trustee.

**Section 10.08. Dealings in Bonds; Allowance of Interest.** The Trustee, the Registrar, the Provider, or the Remarketing Agent, in each of their individual capacities, may in good faith buy, sell own, hold and deal in any of the Bonds issued hereunder, or any bonds issued under the Company Mortgage, and may join in any action which any Owner may be entitled to take with like effect as if it did not act in any capacity hereunder. The Trustee, the Registrar, the Provider, or the Remarketing Agent, in each of their individual capacities, either as principal or agent, may also engage in or be interested in any financial or other transaction with the Issuer or the Company, and may act as depositary, trustee or agent for any committee or body of Owners secured hereby or other obligations of the Issuer or the Company as freely as if it did not act in any capacity hereunder.

All moneys received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any moneys received hereunder except such as it may agree with the Company to pay thereon.

**Section 10.09. Several Capacities.** Anything in this Indenture to the contrary notwithstanding, the same entity may serve hereunder as the Trustee, the Registrar, the Paying Agent and the Remarketing Agent and in any other combination of such capacities, to the extent permitted by law. For purposes of this Trust Indenture, the Remarketing Agent shall not be deemed to be an agent or representative of the Trustee.

**Section 10.10. Resignation of Trustee.** The Trustee may resign and be discharged of the trusts created by this Indenture by executing any instrument in writing resigning such trust and specifying the date when such resignation shall take effect, and filing the same with the Issuer, the Company, the Registrar, the Provider, and the Remarketing Agent not less than 45 days before the date specified in such instrument when such resignation shall take effect, and by giving notice of such resignation by Mail not less than three weeks prior to such resignation date,

to all Owners of Bonds. Such resignation shall take effect on the day specified in such instrument and notice, unless previously a successor Trustee shall have been appointed as hereinafter provided, in which event such resignation shall take effect immediately upon the appointment of such successor Trustee, but in no event shall a resignation take effect earlier than the date on which a successor Trustee has been appointed and has accepted its appointment and has received transfer of the rights of the Trustee under the Credit Facility.

**Section 10.11. Removal of Trustee.** (a) The Trustee may be removed at any time by filing with the Trustee so removed and with the Issuer, the Company, the Registrar, the Provider, and the Remarketing Agent, an instrument or instruments in writing executed by (i) the Provider, if no Provider Default or Event of Default shall have occurred and be continuing and if the Trustee has acted or failed to act hereunder in a manner that is contrary to the standard of care of the Trustee provided for herein, or (ii) the Owners of not less than a majority in principal amount of the Bonds then Outstanding and, if no Provider Default shall have occurred and be continuing, the Provider.

(b) The Issuer may, and, so long as no default or Event of Default is then existing under Section 7.01 of the Agreement or Section 9.01(a), (b) or (c) of this Indenture, at the request of the Company will, remove the Trustee if (i) the Trustee fails to comply with Section 10.13(a), (b), (c) or (e) hereof, (ii) the Trustee is adjudged a bankrupt or an insolvent, (iii) a receiver or other public officer takes charge of the Trustee or its property or (iv) the Trustee otherwise becomes incapable of acting.

(c) In no event shall a removal take effect earlier than the date on which a successor Trustee has been appointed and has accepted its appointment.

**Section 10.12. Appointment of Successor Trustee.** In case at any time the Trustee shall be removed, or be dissolved, or if its property or affairs shall be taken under the control of any state or federal court or administrative body because of insolvency or bankruptcy, or for any other reason, then a vacancy shall forthwith and *ipso facto* exist in the office of Trustee and a successor may be appointed, and in case at any time the Trustee shall resign, then a successor may be appointed by filing with the Issuer, the Company, the Registrar and the Remarketing Agent an instrument in writing executed by (i) the Provider, if no Provider Default shall have occurred and be continuing, or (ii) the Owners of not less than a majority in principal amount of the Bonds then Outstanding and, if no Provider Default shall have occurred and be continuing, the Provider, or (iii) the Company if no default or Event of Default is then existing under Section 7.01 of the Agreement or Section 9.01(a), (b) or (c) of this Indenture. Copies of such instrument shall be promptly delivered by the Issuer to the predecessor Trustee and to the Trustee so appointed.

Until a successor Trustee shall be appointed by the Provider, the Owners or by the Company as herein authorized, the Issuer, by an instrument authorized by the governing body of the Issuer, shall appoint a successor Trustee acceptable to the Company and the Provider. After any appointment by the Issuer, it shall cause notice of such appointment to be given to the Remarketing Agent and the Registrar and to be given by Mail to all Owners of Bonds. Any new

Trustee so appointed by the Issuer shall immediately and without farther act be superseded by a Trustee appointed by the Owners, the Company or the Provider in the manner above provided.

**Section 10.13. Qualifications of Successor Trustee.** Every successor Trustee (a) shall be a national or state bank, in either case with trust powers, or trust company that is authorized by law to perform all the duties imposed upon it by this Indenture, (b) shall have (or, in the case of a corporation included in a bank holding company system, the related bank holding company shall have) a combined capital and surplus of at least \$50,000,000 as set forth in its (or its related bank holding company's) most recent published annual report of condition, (c) shall be permitted under the Act to perform the duties of Trustee, (d) shall be acceptable to the Provider and shall agree with the Provider to act as agent for the Provider with respect to Pledged Bonds, and (e) so long as the Bonds are subject to optional or mandatory purchase pursuant to the provisions of this Indenture and no book-entry system for the Bonds is in effect pursuant to Section 2.15 hereof, shall have an office or agency located in any State of the United States of America if there can be located, with reasonable effort, such an institution willing and able to accept the trust on reasonable and customary terms.

**Section 10.14. Judicial Appointment of Successor Trustee.** In case at any time the Trustee shall resign and no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Article X prior to the date specified in the notice of resignation as the date when such resignation is to take effect, the resigning Trustee may forthwith apply to a court of competent jurisdiction for the appointment of a successor Trustee. If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Article X within six months after a vacancy shall have occurred in the office of Trustee, any Owner or the Provider may apply to any court of competent Jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor Trustee.

**Section 10.15. Acceptance of Trusts by Successor Trustee.** Any successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Issuer an instrument accepting such appointment hereunder, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become duly vested with all the estates, property rights, powers, trusts, duties and obligations of its predecessor in the trust hereunder, with like effect as if originally named Trustee herein. Upon request of such Trustee, such predecessor Trustee and the Issuer shall execute and deliver an instrument transferring to such successor Trustee all the estates, property, rights, powers and trusts hereunder of such predecessor Trustee and, subject to the provisions of Section 10.04 hereof, such predecessor Trustee shall pay over to the successor Trustee all moneys and other assets at the time held by it hereunder.

**Section 10.16. Successor by Merger or Consolidation.** Any corporation into which any Trustee hereunder may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which any Trustee hereunder shall be a party, or to which all or substantially all of its corporate trust business shall be transferred, shall be the successor Trustee under this Indenture, without the execution or filing of any paper or any further act on the part of the parties hereto, anything in this Indenture to the contrary notwithstanding; *provided, however*, if such successor corporation is not a trust company or state

or national bank that has trust powers, the Trustee shall resign from the trusts hereby created prior to such merger, transfer or consolidation or the successor corporation shall resign from such trusts as soon as practicable after such merger, transfer or consolidation.

**Section 10.17. Standard of Care.** Notwithstanding any other provisions of this Article X, the Trustee shall, during the existence and prior to the curing of an Event of Default of which the Trustee has notice as provided in Section 10.05 hereof, exercise such of the rights and powers vested in it by this Indenture and use the same degree of skill and care in their exercise as a prudent person would use and exercise under the circumstances in the conduct of his own affairs.

**Section 10.18. Intervention in Litigation of the Issuer.** In any judicial proceeding to which the Issuer is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of the Owners of the Bonds, the Trustee may and shall upon receipt of indemnity satisfactory to it (except against negligence or willful misconduct) at the written request of the Owners of at least 25% in principal amount of the Bonds then Outstanding and if permitted by the court having jurisdiction in the premises, intervene in such judicial proceeding.

**Section 10.19. Remarketing Agent.** The Company has covenanted in the Agreement that at all times while any of the Bonds are Outstanding and are subject to optional or mandatory purchase pursuant to the provisions hereof there shall be a Remarketing Agent for the Bonds appointed and acting pursuant to the provisions of this Indenture. The Remarketing Agent shall designate its Principal Office to the Trustee, the Company, the Registrar, the Provider and the Issuer.

The Issuer shall cooperate with the Trustee, the Registrar, the Provider and the Company to cause the necessary arrangements to be made and to be thereafter continued whereby funds from the sources specified herein and in the Agreement will be made available for the purchase of Bonds presented at the Delivery Office of the Trustee and whereby Bonds, executed by the Issuer and authenticated by the Trustee, shall be made available to the Remarketing Agent to the extent necessary for delivery pursuant to Section 3.06 hereof.

**Section 10.20. Qualifications of Remarketing Agent.** The Remarketing Agent shall have a capitalization of at least \$50,000,000 and be authorized by law to perform all the duties contemplated by this Indenture to be performed by the Remarketing Agent and agrees to take all actions required of it under the DTC Representation Letter while a book-entry system is in effect for the Bonds. The Remarketing Agent may at any time resign and be discharged of the duties and obligations contemplated by this Indenture by giving at least 30 days' notice to the Issuer, the Company, the Registrar, the Provider and the Trustee. The Remarketing Agent may be removed at any time, at the direction of the Company, by an instrument, signed by an Authorized Company Representative, filed with the Issuer, the Remarketing Agent, the Registrar and the Trustee at least 30 days prior to the effective date of such removal. Upon the resignation or removal of the Remarketing Agent, the Company may appoint a new Remarketing Agent.

In the event of the resignation or removal of the Remarketing Agent, the Remarketing Agent shall pay over, assign and deliver any moneys held by it in such capacity to its successor or, if there be no successor, to the Trustee.

**Section 10.21. Registrar.** Pursuant to the provisions hereof the Trustee is the initial Registrar for the Bonds. By its execution of this Indenture, the Trustee signifies its acceptance of the duties of Registrar hereunder. Any successor Registrar shall designate to the Issuer, the Company, the Provider and the Remarketing Agent its office where the registration books shall be kept and signify its acceptance of the duties imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer and the Trustee under which such Registrar will agree, particularly, to keep such books and records as shall be consistent with prudent industry practice and to make such books and records available for inspection by the Issuer, the Trustee, the Company, the Provider and the Remarketing Agent at all reasonable times. So long as the Bonds are subject to optional or mandatory purchase pursuant to the provisions of this Indenture and no book-entry system for the Bonds is in effect pursuant to Section 2.16 hereof, the Registrar shall maintain in any State located within the United States of America, an office or agency for the exchange, registration and registration of transfer of the Bonds.

The Issuer shall cooperate with the Trustee, the Remarketing Agent and the Company to cause the necessary arrangements to be made and to be thereafter continued whereby Bonds, executed by the Issuer and authenticated by the Registrar, shall be made available for exchange, registration and registration of transfer at the Principal Office of the Registrar. The Issuer shall cooperate with the Trustee, the Registrar, the Company and the Remarketing Agent to cause the necessary arrangements to be made and thereafter continued whereby the Trustee and the Remarketing Agent shall be furnished such records and other information, at such times, as shall be required to enable the Trustee and the Remarketing Agent to perform the duties and obligations imposed upon them hereunder.

**Section 10.22. Qualifications of Registrar; Resignation; Removal.** The Registrar shall be a corporation, bank or trust company duly organized under the laws of the United States of America or any state or territory thereof, having a combined capital surplus and retained earnings of at least \$10,000,000 and authorized by law to perform all the duties imposed upon it by this Indenture. The Registrar may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 45 days' notice to the Issuer, the Trustee, the Remarketing Agent, the Provider and the Company. The Registrar may be removed at any time by an instrument signed by an Authorized Company Representative and filed with the Issuer, the Registrar, the Trustee, the Provider and the Remarketing Agent. Upon the resignation or removal of the Registrar, the Company shall appoint a new Registrar.

In the event of the resignation or removal of the Registrar, the Registrar shall deliver any Bonds held by it in such capacity to its successor or, if there be no successor, to the Trustee.

In the event that the Company shall fail to appoint a Registrar hereunder, or in the event that the Registrar shall resign or be removed, or be dissolved, or if the property or affairs of the Registrar shall be taken under the control of any state or federal court or administrative body because of bankruptcy or insolvency, or for any other reason, and the Company shall not have

appointed its successor as Registrar, the Trustee shall *ipso facto* be deemed to be the Registrar for all purposes of this Indenture until the appointment by the Company of the Registrar or successor Registrar, as the case may be.

**Section 10.23. *Paying Agents.*** (a) The Company, with the written approval of the Trustee and the Issuer, may appoint and at all times have one or more paying agents in such place or places as the Company may designate, for the payment of the principal of, and premium, if any, and the interest on, the Bonds. Each such paying agent shall be a bank with the power to hold moneys in trust or a trust company. It shall be the duty of the Trustee to make such arrangements with any such paying agent as may be necessary to assure, to the extent of the moneys held by the Trustee for such payment, the prompt payment of the principal of, and premium, if any, and interest on, the Bonds presented at either place of payment. The Paying Agent initially appointed hereunder is the Trustee, and the place of payment shall be the Delivery Office of the Trustee.

(b) The Paying Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 30 days' notice to the Issuer, the Trustee, the Remarketing Agent, the Provider and the Company. The Paying Agent may be removed at any time by an instrument signed by an Authorized Company Representative and filed with the Issuer, the Paying Agent, the Trustee, the Provider and the Remarketing Agent. Upon the resignation or removal of the Paying Agent, the Company shall appoint a new Paying Agent. Any successor Paying Agent appointed hereunder shall execute, acknowledge and deliver to the Issuer an instrument accepting such appointment hereunder,

In the event of the resignation or removal of the Paying Agent, the Paying Agent shall deliver any Bonds held by it in such capacity to its successor or, if there be no successor, to the Trustee.

In the event that the Company shall fail to appoint a Paying Agent hereunder, or in the event that the Paying Agent shall resign or be removed, or be dissolved, or if the property or affairs of the Paying Agent shall be taken under the control of any state or federal court or administrative body because of bankruptcy or insolvency, or for any other reason, and the Company shall not have appointed its successor as Paying Agent, the Trustee shall *ipso facto* be deemed to be the Paying Agent for all purposes of this Indenture until the appointment by the Company of the Paying Agent or successor Paying Agent, as the case may be.

**Section 10.24. *Additional Duties of Trustee.*** The Trustee shall:

(a) hold all Bonds delivered to it hereunder for the account of and for the benefit of the respective Owners which shall have so delivered such Bonds pursuant to Section 3.01 or Section 3.02 until moneys representing the purchase price of such Bonds shall have been delivered to or for the account of or to the order of such Owners;

(b) hold all moneys delivered to it hereunder for the purchase of Bonds for the benefit of the person or entity which shall have so delivered such moneys until the Bonds



purchased with such moneys shall have been delivered to or for the account of such person or entity;

(c) keep such books and records with respect to the Bonds as shall be consistent with prudent industry practice and to make such books and records available for inspection by the Issuer, any Paying Agent, the Company and the Remarketing Agent with prior notice, at all reasonable times during Trustee's normal business hours; and

(d) as long as a book-entry system is in effect for the Bonds, the Trustee will comply with the DTC Representation Letter and perform all duties required of it thereunder.

## ARTICLE XI

### EXECUTION OF INSTRUMENTS BY OWNERS AND PROOF OF OWNERSHIP OF BONDS

Any request, direction, consent or other instrument in writing required or permitted by this Indenture to be signed or executed by the Owners or on their behalf by an attorney-in-fact may be in any number of concurrent instruments of similar tenor and may be signed or executed by the Owners in person or by an agent or attorney-in-fact appointed by an instrument in writing or as provided in the Bonds. Proof of the execution of any such instrument and of the ownership of Bonds shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee with regard to any action taken by it under such instrument if made in the following manner:

(a) The fact and date of the execution by any person of any such instrument may be proved by the certificate of any officer in any jurisdiction who, by the laws thereof, has power to take acknowledgments within such Jurisdiction, to the effect that the person signing such instrument acknowledged before him the execution thereof, or by an affidavit of a witness to such execution.

(b) The ownership of Bonds shall be proved by the registration books kept under the provisions of Section 2.11 hereof.

Nothing contained in this Article XI shall be construed as limiting the Trustee to such proof, it being intended that the Trustee may accept any other evidence of matters herein stated which it may deem sufficient. Any request by or consent of any Owner shall bind every future Owner of the same Bond or any Bond or Bonds issued in lieu thereof or upon registration of transfer thereof in respect of anything done by the Trustee or the Issuer in pursuance of such request or consent.

## ARTICLE XII

### MODIFICATION OF THIS INDENTURE AND THE AGREEMENT

*Section 12.01. Supplemental Indentures Without Owner Consent.* The Issuer and the Trustee may, from time to time and at any time, without the consent of the Owners, enter into a Supplemental Indenture as follows:

- (a) to cure any formal defect, omission, inconsistency or ambiguity in this Indenture;
- (b) to add to the covenants and agreements of the Issuer contained in this Indenture or of the Company or of the Provider contained in any document, other covenants or agreements thereafter to be observed, or to assign or pledge additional security for any of the Bonds, or to surrender any right or power reserved or conferred upon the Issuer or the Company;
- (c) to confirm as further assurance, any pledge of or lien on the Revenues or any other moneys, securities or funds subject or to be subjected to the lien of this Indenture;
- (d) to comply with the requirements of the Trust Indenture Act of 1939, as from time to time amended, if applicable to this Indenture;
- (e) to implement an adjustment of the interest rate on the Bonds;
- (f) to provide for a Change of Credit Facility;
- (g) to provide for a depository to accept Bonds in lieu of the Trustee;
- (h) to modify or eliminate the book-entry registration system for any of the Bonds;
- (i) to provide for uncertificated Bonds or for the issuance of coupons and bearer Bonds or Bonds registered only as to principal but only to the extent that such would not adversely affect the Tax-Exempt status of the Bonds;
- (j) to secure or maintain ratings on the Bonds from Moody's and/or S&P;
- (k) to provide demand purchase obligations to cause the Bonds to be authorized purchases for investment companies;
- (l) to provide for the appointment of a Remarketing Agent or a successor Trustee, Registrar, Paying Agent or Remarketing Agent;

(m) to provide the procedures required to permit any Owner to separate the right to receive interest on the Bonds from the right to receive principal thereof and to sell or dispose of such right as contemplated by Section 1286 of the Code (or similar successor provision);

(n) to provide for any additional procedures, covenants or agreements necessary to maintain the Tax-Exempt status of the Bonds;

(o) to modify, alter, amend or supplement this Indenture in any other respect, including amendments which would otherwise be described in Section 12.02 hereof, if the effective date of such supplement or amendment is a date on which all Bonds affected thereby are subject to mandatory purchase pursuant to Section 3.02 hereof or if notice by Mail of the Proposed amendment or supplement is given to Owners of the Bonds at least thirty (30) days before the effective date thereof and, on or before such effective date, such Owners have the right to require purchase of their Bonds pursuant to Section 3.01 hereof;

(p) to provide for any Additional Collateral and the release of any Additional Collateral in accordance with Section 4.09 of the Agreement; and

(q) to modify, alter, amend or supplement this Indenture or any Supplemental Indenture in any other respect; *provided* that such modification, alteration, amendment or supplement shall not adversely affect the interest of the Owners of the Bonds in any material respect, as evidenced by a certificate of an Authorized Company Representative.

Before the Issuer and the Trustee shall enter into any Supplemental Indenture pursuant to this Section 12.01, (1) in the case of a Supplemental Indenture entered into pursuant to clauses (l), (n) or (p) of this Section and provided that no Provider Default shall have occurred and be continuing, there shall have been delivered to the Trustee and the Company, the written consent of the Provider, and (2) in all cases, there shall have been delivered to the Trustee, the Provider and the Company, a Favorable Opinion of Bond Counsel with respect to such Supplemental Indenture and further stating that such Supplemental Indenture is authorized or permitted by this Indenture and will, upon the execution and delivery thereof, be valid and binding upon the Issuer in accordance with its terms. Neither the Issuer nor the Trustee will be obligated to enter into any such Supplemental Indenture that would materially alter their respective rights, duties or immunities under this Indenture, under the Agreement or otherwise.

The Trustee shall provide written notice of any Supplemental Indenture described in this Section 12.01 to Moody's, S&P, the Provider, the Remarketing Agent and the Owners of all Bonds then Outstanding at least 15 days prior to the effective date of such Supplemental Indenture. Such notice shall state the effective date of such Supplemental Indenture and shall briefly describe the nature of such Supplemental Indenture and shall state that a copy thereof is on file at the Principal Office of the Trustee for inspection by the parties mentioned in the preceding sentence.

**Section 12.02. Supplemental Indentures Requiring Owner Consent.** (a) Except for any Supplemental Indenture entered into pursuant to Section 12.01 hereof, subject to the terms and provisions contained in this Section 12.02 and not otherwise, the Provider (unless a Provider Default shall have occurred and be continuing), together with the Owners of not less than 60% in aggregate principal amount of the Bonds then Outstanding shall have the right from time to time to consent to and approve the execution and delivery by the Issuer and the Trustee of any Supplemental Indenture deemed necessary or desirable by the Issuer for the purposes of modifying, altering, amending, supplementing or rescinding, in any particular, any of the terms or provisions contained in this Indenture; *provided, however*, that, unless approved in writing by the Provider (unless a Provider Default shall have occurred and be continuing) and the Owners of all the Bonds then affected thereby, nothing herein contained shall permit, or be construed as permitting, (i) a change in the times, amounts or currency of payment of the principal of, or premium if any, or interest on, any Outstanding Bond, a change in the terms of the purchase thereof by the Trustee, or a reduction in the principal amount or redemption price of any Outstanding Bond or the rate of interest thereon, or (ii) the creation of a claim or lien upon, or a pledge of, the Revenues ranking prior to or on a parity with the claim, lien or pledge created by this Indenture (except as referred to in Section 10.04 hereof), or (iii) a reduction in the aggregate principal amount of Bonds the consent of the Owners of which is required for any such Supplemental Indenture or which is required, under Section 12.06 hereof, for any modification, alteration, amendment or supplement to the Agreement.

(b) If at any time the Issuer shall request the Trustee to enter into any Supplemental Indenture for any of the purposes of this Section 12.02, the Trustee shall cause notice of the proposed Supplemental Indenture to be given by Mail to Moody's, S&P, the Provider, the Remarketing Agent and all Owners of Outstanding Bonds. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that a copy thereof is on file at the Principal Office of the Trustee for inspection by the Owners, Moody's, S&P, the Provider and the Remarketing Agent.

(c) Within two years after the date of the mailing of such notice, the Issuer and the Trustee may enter into such Supplemental Indenture in substantially the form described in such notice, but only if there shall have first been delivered to the Trustee (i) the required consents, in writing, of the Owners and the Provider and (ii) a Favorable Opinion of Bond Counsel with respect to such Supplemental Indenture and further stating that such Supplemental Indenture is authorized or permitted by this Indenture and will, upon the execution and delivery thereof, be valid and binding upon the Issuer in accordance with its terms. Neither the Issuer nor the Trustee will be obligated to enter into any such Supplemental Indenture that would materially alter their respective rights, duties or immunities under this Indenture, under the Agreement or otherwise.

(d) If Owners of not less than the percentage of Bonds required by this Section 12.02 shall have consented to and approved the execution and delivery of a Supplemental Indenture as herein provided, no Owner shall have any right to object to the execution and delivery of such Supplemental Indenture, or 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 and delivery thereof, or to enjoin or restrain the Issuer or the Trustee from executing and delivering the same or from taking any action pursuant to the provisions thereof.

**Section 12.03. Effect of Supplemental Indenture.** Upon the execution and delivery of any Supplemental Indenture pursuant to the provisions of this Article XII, this Indenture shall be, and be deemed to be, modified and amended in accordance therewith, and the respective rights, duties and obligations under this Indenture shall thereafter be determined, exercised and enforced under this Indenture subject in all respects to such modifications and amendments.

**Section 12.04. Consent of the Company and the Provider.** No Supplemental Indenture under this Article XII and no amendment of the Agreement shall become effective unless the Company shall have consented thereto in writing.

Any provision of this Indenture expressly recognizing or granting rights in or to the Provider may not be amended in any manner which affects the rights of the Provider hereunder without the prior written consent of the Provider (unless a Provider Default shall have occurred and be continuing).

**Section 12.05. Amendment of Agreement Without Owner Consent.** Without the consent of or notice to the Owners, the Issuer and the Company may, with the consent of the Provider (unless a Provider Default shall have occurred and be continuing), modify, alter, amend or supplement the Agreement, and the Trustee may consent thereto, as may be required:

- (a) by the provisions of the Agreement and this Indenture;
- (b) for the purpose of curing any formal defect, omission, inconsistency or ambiguity therein;
- (c) to secure or maintain ratings on the Bonds from Moody's and/or S&P;
- (d) to add to the covenants and agreements of the Issuer contained in the Agreement or of the Company or of the Provider contained in any document, other covenants or agreements thereafter to be observed, or to assign or pledge additional security for any of the Bonds, or to surrender any right or power reserved or conferred upon the Issuer or the Company, which shall not materially adversely affect the interest of the Owners of the Bonds, as evidenced by a certificate of an Authorized Company Representative;
- (e) to provide demand purchase obligations to cause the Bonds to be authorized purchases for investment companies;
- (f) to provide the procedures required to permit any Owner to separate the right to receive interest on the Bonds from the right to receive principal thereof and to sell or dispose of such right as contemplated by Section 1286 of the Code (or similar successor provision);
- (g) to provide for any additional procedures, covenants or agreements necessary to maintain the Tax-Exempt status of interest on the Bonds;

(h) to implement an adjustment of the interest rate on the Bonds or in connection with the appointment of a Remarketing Agent;

(i) to provide for a Change of Credit Facility;

(j) to modify, alter, amend or supplement the Agreement in any other respect, including amendments which would otherwise be described in Section 12.06 hereof, if the effective date of such supplement or amendment is a date on which all Bonds affected thereby are subject to mandatory purchase pursuant to Section 3.02 hereof or if notice by Mail of the proposed amendment or supplement is given to Owners of the Bonds at least thirty (30) days before the effective date thereof and, on or before such effective date, such Owners have the right to demand purchase of their Bonds pursuant to Section 3.01 hereof;

(k) in connection with the delivery and substitution of any Additional Collateral and the release of any Additional Collateral in accordance with Section 4.09 of the Agreement; and

(l) in connection with any other change therein which does not adversely affect the interests of the Owners of the Bonds in any material respect, as evidenced by a certificate of an Authorized Company Representative;

A revision of *Exhibit A* to the Agreement in accordance with Section 3.04 of the Agreement shall not be deemed a modification, alteration, amendment or supplement to the Agreement, or to this Indenture, for any purpose of this Indenture.

Before the Issuer shall enter into, and the Trustee shall consent to, any modification, alteration, amendment or supplement to the Agreement pursuant to this Section 12.05, there shall have been delivered to the Issuer, the Provider and the Trustee a Favorable Opinion of Bond Counsel with respect to such modification, alteration, amendment or supplement and further stating that such modification, alteration, amendment or supplement is authorized or permitted by the Agreement or this Indenture and will, upon the execution and delivery thereof, be valid and binding upon the Issuer in accordance with its terms. Neither the Issuer nor the Trustee will be obligated to enter into or consent to any such modifications, alterations, amendments or supplements to the Agreement that would materially alter their respective rights, duties or immunities under this Indenture, under the Agreement or otherwise.

**Section 12.06. Amendment of Agreement Requiring Owner Consent.** Except in the case of modifications, alterations, amendments or supplements referred to in Section 12.05 hereof, the Issuer shall not enter into, and the Trustee shall not consent to, any amendment, change or modification of the Agreement without the written approval or consent of the Provider (unless a Provider Default shall have occurred and be continuing) and the Owners of not less than 60% in aggregate principal amount of the Bonds then Outstanding, given and procured as provided in Section 12.02 hereof, *provided, however*, that, unless approved in writing by the Provider (unless a Provider Default shall have occurred and be continuing) and the Owners of all Bonds affected thereby, nothing herein contained shall permit, or be construed as permitting, a change in the

obligations of the Company under Section 4.01 and Section 4.02 of the Agreement. If at any time the Issuer or the Company shall request the consent of the Trustee to any such proposed modification, alteration, amendment or supplement permitted under this Section 12.06, the Trustee shall cause notice thereof to be given in the same manner as provided by Section 12.02 hereof with respect to Supplemental Indentures. Such notice shall briefly set forth the nature of such proposed modification, alteration, amendment or supplement and shall state that copies of the instrument embodying the same are on file at the Principal Office of the Trustee for inspection by all Owners. The Issuer may enter into, and the Trustee may consent to, any such proposed modification, alteration, amendment or supplement subject to the same conditions and with the same effect as provided in Section 12.02 hereof with respect to Supplemental Indentures.

Before the Issuer shall enter into, and the Trustee shall consent to, any modification, alteration, amendment or supplement to the Agreement pursuant to this Section 12.06, there shall have been delivered to the Issuer, the Provider and the Trustee a Favorable Opinion of Bond Counsel with respect to such modification, alteration, amendment or supplement and further stating that such modification, alteration, amendment or supplement is authorized or permitted by the Agreement or this Indenture and will, upon the execution and delivery thereof, be valid and binding upon the Issuer in accordance with its terms. Neither the Issuer nor the Trustee will be obligated to enter into any such modifications, alterations, amendments or supplements to the Agreement that would materially alter their respective rights, duties or immunities under this Indenture, under the Agreement or otherwise.

### ARTICLE XIII

#### MISCELLANEOUS

**Section 13.01. Successors of the Issuer.** In the event of the dissolution of the Issuer, all the covenants, stipulations, promises and agreements in this Indenture contained, by or on behalf of, or for the benefit of the Issuer, shall bind or inure to the benefit of the successors of the Issuer from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of the Issuer shall be transferred.

**Section 13.02. Parties in Interest.** Except as herein otherwise specifically provided, nothing in this Indenture expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the Issuer, the Remarketing Agent, the Registrar, the Paying Agent, the Company, the Trustee, the Provider and the Owners of Bonds any right, remedy or claim under or by reason of this Indenture, this Indenture being intended to be for the sole and exclusive benefit of the Issuer, the Remarketing Agent, the Registrar, the Paying Agent, the Company, the Trustee, the Provider and the Owners of Bonds. The Trustee shall have no fiduciary duty to any entity other than the Owner of any Bond as such and only in accordance with, into the extent of, the terms and provisions hereunder.

**Section 13.03. Severability.** In case any one or more of the provisions of this Indenture or of the Agreement or of the Bonds shall for any reason, be held to be illegal or invalid, such

illegality or invalidity shall not affect any other provisions of this Indenture, the Agreement, or of the Bonds, and this Indenture, the Agreement and the Bonds shall be construed and enforced as if such illegal or invalid provisions had not been contained herein or therein.

**Section 13.04. No Personal Liability of Issuer Officials.** No representation, warranty, covenant or agreement contained in the Bonds or in this Indenture or in any of the documents or certificates related thereto shall be deemed to be the representation, warranty, covenant or agreement of any official, officer, agent, counsel or employee of the Issuer in his or her individual 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.

**Section 13.05. Bonds Owned by the Issuer or the Company.** In determining whether the Owners of the requisite aggregate principal amount of the Bonds have concurred in any direction, consent or waiver under this Indenture, Bonds which are owned by the Issuer or the Company or by any person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company (unless the Issuer, the Company or such person owns all Bonds which are then Outstanding, determined without regard to this Section 13.05) shall be disregarded and deemed not to be Outstanding for the purpose of any such determination, except that, for the purpose of determining whether the Trustee shall be protected in relying on any such direction, consent or waiver, only Bonds which a Responsible Officer of the Trustee actually knows are so owned shall be so disregarded. Bonds so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Issuer or the Company or any person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

**Section 13.06. Counterparts.** This Indenture may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same Indenture.

**Section 13.07. Governing Law.** This Indenture shall be governed by and construed in accordance with the laws of the State; *provided, however*, that the rights, protections and immunities of the Trustee shall be governed by and construed in accordance with the laws of the State of Washington.

**Section 13.08. Notices.** Except as otherwise provided in this Indenture, all notices, certificates, requests, requisitions, directions or other communications by the Issuer, the Company, the Trustee, the Registrar, the Paying Agent, the Provider, the Company Mortgage Trustee (if the Trustee holds First Mortgage Bonds) or the Remarketing Agent, pursuant to this Indenture shall be in writing and shall be sufficiently given and shall be deemed given when mailed by Mail or by certified or registered mail postage prepaid, or by overnight delivery service, addressed as follows (and, if by overnight delivery service and required by the chosen delivery service, with then-current telephone numbers of the addressees):



if to the Issuer, to: City of Forsyth, Montana  
City Hall  
Forsyth, Montana 59327  
Attention: Mayor

if to the Trustee, to: The Bank of New York Mellon Trust Company, N.A.  
Two Union Square, Suite 520  
601 Union Street  
Seattle, Washington 98101-2321  
Attention: Corporate Trust Administration

if to the Company, to: Avista Corporation  
1411 East Mission Avenue  
Spokane, Washington 99220  
Attention: Treasurer

if to the Provider, to such address specified in the Credit Facility Agreement; if to the Registrar, the Company Mortgage Trustee (if the Trustee holds First Mortgage Bonds) or the Paying Agent, to such address as is designated in writing by it to the Trustee and the Issuer; and if to the Remarketing Agent, at the address specified in the Remarketing Agreement. Any of the foregoing may, by notice given hereunder to each of the others, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder. Any communications required to be given hereunder by the Company shall be given by an Authorized Company Representative.

**Section 13.09. Holidays.** 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 Indenture, shall not be a Business Day, such payment may, unless otherwise provided in this Indenture or the Agreement, be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if done on the nominal date provided in this Indenture, and no interest shall accrue for the period after such nominal date.

**Section 13.10. Purchase of Bonds by Trustee and Remarketing Agent.** The Trustee and the Issuer agree that in connection with the purchase of any Bonds pursuant to this Indenture, the Trustee and the Remarketing Agent are acting solely on behalf of the Company.

**Section 13.11. Notices to Moody's and S&P.** The Trustee shall provide prior written notice to Moody's (if the Bonds are then rated by Moody's) and to S&P (if the Bonds are then rated by S&P) of (a) the payment of the principal of all of the Bonds, (b) the resignation or removal of the Trustee, Paying Agent or the Remarketing Agent, (c) any modifications, alterations, amendments or supplements of this Indenture, the Agreement and (to the extent that the Trustee has actual knowledge of such modification, alteration, amendment or supplement) the Remarketing Agreement, (d) the Change of Credit Facility, (e) the adjustment under Article II hereof of the method by which interest on the Bonds is determined, (f) defeasance of the Bonds in accordance with Article VIII hereof, (g) any mandatory purchases of the Bonds in accordance with Section 3.02 hereof, (h) any acceleration of the Bonds in accordance with

Section 9.02 hereof and (i) any other information that Moody's (if the Bonds are then rated by Moody's) and to S&P (if the Bonds are then rated by S&P) may reasonably request in order to maintain the rating on the Bonds.

The agreement of the Trustee herein to give notices to Moody's and S&P has been made as a matter of courtesy and accommodation only and the Trustee shall not be liable to any Person for any failure to give any such notice.

As of the date hereof, notices shall be provided to Moody's and to S&P as follows:

if to Moody's, to:

Moody's Investors Service  
7 World Trade Center at 250 Greenwich Street  
23rd Floor  
New York, New York 10007  
Attention: Municipal Structured Products Group  
Email: MSPGSurveillance@moodys.com  
Fax: (212) 553-1066

if to S&P, to:

Standard & Poor's Ratings Services,  
a division of The McGraw-Hill Companies, Inc.  
55 Water Street, 41st Floor  
New York, New York 10041  
Attention: LOC Surveillance  
Email: nyloc@standardandpoors.com

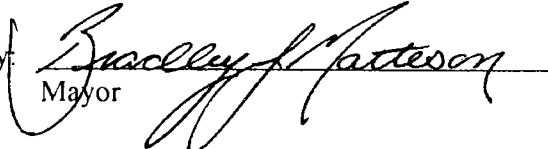
Moody's and S&P may, by notice to the Trustee, designate any further or different address to which subsequent notices or communications shall be sent hereunder.

**Section 13.12. Rights of Provider.** Upon a Change of Credit Facility, all rights provided herein to a Provider other than its right of subrogation pursuant to Section 2.16(f) shall be of no force and effect with respect to the Provider and Credit Facility which has been replaced and shall apply only to the new Provider and Credit Facility.

*(Signature page follows.)*

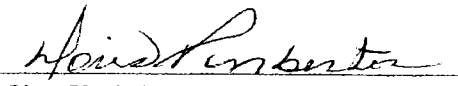
IN WITNESS WHEREOF, CITY OF FORSYTH, MONTANA, has caused this Indenture to be signed in its name and behalf by the Mayor, and its official seal to be hereunto affixed and attested by the City Clerk-Treasurer and to evidence its acceptance of the trusts hereby created the Trustee has caused this Indenture to be signed in its name and behalf by one of its Assistant Treasurers, all as of the date first set forth above.

CITY OF FORSYTH, MONTANA

By:   
Mayor

[SEAL]

ATTEST:

By:   
City Clerk-Treasurer

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

By: \_\_\_\_\_  
Assistant Treasurer

IN WITNESS WHEREOF, CITY OF FORSYTH, MONTANA, has caused this Indenture to be signed in its name and behalf by the Mayor, and its official seal to be hereunto affixed and attested by the City Clerk-Treasurer and to evidence its acceptance of the trusts hereby created the Trustee has caused this Indenture to be signed in its name and behalf by one of its Assistant Treasurers, all as of the date first set forth above.

CITY OF FORSYTH, MONTANA

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

[SEAL]

ATTEST:

By: \_\_\_\_\_  
City Clerk-Treasurer

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

By:  \_\_\_\_\_  
~~Assistant Treasurer~~ Senior Associate

**EXHIBIT A**

**[FORM OF BOND]**

REGISTERED

REGISTERED

No. R-\_\_

\$\_\_\_\_\_

**UNITED STATES OF AMERICA**

**STATE OF MONTANA**

**CITY OF FORSYTH, MONTANA  
POLLUTION CONTROL REVENUE REFUNDING BONDS  
(AVISTA CORPORATION COLSTRIP PROJECT)  
SERIES 2010B**

MATURITY DATE

ISSUE DATE

CUSIP NO.

March 1, 2034

December \_\_, 2010

\_\_\_\_\_

**[Flexible Interest Rate: \_\_\_\_\_]**

**Last Day of Flexible Segment: \_\_\_\_\_**

**Number of Days in Flexible Segment: \_\_\_\_\_**

**Amount of Interest to Accrue During Flexible Segment: \_\_\_\_]\***

Registered Owner: \_\_\_\_\_

Principal Amount: ----- DOLLARS -----

CITY OF FORSYTH, MONTANA (the "Issuer"), a political subdivision duly organized and existing under the Constitution and laws of the State of Montana, for value received, hereby promises to pay (but only out of the source hereinafter provided) to the registered owner identified above, or registered assigns, on March 1, 2034, the principal amount set forth above and to pay (but only out of the sources hereinafter provided) interest on the balance of said principal amount from time to time remaining unpaid from the Interest Payment Date (as defined in the Indenture) next preceding the date of registration and authentication hereof unless this Bond (as hereinafter defined) is registered and authenticated after a Record Date (as defined in

\* To be included only in Bonds bearing interest at a Flexible Interest Rate and not registered in the book-entry system pursuant to Section 2.16 of the Indenture.

the Indenture) and on or prior to the related Interest Payment Date, in which event this Bond shall bear interest from such Interest Payment Date, or unless this Bond is registered and authenticated before the Record Date for the first Interest Payment Date, in which event this Bond shall bear interest from the Issue Date set forth above (the “*Issue Date*”); *provided, however,* that if, as shown by the records of the Paying Agent (as hereinafter defined), interest on the Bonds (as hereinafter defined) shall be in default, Bonds issued in exchange for Bonds surrendered for registration of transfer or exchange shall bear interest from the last date to which interest has been paid in full or duly provided for on the Bonds, or, if no interest has been paid or duly provided for on the Bonds, from the Issue Date, until payment of said principal amount has been made or duly provided for, at the rates and on the dates determined as described herein and in the Indenture (as hereinafter defined), and to pay (but only out of the sources hereinafter provided) interest on overdue principal and, to the extent permitted by law, on overdue interest at the rate then borne by this Bond, except as the provisions hereinafter set forth with respect to redemption, purchase or acceleration prior to maturity may become applicable hereto. The principal of and premium, if any, on this Bond are payable in lawful money of the United States of America at the corporate trust office in Seattle, Washington, of The Bank of New York Mellon Trust Company, N.A., or its successors and assigns, as Paying Agent (the “*Paying Agent*”). Interest payments on this Bond shall be made by the Paying Agent to the registered owner hereof as of the close of business on the Record Date with respect to each Interest Payment Date and shall be paid:

(a) in respect of any Bond that is registered in the book-entry system, pursuant to the Indenture, in immediately available funds by no later than 2:30 p.m., New York, New York time, and

(b) in respect of any Bond that is not registered in the book-entry system,

(i) by bank check mailed by first-class mail on the Interest Payment Date to the registered owner hereof at its address as it appears on the registration books of The Bank of New York Mellon Trust Company, N.A., as registrar (the “*Registrar*”) or at such other address as is furnished in writing by such registered owner to the Registrar, or

(ii) during any Rate Period (as defined in the Indenture) other than a Term Interest Rate Period (as defined in the Indenture), in immediately available funds on the Interest Payment Date (by wire transfer or by deposit to the account of the registered owner of this Bond if such account is maintained with the Paying Agent),

but in respect of any registered owner of any Bond or Bonds in a Daily Interest Rate Period (as defined in the Indenture) or a Weekly Interest Rate Period (as defined in the Indenture) or a Flexible Interest Rate Period (as defined in the Indenture), only to any registered owner that owns Bonds in an aggregate principal amount of at least \$1,000,000 on such Record Date, according to the written instructions given by the registered owner hereof to the Paying Agent or, if no such instructions have been provided as of the Record Date, by bank check mailed by first-class mail on the Interest Payment Date to the registered owner at such registered owner’s address as it appears as of the Record Date on the registration books of the Registrar. Notwithstanding the foregoing, interest in respect of any Bond bearing a Flexible Rate (as

defined in the Indenture) shall be paid only upon presentation to The Bank of New York Mellon Trust Company, N.A., as Trustee (the "Trustee") of the Bond on which such payment is due.

THIS BOND AND ALL OTHER BONDS OF THE ISSUE OF WHICH IT FORMS A PART SHALL BE A LIMITED OBLIGATION OF THE ISSUER, SHALL NOT CONSTITUTE NOR GIVE RISE TO A GENERAL OBLIGATION OR LIABILITY OF THE ISSUER OR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWERS, AND SHALL NOT CONSTITUTE AN INDEBTEDNESS OF THE ISSUER OR OF THE STATE OF MONTANA, OR A LOAN OF CREDIT THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION.

This Bond is one of the duly authorized Pollution Control Revenue Refunding Bonds (Avista Corporation Colstrip Project) Series 2010B of the Issuer, originally issued in the aggregate principal amount of \$17,000,000 (the "Bonds"), issued pursuant to proper action duly adopted by the Issuer on December 6, 2010, and the applicable provisions of Sections 90-5-101 to 90-5-114, inclusive, Montana Code Annotated, as amended (the "Act"), and executed under a Trust Indenture, dated as of December 1, 2010, as amended and supplemented (the "Indenture"), between the Issuer and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee," which term shall include any successor Trustee), for the purpose of providing the funds necessary for the refunding of certain pollution control revenue bonds previously issued by the Issuer to finance or refinance certain pollution control facilities owned by Avista Corporation, a Washington corporation (the "Company"). Pursuant to the Loan Agreement, dated as of December 1, 2010 (the "Loan Agreement"), between the Issuer and the Company,

This Bond and all other Bonds of the issue of which it forms a part are issued pursuant to and in full compliance with the Constitution and laws of the State of Montana, particularly the Act, and pursuant to further proceedings adopted by the governing authority of the Issuer, which proceedings authorize the execution and delivery of the Indenture. This Bond and the issue of which it forms a part are limited and not general obligations of the Issuer payable solely from the Revenues (as defined in the Indenture) and amounts derived under the Loan Agreement and pledged under the Indenture consisting of all amounts payable from time to time by the Company in respect of the indebtedness under the Loan Agreement and all receipts of the Trustee credited under the provisions of the Indenture against said amounts payable, including all amounts drawn by the Trustee under a Credit Facility. No Owner of any Bond issued under the Act has the right to compel any exercise of the taxing power of the Issuer to pay the Bonds, or the interest or premium if any, thereon. The Bonds shall not constitute an indebtedness or a general obligation of the Issuer or a loan of credit thereof within the meaning of any constitutional or statutory provision, nor shall any of the Bonds constitute or give rise to a pecuniary liability of the Issuer or a charge against its general credit or taxing powers.

Any term used herein as a defined term but not defined herein shall be defined as in the Indenture.

In the manner hereinafter provided and subject to the provisions of the Indenture, the term of the Bonds will be divided into consecutive Rate Periods during each of which the Bonds shall bear interest at the lesser of (a) Maximum Interest Rate (as defined in the Indenture) or (b) either, the Daily Interest Rate (the "Daily Interest Rate Period"), the Weekly Interest Rate (the

“*Weekly Interest Rate Period*”), the Term Interest Rate (the “*Term Interest Rate Period*”) or the Flexible Interest Rate (the “*Flexible Interest Rate Period*”). Rate Periods for this Bond shall be determined in accordance with the Indenture.

This Bond shall bear interest from the Interest Payment Date next preceding the date of registration and authentication hereof unless it is registered and authenticated after a Record Date and on or prior to the related Interest Payment Date, in which event this Bond shall bear interest from such Interest Payment Date, or unless this Bond is registered and authenticated before the Record Date for the first Interest Payment Date, in which event this Bond shall bear interest from the Issue Date; *provided, however*, that if, as shown by the records of the Paying Agent, interest on the Bonds shall be in default, Bonds issued in exchange for Bonds surrendered for transfer or exchange shall bear interest from the last date to which interest has been paid in full or duly provided for on the Bonds, or, if no interest has been paid or duly provided for on the Bonds, from the Issue Date. Interest shall be computed, (a) in the case of a Term Interest Rate Period, on the basis of a 360-day year consisting of twelve 30-day months, and (b) in the case of any other Rate Period, on the basis of a 365 or 366 day year, as appropriate, for the actual number of days elapsed. The term “*Interest Payment Date*” means (i) with respect to any Daily or Weekly Interest Rate Period, the first Business Day of each calendar month, (ii) with respect to any Term Interest Rate Period, any day in the sixth month following the commencement of the Term Interest Rate Period and any day in each sixth month thereafter, and the day following the last day of a Term Interest Rate Period, (iii) with respect to any Flexible Segment, the Business Day next succeeding the last day thereof, and (iv) with respect to any Rate Period, the day next succeeding the last day thereof. The term “*Business Day*” means any day except a Saturday, Sunday or other day (a) on which commercial banks located in the cities in which the Principal Office of the Trustee, the Principal Office of the Provider, the Principal Office of the Company, the Principal Office of the Remarketing Agent or the Principal Office of the Paying Agent are located are required or authorized by law to remain closed or are closed, or (b) on which The New York Stock Exchange is closed.

The Bonds shall be deliverable in the form of registered Bonds without coupons in the following denominations: (i) \$100,000 or any integral multiple of \$5,000 in excess of \$100,000 when the Bonds bear interest at a Daily, a Weekly or a Flexible Interest Rate; and (ii) \$5,000 or integral multiples of \$5,000 when the Bonds bear interest at a Term Interest Rate (such denominations being referred to herein as “*Authorized Denominations*”).

As provided in the Loan Agreement, the Company may, at its option, provide for a Change of Credit Facility, which includes the delivery or termination (or a combination thereof) of one or more letters of credit, bond insurance policies, standby bond purchase agreements, lines of credit, First Mortgage Bonds, other Company mortgage bonds or other security instruments or liquidity devices. Also, as provided in the Loan Agreement, the Company may provide or replace Additional Collateral which includes first or other mortgage bonds or other collateral.

During each Daily Interest Rate Period, the Bonds shall bear interest at a Daily Interest Rate, determined in accordance with the provisions of the Indenture by the Remarketing Agent on each Business Day for such Business Day. If the Remarketing Agent shall not have



determined a Daily Interest Rate for any day by 9:30 a.m., New York, New York time, the Daily Interest Rate for such day shall be 100% of the most recent SIFMA Swap Index.

During each Weekly Interest Rate Period, the Bonds shall bear interest at a Weekly Rate, determined in accordance with the provisions of the Indenture by the Remarketing Agent no later than the first day of such Weekly Interest Rate Period and thereafter no later than Tuesday of each week during such Weekly Interest Rate Period, unless any such Tuesday shall not be a Business Day, in which event the Weekly Interest Rate shall be determined by the Remarketing Agent no later than the Business Day next preceding such Tuesday. If the Remarketing Agent shall not have determined a Weekly Interest Rate for any period, the Weekly Interest Rate shall be 110% of the most recent SIFMA Swap Index.

During each Term Interest Rate Period, the Bonds shall bear interest at the Term Interest Rate, determined in accordance with the provisions of the Indenture by the Remarketing Agent on a Business Day selected by the Remarketing Agent but no more than 60 days prior to and not later than the effective date of such Term Interest Rate Period.

During each Flexible Interest Rate Period, each Bond shall bear interest during each Flexible Segment for such Bond at the Flexible Interest Rate for such Bond as described in the Indenture. Each Flexible Segment and Flexible Interest Rate shall be determined in accordance with the provisions of the Indenture by the Remarketing Agent. Each Flexible Segment shall be a period of not less than one nor more than 270 days.

Notwithstanding the foregoing provisions, if any Bonds constitute Pledged Bonds due to a failure in remarketing such Bonds on a mandatory tender date, the Remarketing Agent shall be entitled to determine a new Daily Interest Rate, Weekly Interest Rate or Flexible Interest Rate with respect to such Bonds, as appropriate (in accordance with the terms of, and under the conditions and subject to the limitations provided in, the Indenture), effective on such date as the Remarketing Agent is able to remarket such Pledged Bonds in whole.

At the times and subject to the conditions set forth in the Indenture, the Company may elect that the Bonds shall bear interest at an interest rate, and for a period, different from those then applicable. The Trustee shall give notice of any such adjustment to the owners of the Bonds not less than 15 days prior to the effective date of such adjustment. Notwithstanding anything in the Indenture to the contrary, the Company may rescind any such election and the Bonds will then bear interest as provided in the Indenture.

During any Daily Interest Rate Period, any Bond or portion thereof in an Authorized Denomination shall be purchased at the option of the Owner thereof on any Business Day at a purchase price equal to 100% of the principal amount thereof plus accrued interest, if any, from the Interest Payment Date next preceding the date of purchase to the date of purchase (unless the date of purchase shall be an Interest Payment Date, in which case the purchase price shall be equal to the principal amount thereof) upon (a) delivery to the Trustee at the Delivery Office of the Trustee and to the Remarketing Agent at the Principal Office of the Remarketing Agent, by not later than 10:00 a.m., New York, New York time, on such Business Day, of an irrevocable written notice (which may be by facsimile or other writing), which states the principal amount

and the certificate number (if the Bonds are not then held in book entry form) of such Bond and the date on which the same shall be purchased, and (b) except when a book-entry system is in effect for the Bonds, delivery of such Bond to the Trustee at the Delivery Office of the Trustee, accompanied by an instrument of transfer thereof, in a form satisfactory to the Trustee, executed in blank by the owner thereof with the signature of such owner guaranteed by a member or participant in a “signature guarantee program” as provided in the form of assignment attached to such Bond, at or prior to 1:00 p.m., New York, New York time, on the date specified in such notice.

During any Weekly Interest Rate Period, any Bond or portion thereof in an Authorized Denomination shall be purchased at the option of the Owner thereof on any Business Day at a purchase price equal to 100% of the principal amount thereof plus accrued interest, if any, from the Interest Payment Date next preceding the date of purchase to the date of purchase (unless the date of purchase shall be an Interest Payment Date, in which case the purchase price shall be equal to the principal amount thereof), upon (a) delivery to the Trustee at the Delivery Office of the Trustee of an irrevocable written notice (which may be by facsimile or other writing), by 5:00 p.m., New York, New York time, on any Business Day, which states the principal amount of such Bond and the certificate number (if the Bonds are not held in book-entry form) and the date on which the same shall be purchased, which date shall not be prior to the seventh day next succeeding the date of the delivery of such notice to the Trustee, and (b) except when a book-entry system is in effect for the Bonds, delivery of such Bond to the Trustee at the Delivery Office of the Trustee, accompanied by an instrument of transfer thereof, in a form satisfactory to the Trustee, executed in blank by the Owner thereof with the signature of such Owner guaranteed by a member or participant in a “signature guarantee program” as provided in the form of assignment attached to such Bond, at or prior to 1:00 p.m., New York, New York time, on the date specified in such notice.

Any bond or portion thereof in an Authorized Denomination shall be purchased at the option of the Owner thereof on the first day of any Term Interest Rate Period which is preceded by a Term Interest Rate Period of equal duration at a purchase price equal to 100% of the principal amount thereof, upon (i) delivery to the Trustee at the Delivery Office of the Trustee of an irrevocable notice in writing by 5:00 p.m., New York, New York time, on any Business Day not less than fifteen days before the purchase date, which states the principal amount and certificate number (if the Bonds are not then held in book-entry form) of such Bond to be purchased and (ii) except when a book-entry system is in effect for the Bonds, delivery of such Bond to the Trustee at the Delivery Office of the Trustee, accompanied by an instrument of transfer thereof, in a form satisfactory to the Trustee, executed in blank by the Owner thereof with the signature of such Owner guaranteed by a member or participant in a “signature guarantee program” as provided in the form of assignment attached to such Bond, at or prior to 1:00 p.m., New York, New York time, on the purchase date.

“Record Date” means (a) with respect to any Interest Payment Date in respect of any Daily Interest Rate Period, Weekly Interest Rate Period or Flexible Segment, the Business Day next preceding such Interest Payment Date, (b) with respect to any Interest Payment Date in respect of any Term Interest Rate Period, the fifteenth day of the month preceding such Interest Payment Date (except as provided in the following clause (c)); and (c) for any Interest Payment

Date established pursuant to clause (d) of the definition of “*Interest Payment Date*” in Section 1.01 of the Indenture in respect of a Term Interest Rate Period, the Business Day next preceding such Interest Payment Date.

In each case in which a portion of a Bond is purchased, both the portion so purchased and the portion of such Bond not so purchased shall be in Authorized Denominations.

This Bond shall be subject to mandatory purchase at a purchase price equal to 100% of the principal amount thereof to the purchase date plus accrued interest, if any, to the purchase date: (a) on the effective date of any change in a Rate Period with respect to this Bond other than the effective date of a Term Interest Rate Period which was preceded by a Term Interest Rate Period of the same duration; (b) during any Flexible Interest Rate Period, on the day next succeeding the last day of any Flexible Segment thereof; (c) in connection with a Change of Credit Facility, as provided in Section 3.02(a)(iii) of the Indenture; (d) on the second Business Day following the day that the Trustee receives notice from the Provider that, following a drawing on a Credit Facility that consists of a direct pay letter of credit (on an Interest Payment Date for the payment of unpaid interest on the Bonds), such Credit Facility will not be reinstated in accordance with its terms; (e) as to any Bond, if a Credit Facility is in effect, on the second Business Day following the day that the Trustee receives notice from the Provider directing such mandatory purchase upon the occurrence and continuance of an event of default under the Credit Facility Agreement; or (f) as to each Bond in a Daily Interest Rate Period or a Weekly Interest Rate Period, on any Business Day designated by the Company, with the consent of the Provider and the Remarketing Agent.

The Bonds are also subject to mandatory purchase during any Term Interest Rate Period on a day that the Bonds would be subject to optional redemption pursuant to Section 4.02(b)(iii) of the Indenture, at a purchase price equal to 100% the principal amount thereof plus an amount equal to any premium which would have been payable on such redemption date had the Bonds been redeemed if the Company gives notice to the Trustee on or before the Business Day prior to the redemption date that it elects to have the Bonds purchased in lieu of redemption. If the Bonds are purchased on or prior to the Record Date, the purchase price shall include accrued interest from the Interest Payment Date next preceding the date of purchase to the date of purchase (unless the date of purchase shall be an Interest Payment Date, in which case the purchase price shall be equal to the amount specified in the preceding sentence). If the Bonds are purchased after the Record Date, the purchase price shall not include accrued interest.

BY ACCEPTANCE OF THIS BOND, THE REGISTERED OWNER HEREBY AGREES THAT, IF THIS BOND IS TO BE PURCHASED AND IF MONEYS SUFFICIENT TO PAY THE PURCHASE PRICE SHALL BE HELD BY THE TRUSTEE ON THE DATE THIS BOND IS TO BE PURCHASED, THIS BOND SHALL BE DEEMED TO HAVE BEEN PURCHASED AND SHALL BE PURCHASED ACCORDING OF THE INDENTURE, WHETHER OR NOT THIS BOND SHALL HAVE BEEN DELIVERED TO THE TRUSTEE, AND THE OWNER OF THIS BOND SHALL HAVE NO CLAIM HEREON, UNDER THE INDENTURE OR OTHERWISE, FOR ANY AMOUNT OTHER THAN THE PURCHASE PRICE HEREOF.

The Bonds shall be redeemed in whole or in part, and if in part by lot, at any time at a redemption price equal to the principal amount thereof plus accrued interest to the redemption

date upon receipt by the Trustee of a written notice from the Company stating that any of the following events has occurred and that the Company therefore intends to exercise its option to prepay the payments due under the Loan Agreement in whole or in part and thereby effect the redemption of Bonds in whole or in part to the extent of such prepayments: (a) the Company shall have determined or concurred in a determination that the continued operation of the Plant is impracticable, uneconomical or undesirable for any reason; (b) all or substantially all of the Plant shall have been condemned or taken by eminent domain; (c) the operation of the Plant shall have been enjoined or shall have otherwise been prohibited by, or shall conflict with, any order, decree, rule or regulation of any court or of any federal, state or local regulatory body, administrative agency or other governmental body; (d) unreasonable burdens or excessive liabilities shall have been imposed upon the Company in respect of all or a part of the Pollution Control Facilities or the Plant including, without limitation, federal, state or other ad valorem, property, income or other taxes not being imposed on the date of the Loan Agreement, as well as any statute or regulation enacted or promulgated after the date of the Loan Agreement that prevents the Company from deducting interest in respect of the Agreement for federal income tax purposes; or (e) all or substantially all of the Project shall be transferred or sold to any entity other than an affiliate of the Company.

The Bonds shall be subject to redemption upon prepayment of the Loan Payments at the option of the Company, in whole, or in part by lot, prior to their maturity, as follows:

(a) While the Bonds bear interest at a Flexible Interest Rate or Rates, each Bond shall be subject to such redemption on the day next succeeding the last day of each Flexible Segment for such Bond at a redemption price equal to 100% of the principal amount thereof.

(b) While the Bonds bear interest at a Daily Interest Rate or a Weekly Interest Rate, the Bonds shall be, with the consent of the Provider, subject to such redemption on any Business Day at a redemption price equal to 100% of the principal amount thereof, plus accrued interest, if any, to the redemption date.

(c) While the Bonds bear interest at a Term Interest Rate, the Bonds shall be subject to such redemption (1) on the day next succeeding the last day of each Term Interest Rate Period at a redemption price equal to the principal amount of the Bonds being redeemed plus accrued interest, if any, to the redemption date and (2) either (i) on the redemption dates and at the redemption prices specified by the Company pursuant to the next succeeding paragraph or (ii) during the redemption periods specified below, in each case in whole or in part, at the redemption prices (expressed as percentages of principal amount) hereinafter indicated plus accrued interest, if any, to the redemption date:

LENGTH OF TERM  
INTEREST RATE PERIOD

REDEMPTION DATES AND PRICES

Greater than or equal to 11 years	At any time on or after the first day of the calendar month following the tenth anniversary of the effective date at 102% declining 1% annually to 100%
Less than 11 years	Not redeemable

With respect to any Term Interest Rate Period, the Company may specify redemption provisions, prices and periods other than those set forth above; *provided, however*, at the time of such specification, the Company shall provide a Favorable Opinion of Bond Counsel to the effect that the proposed action is not prohibited by the laws of the State and the Indenture and will not adversely affect the Tax-Exempt status of the Bonds.

The Bonds shall be redeemed in whole on any date from amounts which are to be prepaid by the Company under the Loan Agreement, at a redemption price equal to 100% of the principal amount thereof plus interest accrued, if any, to the redemption date within 180 days after the occurrence of a Determination of Taxability; *provided* that if, in the Favorable Opinion of Bond Counsel delivered to the Trustee, the redemption of a specified portion of the Bonds outstanding would have the result that interest payable on the Bonds remaining outstanding after such redemption would remain Tax-Exempt, then the Bonds shall be redeemed in part by lot (in Authorized Denominations), in such amount as Bond Counsel in such opinion shall have determined is necessary to accomplish that result.

A “*Determination of Taxability*” shall be deemed to have occurred if as a result of the Company’s failure to observe any covenant, agreement or representation in the Loan Agreement, a final decree or judgment of any federal court or a final action of the Internal Revenue Service determines that interest paid or payable on any Bond is or was includible in the gross income of an Owner of the Bonds for federal income tax purposes under the Code (other than an Owner who is a “*substantial user*” or “*related person*” within the meaning of Section 103(b)(13) of the 1954 Code). However, no such decree or action will be considered final for this purpose unless the Company has been given written notice and, if it is so desired and is legally allowed, has been afforded the opportunity to contest the same, either directly or in the name of any Owner of a Bond, and until conclusion of any appellate review, if sought.

Notice of any optional or mandatory redemption shall be given by first-class mail not less than 15 days nor more than 60 days prior to the date fixed for redemption to the Owners of Bonds at the address shown on the registration books of the Registrar on the date such notice is mailed. Such notice shall state, among other things, that such redemption shall be conditional upon the receipt of Available Moneys sufficient to pay the principal of, and premium, if any, and interest on such Bonds to be redeemed. In the event such Available Moneys are (a) not so received, (b) no longer sufficient to pay the principal of, and premium, if any, and interest on, such Bonds or (c) no longer considered Available Moneys, in each case, on the redemption date; the redemption shall not be made and the Trustee shall within a reasonable time thereafter give

notice, in the manner in which the notice of redemption was given, that such redemption will not take place. If less than all of the Bonds are called for redemption, the Trustee shall select the Bonds or any given portion thereof from the outstanding Bonds or such given portion thereof not previously called for redemption, by lot. For the purpose of any such selection the Trustee shall assign a separate number for each minimum Authorized Denomination of each Bond of a denomination of more than such minimum; *provided* that, following any such selection, both the portion of such Bond to be redeemed and the portion remaining shall be in Authorized Denominations. Notwithstanding the foregoing provisions, Pledged Bonds shall be redeemed prior to any other Bonds.

Subject to the limitations and upon payment of the charges, if any, provided in the Indenture, Bonds may be exchanged at the Principal Office of the Registrar for a like aggregate principal amount of Bonds of the same tenor and of Authorized Denominations.

This Bond is transferable by the person in whose name it is registered, in person, or by its attorney duly authorized in writing, at the Principal Office of the Registrar, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond accompanied by a written instrument of transfer in a form approved by the Registrar, duly executed. Upon such transfer a new fully registered Bond or Bonds in Authorized Denominations, for the same aggregate principal amount, will be issued to the transferee in exchange therefor.

The Issuer, the Registrar, the Trustee and any agent of the Issuer, the Registrar or the Trustee may treat the person in whose name this Bond is registered as the owner hereof for the purpose of receiving payment as herein provided and for all other purposes, whether or not this Bond be overdue, and neither the Issuer, the Registrar, the Trustee, any paying agent nor any such agent shall be affected by notice to the contrary.

The Bonds are equally and ratably secured, to the extent provided in the Indenture, by the pledge thereunder of the "*Revenues*," which term is used herein as defined in the Indenture and which as therein defined means all moneys paid or payable to the Trustee for the account of the Issuer in accordance with the Loan Agreement, including all moneys drawn under or paid on the Credit Facility and deposited in the Bond Fund and the Credit Facility Fund to pay principal of the Bonds (and premium, if any, on the Bonds if covered by such Credit Facility) upon redemption, at maturity or upon acceleration of maturity, or to pay interest on the Bonds when due, and all receipts credited under the provisions of the Indenture against such payments; *provided, however*, that "*Revenues*" shall not include moneys held by the Trustee to pay the purchase price of Bonds subject to purchase pursuant to the Indenture. The Issuer has also pledged and assigned to the Trustee as security for the Bonds all other rights and interests of the Issuer under the Loan Agreement (other than its rights to indemnification and certain administrative expenses and certain other rights).

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

With certain exceptions as provided therein, the Indenture and the Loan Agreement may be modified or amended only with the consent of the Provider (unless a Provider Default as specified in the Indenture shall have occurred and be continuing) and the Owners of not less than 60% in aggregate principal amount of all Bonds then Outstanding under the Indenture.

Reference is hereby made to the Indenture, the Loan Agreement, the Credit Facility and the Tax Certificate, copies of which are on file with the Trustee, for the provisions, among others, with respect to the nature and extent of the rights, duties and obligations of the Issuer, the Company, the Trustee, the Registrar, the Remarketing Agent, the Provider and the Owners of the Bonds. The Owner of this Bond, by the acceptance hereof, is deemed to have agreed and consented to and to be bound by the terms and provisions of the Indenture, the Loan Agreement and the Tax Certificate.

The Indenture prescribes the manner in which it may be discharged, including, except as otherwise provided in the Indenture, (a) a provision that the Bonds shall be deemed to be paid if moneys, which constitute Available Moneys or moneys drawn or paid on the Credit Facility (other than a Credit Facility that consists solely of a facility on which the Company or any affiliate thereof is the obligor), sufficient to pay the principal of, premium, if any, and interest on the Bonds and all necessary and proper fees, compensation and expenses of the Trustee, the Registrar, the Provider and the Remarketing Agent, shall have been deposited with the Trustee, after which the Bonds shall no longer be secured by or entitled to the benefits of the Indenture, except for the purposes of registration and exchange of Bonds and of delivery of the Bonds to the Trustee for purchase, and (b) a provision that, if the Bonds mature or are called for redemption prior to the next date upon which the Bonds are subject to purchase pursuant to the Indenture, and if the Company waives its right to adjust the interest rate borne by the Bonds, the Bonds shall be deemed to be paid if (i) moneys, which shall be Available Moneys or moneys drawn under or paid on the Credit Facility (other than a Credit Facility that consists solely of a facility on which the Company or any affiliate thereof is the obligor), sufficient to make such payment, and/or Government Obligations purchased with Available Moneys or moneys drawn under or paid on the Credit Facility (other than a Credit Facility that consists solely of a facility on which the Company or any affiliate thereof is the obligor) and maturing as to principal and interest in such amounts and at such times as to insure, without reinvestment, the availability of sufficient moneys to pay the principal of, premium, if any, and interest on the Bonds and all necessary and proper fees, compensation and expenses of the Trustee and the Registrar, shall have been deposited with the Trustee, after which the Bonds shall no longer be secured by or entitled to the benefits of the Indenture, except for the purposes of registration and exchange of Bonds and of such payment.

No recourse shall be had for the payment of the principal of, premium, if any, or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement in the Indenture contained, against any past, present or future officer, elected official agent or employee of the Issuer, or any incorporator, officer, director or member of any successor corporation, as such, either directly or through the Issuer or any successor corporation, 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 incorporator, officer, director or

member is hereby expressly waived and released as a condition of and in consideration for the execution of the Indenture and the issuance of any of the Bonds.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law, and that the issuance of this Bond and the issue of which it forms a part, together with all other obligations of the Issuer, does not exceed or violate any constitutional or statutory limitation of indebtedness.

This Bond shall not be entitled to any security or benefit under the Indenture, or be valid or become obligatory for any purpose, until this Bond shall have been authenticated by the execution by the Registrar of the certificate of authentication inscribed hereon.

IN WITNESS WHEREOF, CITY OF FORSYTH, MONTANA, has caused this Bond to be executed in its name with the signature of its Mayor and attested by the signature of its City Clerk-Treasurer, all as of the Issue Date specified above.

CITY OF FORSYTH, MONTANA

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

[SEAL]

ATTEST:

\_\_\_\_\_  
City Clerk-Treasurer



**[FORM OF TRUSTEE'S CERTIFICATE]**

**CERTIFICATE OF AUTHENTICATION**

This is to certify that this Bond is one of the Bonds of the Series described in the within-mentioned Indenture.

\_\_\_\_\_,  
as Registrar

By: \_\_\_\_\_  
Authorized Signatory

Date of registration and authentication: \_\_\_\_\_

[FORM OF ASSIGNMENT]

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

TEN COM	—	as tenants in common	UNIFTRAN MIN ACT—
TEN ENT	—	as tenants by the entirety	_____ Custodian _____
JT TEN	—	as joint tenants with right of survivorship and not as tenants in common	(Cust) (Minor) under Uniform Transfers to Minors Act of _____ (State)

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

FOR VALUE RECEIVED the undersigned sells, assigns and transfers unto

[Empty box for Social Security or Other Identifying Number of Assignee]

Insert Social Security or Other  
Identifying Number of Assignee

(Please Print or Typewrite Name and Address of Assignee)

the within Bond of CITY OF FORSYTH, MONTANA, and hereby irrevocably constitutes and appoints \_\_\_\_\_

attorney to register the transfer of the Bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_

SIGNATURE GUARANTEED:

\_\_\_\_\_

NOTICE: Signature(s) must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Bond Registrar, which requirements include membership or participation in STAMP or such other “signature guarantee program” as may be determined by the Bond Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities and Exchange Act of 1934, as amended.

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