

**DORMITORY AUTHORITY  
OF THE STATE OF NEW YORK**

**AMENDED AND RESTATED  
MUNICIPAL HEALTH FACILITIES IMPROVEMENT PROGRAM  
LEASE REVENUE BOND RESOLUTION  
(NEW YORK CITY ISSUE)**

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Adopted June 20, 2018

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A RESOLUTION AUTHORIZING THE ISSUANCE BY THE DORMITORY AUTHORITY OF THE STATE OF NEW YORK OF MUNICIPAL HEALTH FACILITIES IMPROVEMENT PROGRAM LEASE REVENUE BONDS (NEW YORK CITY ISSUE); PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON SUCH BONDS; AND PROVIDING FOR THE RIGHTS OF THE HOLDERS THEREOF.

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## TABLE OF CONTENTS

### Page

#### ARTICLE I

##### DEFINITIONS; CONTRACT AND AUTHORITY

SECTION 1.01. Definitions .....	1
SECTION 1.02. Authority for the Resolution .....	16
SECTION 1.03. Resolution and Bonds Constitute a Contract .....	16
SECTION 1.04. Amendment and Restatement; Effective Date .....	16

#### ARTICLE II

##### AUTHORIZATION AND ISSUANCE OF BONDS

SECTION 2.01. Authorization of Bonds .....	17
SECTION 2.02. Provisions for Issuance of Bonds .....	17
SECTION 2.03. Series Resolutions .....	19
SECTION 2.04. Refunding Bonds .....	21
SECTION 2.05. Additional Obligations .....	22

#### ARTICLE III

##### GENERAL TERMS AND PROVISIONS OF BONDS

SECTION 3.01. Place And Medium Of Payment .....	22
SECTION 3.02. Legends .....	23
SECTION 3.03. CUSIP Numbers .....	23
SECTION 3.04. Execution and Authentication .....	23
SECTION 3.05. Interchangeability of Bonds .....	24
SECTION 3.06. Negotiability, Transfer and Registry .....	24
SECTION 3.07. Transfer of Bonds .....	24
SECTION 3.08. Regulations with Respect to Exchanges and Transfers .....	25
SECTION 3.09. Bonds Mutilated, Destroyed, Lost or Stolen .....	25
SECTION 3.10. Book Entry Bonds .....	26
SECTION 3.11. Preparation of Definitive Bonds; Temporary Bonds .....	27
SECTION 3.12. Tender of Option Bonds .....	28
SECTION 3.13. Cancellation of Bonds .....	28

## **ARTICLE IV**

### **REDEMPTION OF BONDS**

<b>SECTION 4.01. Authorization of Redemption .....</b>	<b>28</b>
<b>SECTION 4.02. Redemption at the Election or Direction of the Authority.....</b>	<b>28</b>
<b>SECTION 4.03. Redemption Other Than at Authority's Election or Direction .....</b>	<b>28</b>
<b>SECTION 4.04. Selection of Bonds to Be Redeemed.....</b>	<b>29</b>
<b>SECTION 4.05. Notice of Redemption .....</b>	<b>29</b>
<b>SECTION 4.06. Payment of Redeemed Bonds.....</b>	<b>30</b>

## **ARTICLE V**

### **PLEDGE OF REVENUES; FUNDS AND ACCOUNTS; REVENUES AND APPLICATION THEREOF**

<b>SECTION 5.01. Pledge of Revenues.....</b>	<b>31</b>
<b>SECTION 5.02. Establishment of Funds and Accounts.....</b>	<b>32</b>
<b>SECTION 5.03. Application of Bond Proceeds and Allocation Thereof .....</b>	<b>32</b>
<b>SECTION 5.04. Application of Moneys in the Construction Fund.....</b>	<b>33</b>
<b>SECTION 5.05. Deposit of Revenues and Allocation Thereof.....</b>	<b>33</b>
<b>SECTION 5.06. Debt Service Fund.....</b>	<b>35</b>
<b>SECTION 5.07. Debt Service Reserve Fund .....</b>	<b>36</b>
<b>SECTION 5.08. Arbitrage Rebate Fund.....</b>	<b>39</b>
<b>SECTION 5.09. Application of Moneys in Certain Funds for Retirement of Bonds .....</b>	<b>40</b>
<b>SECTION 5.10. Transfer of Investments .....</b>	<b>40</b>

## **ARTICLE VI**

### **SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS**

<b>SECTION 6.01. Security for Deposits.....</b>	<b>40</b>
<b>SECTION 6.02. Investment of Funds and Accounts .....</b>	<b>41</b>
<b>SECTION 6.03. Liability for Investments .....</b>	<b>42</b>

## **ARTICLE VII**

### **PARTICULAR COVENANTS**

<b>SECTION 7.01. Payment of Principal and Interest.....</b>	<b>42</b>
<b>SECTION 7.02. Extension of Payment of Bonds .....</b>	<b>42</b>
<b>SECTION 7.03. Powers as to Bonds and Pledge.....</b>	<b>42</b>

<b>SECTION 7.04. Further Assurance .....</b>	<b>43</b>
<b>SECTION 7.05. Accounts and Audits .....</b>	<b>43</b>
<b>SECTION 7.06. Creation of Liens .....</b>	<b>43</b>
<b>SECTION 7.07. Enforcement of Obligations of the City .....</b>	<b>43</b>
<b>SECTION 7.08. Deposit of Certain Moneys in the Construction Fund.....</b>	<b>44</b>
<b>SECTION 7.09. Offices for Payment and Registration of Bonds.....</b>	<b>44</b>
<b>SECTION 7.10. Amendment, Change, Modification or Waiver of Agreement.....</b>	<b>44</b>
<b>SECTION 7.11. Notice as to Agreement Default .....</b>	<b>45</b>
<b>SECTION 7.12. Basic Rent .....</b>	<b>45</b>
<b>SECTION 7.13. Payment of Lawful Charges.....</b>	<b>45</b>
<b>SECTION 7.14. Disposition of a Health Facility.....</b>	<b>46</b>
<b>SECTION 7.15. Certificate to the State Comptroller, State Budget Director and State Commissioner of Health .....</b>	<b>46</b>
<b>SECTION 7.16. General.....</b>	<b>46</b>

## **ARTICLE VIII**

### **CONCERNING THE TRUSTEE**

<b>SECTION 8.01. Appointment and Acceptance of Trustee .....</b>	<b>46</b>
<b>SECTION 8.02. Appointment and Acceptance of Paying Agents .....</b>	<b>46</b>
<b>SECTION 8.03. Responsibilities of Trustee and Paying Agent .....</b>	<b>47</b>
<b>SECTION 8.04. Property Held in Trust .....</b>	<b>47</b>
<b>SECTION 8.05. Evidence on Which Fiduciaries May Act.....</b>	<b>47</b>
<b>SECTION 8.06. Compensation.....</b>	<b>48</b>
<b>SECTION 8.07. Permitted Acts.....</b>	<b>48</b>
<b>SECTION 8.08. Resignation of Trustee.....</b>	<b>49</b>
<b>SECTION 8.09. Removal of Trustee .....</b>	<b>49</b>
<b>SECTION 8.10. Successor Trustee.....</b>	<b>49</b>
<b>SECTION 8.11. Transfer of Rights and Property to Successor Trustee .....</b>	<b>50</b>
<b>SECTION 8.12. Merger or Consolidation of the Trustee .....</b>	<b>50</b>
<b>SECTION 8.13. Resignation or Removal of the Paying Agents and Appointment of Successors .....</b>	<b>50</b>
<b>SECTION 8.14. Amortization Schedule .....</b>	<b>51</b>

## **ARTICLE IX**

### **SERIES RESOLUTIONS AND SUPPLEMENTAL RESOLUTIONS**

<b>SECTION 9.01. Modification and Amendment without Consent.....</b>	<b>51</b>
<b>SECTION 9.02. Supplemental Resolutions Effective with Consent of Bondholders .....</b>	<b>52</b>
<b>SECTION 9.03. General Provisions Relating to Series Resolutions and Supplemental Resolutions .....</b>	<b>52</b>

## **ARTICLE X**

### **AMENDMENTS OF RESOLUTION**

<b>SECTION 10.01. Powers of Amendment.....</b>	<b>53</b>
<b>SECTION 10.02. Consent of Bondholders .....</b>	<b>54</b>
<b>SECTION 10.03. Modifications by Unanimous Consent .....</b>	<b>55</b>
<b>SECTION 10.04. Consent of Facility Provider .....</b>	<b>55</b>
<b>SECTION 10.05. Mailing and Publication .....</b>	<b>56</b>
<b>SECTION 10.06. Exclusion of Bonds.....</b>	<b>56</b>
<b>SECTION 10.07. Notation on Bonds.....</b>	<b>56</b>

## **ARTICLE XI**

### **DEFAULTS AND REMEDIES**

<b>SECTION 11.01. Trustee to Exercise Powers of Statutory Trustee.....</b>	<b>56</b>
<b>SECTION 11.02. Events of Default .....</b>	<b>57</b>
<b>SECTION 11.03. No Acceleration of Maturity .....</b>	<b>57</b>
<b>SECTION 11.04. Enforcement of Remedies.....</b>	<b>57</b>
<b>SECTION 11.05. Priority of Payments after Default .....</b>	<b>58</b>
<b>SECTION 11.06. Termination of Proceedings .....</b>	<b>59</b>
<b>SECTION 11.07. Bondholders' Direction of Proceedings .....</b>	<b>59</b>
<b>SECTION 11.08. Limitation of Rights of Individual Bondholders .....</b>	<b>60</b>
<b>SECTION 11.09. Actions by Trustee; Possession of Bonds by Trustee Not Required.....</b>	<b>60</b>
<b>SECTION 11.10. Remedies Not Exclusive.....</b>	<b>60</b>
<b>SECTION 11.11. Waiver and Non-Waiver of Default .....</b>	<b>60</b>
<b>SECTION 11.12. Notice of Event of Default .....</b>	<b>61</b>

## **ARTICLE XII**

### **DEFEASANCE**

<b>SECTION 12.01. Defeasance .....</b>	<b>61</b>
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### **ARTICLE XIII**

#### **EXECUTION OF INSTRUMENTS BY BOND HOLDERS AND PROOF OF OWNERSHIP OF BONDS**

<b>SECTION 13.01. Evidence of Signatures of Bondholders and Ownership of Bonds .....</b>	<b>65</b>
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### **ARTICLE XIV**

#### **MISCELLANEOUS**

<b>SECTION 14.01. Preservation and Inspection of Documents .....</b>	<b>65</b>
<b>SECTION 14.02. Moneys and Funds Held for Particular Bonds .....</b>	<b>66</b>
<b>SECTION 14.03. No Recourse under Resolution or on the Bonds .....</b>	<b>66</b>
<b>SECTION 14.04. Severability of Invalid Provision .....</b>	<b>66</b>
<b>SECTION 14.05. Parties of Interest.....</b>	<b>66</b>
<b>SECTION 14.06. Certain Provisions Relating to Capital Appreciation Bonds and Deferred Income Bonds.....</b>	<b>66</b>
<b>SECTION 14.07. Termination of Facility Provider's Rights.....</b>	<b>67</b>
<b>SECTION 14.08. Notices .....</b>	<b>67</b>
<b>SECTION 14.09. Other Resolutions .....</b>	<b>68</b>
<b>SECTION 14.10. Headings .....</b>	<b>68</b>
<b>SECTION 14.11. Authority to Deliver this Resolution .....</b>	<b>68</b>
<b>SECTION 14.12. Governing Laws .....</b>	<b>68</b>
<b>SECTION 14.13. Effective Date .....</b>	<b>68</b>

AMENDED AND RESTATED  
MUNICIPAL HEALTH FACILITIES IMPROVEMENT PROGRAM  
LEASE REVENUE BOND RESOLUTION  
(NEW YORK CITY ISSUE)

A Resolution Authorizing the Issuance by the Dormitory Authority of the State of New York of its Municipal Health Facilities Improvement Program Lease Revenue Bonds (New York City Issue); Providing For The Payment Of The Principal Of And Interest On Such Bonds; And Providing For The Rights Of The Holders Thereof.

BE IT RESOLVED BY THE DORMITORY AUTHORITY OF THE STATE OF NEW YORK AS FOLLOWS:

**ARTICLE I**

**DEFINITIONS; CONTRACT AND AUTHORITY**

**SECTION 1.01. Definitions.** Terms used but not otherwise defined herein, if used in the Agreement, shall have the meanings ascribed thereto in the Agreement. As used in this resolution, unless a different meaning clearly appears from the context:

**“Accreted Value”** means with respect to any Capital Appreciation Bond (i) as of any Valuation Date, the amount set forth for such date in the Series Resolution authorizing such Capital Appreciation Bond or the Bond Series Certificate relating to such Bond and (ii) as of any date other than a Valuation Date, the sum of (a) the Accreted Value on the preceding Valuation Date and (b) the product of (1) a fraction, the numerator of which is the number of days having elapsed from the preceding Valuation Date and the denominator of which is the number of days from such preceding Valuation Date to the next succeeding Valuation Date, calculated based on the assumption that Accreted Value accrues during any semi-annual period in equal daily amounts on the basis of a year of twelve (12) thirty-day months, and (2) the difference between the Accreted Values for such Valuation Dates;

**“Act”** means the Dormitory Authority Act, being and constituting Title 4 of Article 8 of the Public Authorities Law of the State of New York, as amended by the Health Care Financing Consolidation Act, being and constituting Title 4-B of Public Authorities Law of the State of New York, whereby the Authority succeeded to the powers, functions and duties set forth in the New York State Medical Care Facilities Finance Agency Act, being Chapter 392 of Laws of New York, 1973, as amended, McKinney’s Unconsolidated Laws, Sections 7411 to 7432, inclusive;

**“Agreement”** means the Amended and Restated Lease and Agreement, dated as of June 20, 2018, between the Authority and the City, as from time to time amended or supplemented in accordance with the terms and provisions hereof and of the Agreement;

**“Appreciated Value”** means with respect to any Deferred Income Bond (i) as of any Valuation Date, the amount set forth for such date in the Series Resolution authorizing such Deferred Income Bond or in the Bond Series Certificate relating to such Bond and (ii) as of any date other than a Valuation Date, the sum of (a) the Appreciated Value on the preceding

Valuation Date and (b) the product of (1) a fraction, the numerator of which is the number of days having elapsed from the preceding Valuation Date and the denominator of which is the number of days from such preceding Valuation Date to the next succeeding Valuation Date, calculated based on the assumption that Appreciated Value accrues during any semi-annual period in equal daily amounts on the basis of a year of twelve (12) thirty-day months, and (2) the difference between the Appreciated Values for such Valuation Dates, and (iii) as of any date of computation on and after the Interest Commencement Date, the Appreciated Value on the Interest Commencement Date;

**“Arbitrage Rebate Fund”** means the fund so designated, created and established pursuant to Section 5.02 hereof;

**“Authority”** means the Dormitory Authority of the State of New York, a body corporate and politic constituting a public benefit corporation of the State created by the Act, or any body, agency or instrumentality of the State which shall hereafter succeed to the rights, powers, duties and functions of the Authority;

**“Authorized Newspaper”** means **The Bond Buyer** or any other newspaper of general circulation printed in the English language and customarily published at least once a day for at least five days (other than legal holidays) in each calendar week in the Borough of Manhattan, City and State of New York, designated by the Authority;

**“Authorized Officer”** means (i) in the case of the Authority, the Chair, the Vice-Chair, the Treasurer, an Assistant Treasurer, the Secretary, an Assistant Secretary, the Executive Director, the President, the Deputy Executive Director, the Vice President, the Chief Financial Officer, the Managing Director of Public Finance and Portfolio Monitoring, the Managing Director of Construction, and the General Counsel, and when used with reference to any act or document also means any other person authorized by a resolution or the by-laws of the Authority to perform such act or execute such document; (ii) in the case of the City, when used with reference to any act or document, means the person identified herein or in the Agreement as authorized to perform such act or execute such document, and in all other cases means the Mayor of the City, the Director or Deputy Director of the City’s Office of Management and Budget or an officer or employee of the City authorized in a written instrument signed by the Mayor or by the Charter of the City or its Administrative Code to act on behalf of the Mayor; and (iii) in the case of the Trustee, the President, a Vice President, a Corporate Trust Officer, an Assistant Corporate Trust Officer, a Trust Officer or an Assistant Trust Officer of the Trustee, and when used with reference to any act or document also means any other person authorized to perform any act or sign any document by or pursuant to a resolution of the Board of Directors of the Trustee or the by-laws of the Trustee;

**“Basic Rent”** means the amount payable pursuant to Section 4.01(a) of the Agreement;

**“Bond or Bonds”** means any of the bonds of the Authority authorized and issued pursuant hereto and to a Series Resolution;



**“Bond Counsel”** means an attorney or a law firm, appointed by the Authority, having a national reputation in the field of municipal law whose opinions are generally accepted by purchasers of municipal bonds;

**“Bond Series Certificate”** means the certificate of an Authorized Officer of the Authority fixing terms, conditions and other details of Bonds of a Series in accordance with the delegation of power to do so hereunder or under the Series Resolution authorizing the issuance of such Bonds;

**“Bond Year”** means a period of twelve (12) consecutive months beginning January 15 in any calendar year and ending on January 14 of the succeeding calendar year;

**“Bondholder, Holder of Bonds or Holder”** or any similar term, when used with reference to a Bond or Bonds, means the registered owner of any Bond;

**“Book Entry Bond”** means a Bond authorized to be issued to, and issued to and registered in the name of, a Depository directly or indirectly for the beneficial owners thereof;

**“Business Day”** means any day which is not a Saturday, Sunday or a day on which banking institutions chartered by the State or the United States of America are legally authorized to close in The City of New York; **provided, however**, that, with respect to Option Bonds or Variable Interest Rate Bonds of a Series, such term means any day which is not a Saturday, Sunday or a day on which the New York Stock Exchange, banking institutions chartered by the State or the United States of America, the Trustee or the issuer of a Credit Facility or Liquidity Facility for such Bonds are legally authorized to close in The City of New York;

**“Capital Appreciation Bond”** means any Bond as to which interest is compounded on each Valuation Date therefor and is payable only at the maturity or prior redemption thereof;

**“City”** means The City of New York, a municipal corporation of the State, constituting a political subdivision thereof;

**“Code”** means the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder;

**“Construction Fund”** means the fund so designated, created and established pursuant to Section 5.02 hereof;

**“Cost or Costs of Issuance”** means the items of expense incurred in connection with the authorization, sale and issuance of the Bonds, which items of expense shall include, but not be limited to, document printing and reproduction costs, filing and recording fees, costs of credit ratings, initial fees and charges of the Trustee or a Depository, legal fees and charges, professional consultants’ fees, fees and charges for execution, transportation and safekeeping of Bonds, premiums, fees and charges for insurance on Bonds, commitment fees or similar charges of a Remarketing Agent or relating to a Credit Facility or a Liquidity Facility, costs and expenses of refunding Bonds and other costs, charges and fees, including those of the Authority, in connection with the foregoing;

**“Cost or Costs of the Project”** means costs and expenses or the refinancing of costs and expenses determined by the Authority to be necessary in connection with the Project, including, but not limited to, (i) costs and expenses of the acquisition of the title to or other interest in real property, including easements, rights-of-way and licenses, (ii) costs and expenses incurred for labor and materials and payments to contractors, builders and materialmen, for the acquisition, construction, reconstruction, rehabilitation, repair and improvement of the Health Facilities, (iii) the cost of surety bonds and insurance of all kinds, including premiums and other charges in connection with obtaining title insurance, that may be required or necessary prior to completion of the Project, which is not paid by a contractor or otherwise provided for, (iv) the costs and expenses for design, test borings, surveys, estimates, plans and specifications and preliminary investigations therefor, and for supervising the Project, (v) costs and expenses required for the acquisition and installation of the original furnishings, equipment, machinery and apparatus needed to furnish and equip the Health Facilities upon completion thereof, (vi) all other costs which the City, HHC or the Authority shall be required to pay or cause to be paid for the acquisition, construction, reconstruction, rehabilitation, repair, improvement and equipping of the Health Facilities, (vii) any sums required to reimburse the City, HHC or the Authority for advances made by them for any of the above items or for other costs incurred and for work done by them in connection with the Project (including interest on borrowed money), (viii) interest on the Bonds prior to, during and for a reasonable period after completion of the acquisition, construction, reconstruction, rehabilitation, repair, improvement or equipping of the Health Facilities, (ix) fees, expenses and liabilities of the Authority incurred in connection with the Project or pursuant hereto or to the Agreement, a Credit Facility, a Liquidity Facility or a Remarketing Agreement and (x) working capital, if authorized by the State Department of Health, in an amount determined by the Authority to be necessary or convenient in connection with a Health Facility; **provided, however**, the amount of such working capital costs shall not exceed that amount allowable under federal tax regulations;

**“Counterparty”** means any person with which the Authority has entered into an Interest Rate Exchange Agreement, provided that, at the time the Interest Rate Exchange Agreement is executed, the senior or uncollateralized long-term debt obligations of such person, or of any person that has guaranteed for the term of the Interest Rate Exchange Agreement the obligations of such person thereunder, are rated, without regard to qualification of such rating by symbols such as “+” or “-” and numerical notation, not lower than “A” by Moody’s and “A” by S&P, or the equivalent thereof by any successor thereto or by any nationally recognized rating agency then rating the obligations of such persons;

**“Credit Facility”** means an irrevocable letter of credit, surety bond, loan agreement, Standby Purchase Agreement or other agreement, facility or insurance or guaranty arrangement issued or extended by a bank, a trust company, a national banking association, an organization subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any successor provisions of law, a federal branch pursuant to the International Banking Act of 1978 or any successor provisions of law, a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, a savings bank, a savings and loan association, an insurance company or association chartered or organized under the laws of any state of the United States of America, the Government National Mortgage Association or any successor thereto, the Federal National Mortgage Association or any

successor thereto, or any other federal agency or instrumentality approved by the Authority, pursuant to which the Authority is entitled to obtain moneys to pay the principal, purchase price or Redemption Price of Bonds due in accordance with their terms or tendered for purchase or redemption, plus accrued interest thereon to the date of payment, purchase or redemption thereof, in accordance herewith and with the Series Resolution authorizing such Bonds or a Bond Series Certificate, whether or not the Authority is in default hereunder;

**“Debt Service Fund”** means the fund so designated, created and established pursuant to Section 5.02 hereof;

**“Debt Service Reserve Fund”** means the fund so designated, created and established pursuant to Section 5.02 hereof;

**“Debt Service Reserve Fund Requirement”** means, as of any particular date of computation, an amount equal to the greatest amount required in the then current or any future calendar year to pay the sum of the principal and Sinking Fund Installments of and interest on Existing Bonds secured by the Debt Service Reserve Fund and payable during such year; **provided, however**, that for purposes of this definition (a) the principal and interest portions of the Accreted Value of a Capital Appreciation Bond and the Appreciated Value of a Deferred Income Bond becoming due at maturity or by virtue of a Sinking Fund Installment shall be included in the calculations of interest and principal payable on January 15 of the year in which such Capital Appreciation Bond or Deferred Income Bond matures or in which such Sinking Fund Installment is due, (b) an Option Bond Outstanding during any Bond Year shall be assumed to mature on the stated maturity date thereof, and (c) it shall be assumed that a Variable Interest Rate Bond, prior to its conversion to bear interest at a fixed rate to its maturity, bears interest during any year at the higher of (1) the lesser of (x) a fixed rate of interest equal to that rate, as estimated by an Authorized Officer of the Authority, after consultation with the remarketing agent, if any, for such Variable Interest Rate Bond if it is also an Option Bond or, if it is not, with an investment banking firm which is regularly engaged in the underwriting of or dealing in bonds of substantially similar character, on a day not more than twenty (20) days prior to the date of initial issuance of such Variable Interest Rate Bond, which such Variable Interest Rate Bond would have had to bear to be marketed at par on such date as a fixed rate obligation maturing on the maturity date of such Variable Interest Rate Bond and (y) if the Authority or the City has in connection with such Variable Interest Rate Bond entered into an interest rate exchange or swap agreement which provides that the Authority is to pay to another person an amount determined based upon a fixed rate of interest on the Outstanding principal amount of the Variable Interest Rate Bonds to which such agreement relates, the fixed rate of interest set forth in or determined in accordance with such agreement, and (2) a rate, not less than the initial rate of interest on such Variable Interest Rate Bond, set forth in or determined pursuant to a formula set forth in the Series Resolution authorizing such Variable Interest Rate Bond or in the Bond Series Certificate relating to such Bond, and (d) if a Variable Interest Rate Bond shall be converted to a fixed rate Bond for the remainder of the term thereof and as a result of such conversion a deficiency shall be created in the Debt Service Reserve Fund, the Debt Service Reserve Fund Requirement shall be calculated so as to exclude the amount of such deficiency and the Debt Service Reserve Fund Requirement shall be increased in each of the five (5) years after the date of such conversion by an amount which shall be equal to twenty per centum (20%) of the aforesaid deficiency;

**“Defeasance Security”** means, (a) with respect to Bonds other than Existing Bonds:

(i) a Government Obligation of the type described in clauses (i), (ii) or (iii) of the definition of Government Obligation;

(ii) a Federal Agency Obligation described in clause (i) of the definition of Federal Agency Obligation;

(iii) an Exempt Obligation, provided such Exempt Obligation (i) is not subject to redemption prior to maturity other than at the option of the holder thereof or as to which irrevocable instructions have been given to the trustee of such Exempt Obligation by the obligor thereof to give due notice of redemption and to call such Exempt Obligation for redemption on the date or dates specified in such instructions and such Exempt Obligation is not otherwise subject to redemption prior to such specified date other than at the option of the holder thereof, (ii) is secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or Defeasance Securities described in clauses (i) and (ii) of this definition of Defeasance Securities, which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such Exempt Obligation on the maturity date thereof or the redemption date specified in the irrevocable instructions referred to in clause (i) above, (iii) as to which the principal of and interest on the direct obligations of the United States of America which have been deposited in such fund, along with any cash on deposit in such fund, are sufficient to pay the principal of and interest and redemption premium, if any, on such Exempt Obligation on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to in clause (i) above, and (iv) is rated by at least two Rating Services in the highest rating category for such Exempt Obligation; and

Notwithstanding the foregoing, for purposes of (i), (ii) and (iii) above, such term shall not include (1) any interest in a unit investment trust or mutual fund or (2) any obligation that is subject to redemption prior to maturity other than at the option of the holder thereof.

(b) with respect to Existing Bonds:

(i) a direct obligation of the United States of America, an obligation the principal of and interest on which are guaranteed by the United States of America (other than an obligation the payment of the principal of which is not fixed as to amount or time of payment), an obligation to which the full faith and credit of the United States of America are pledged (other than an obligation the payment of the principal of which is not fixed as to amount or time of payment) and a certificate or other instrument which evidences the ownership of, or the right to receive all or a portion of the payment of the principal of or interest on, direct obligations of the United States of America, which, in each case, is not subject to redemption prior to maturity other than at the option of the holder thereof or which has been irrevocably called for redemption on a stated future date or (ii) an Exempt Obligation described in clause (i) of the definition of Exempt Obligation (1) which is not subject to redemption prior to maturity other than at the option of the holder thereof or as to which irrevocable instructions have been given to the trustee of such Exempt Obligation by the obligor thereof to give due notice of redemption and to call such

Exempt Obligation for redemption on the date or dates specified in such instructions and such Exempt Obligation is not otherwise subject to redemption prior to such specified date other than at the option of the holder thereof, (2) which is secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or direct obligations of the United States of America which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such Exempt Obligation on the maturity date thereof or the redemption date specified in the irrevocable instructions referred to in clause (1) above, (3) as to which the principal of and interest on the direct obligations of the United States of America which have been deposited in such fund, along with any cash on deposit in such fund, are sufficient to pay the principal of and interest and redemption premium, if any, on such Exempt Obligation on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to in clause (1) above, and (4) which are rated by Moody's and S&P in the highest rating category of each such rating service for such Exempt Obligation; provided, however, that such term shall not mean any interest in a unit investment trust or mutual fund.

**“Deferred Income Bond”** means any Bond as to which interest accruing thereon prior to the Interest Commencement Date of such Bond is compounded on each Valuation Date for such Deferred Income Bond, and as to which interest accruing after the Interest Commencement Date is payable semi-annually on January 15 and July 15 of each Bond Year;

**“Depository”** means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State, or its nominee, or any other person, firm, association or corporation designated in the Series Resolution authorizing a Series of Bonds or a Bond Series Certificate relating to a Series of Bonds to serve as securities depository for the Bonds of such Series;

**“Exempt Obligation”** means:

(i) an obligation of any state or territory of the United States of America, any political subdivision of any state or territory of the United States of America, or any agency, authority, public benefit corporation or instrumentality of such state, territory or political subdivision, the interest on which is excludable from gross income under Section 103 of the Code, which is not a “specified private activity bond” within the meaning of Section 57(a)(5) of the Code and which, at the time an investment therein is made or such obligation is deposited in any fund or account hereunder, is rated, without regard to qualification of such rating by symbols such as “+” or “-” and numerical notation, no lower than the second highest rating category for such obligation by at least two Rating Services;

(ii) a certificate or other instrument which evidences the beneficial ownership of, or the right to receive all or a portion of the payment of the principal of or interest on any of the foregoing; and

(iii) a share or interest in a mutual fund, partnership or other fund registered under the Securities Act of 1933, as amended, and operated in accordance with Rule 2a-7

of the Investment Company Act of 1940, as amended, wholly comprised of any of the foregoing obligations.

**“Existing Bonds”** means the Outstanding 1998 Series 1 Bonds and the Outstanding 2010 Series 1 Bonds, each issued pursuant to the 1998 Resolution.

**“Facility Provider”** means the issuer of a Credit Facility, a Liquidity Facility or a Reserve Fund Facility delivered to the Trustee pursuant to Section 5.07 hereof;

**“Federal Agency Obligation”** means:

(i) a direct obligation of, or an obligation the timely payment of the principal of and interest on which is guaranteed by, the Federal Housing Administration, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Federal Farm Credit System or a Federal Home Loan Bank and which, at the time an investment therein is made or such obligation is deposited in any fund or account hereunder, is rated, without regard to qualification of such rating by symbols such as “+” or “-” and numerical notation, no lower than the second highest rating category for such obligation by at least two Rating Services;

(ii) a certificate or other instrument which evidences the beneficial ownership of, or the right to receive all or a portion of the payment of the principal of or interest on, any of the foregoing; and

(iii) a share or interest in a mutual fund, partnership or other fund registered under the Securities Act of 1933, as amended, and operated in accordance with Rule 2a-7 of the Investment Company Act of 1940, as amended, wholly comprised of any of the foregoing obligations;

**“Government Obligation”** means:

(i) a direct obligation of the United States of America;

(ii) an obligation the principal of and interest on which are fully insured or guaranteed as to payment by the United States of America;

(iii) an obligation to which the full faith and credit of the United States of America are pledged;

(iv) a certificate or other instrument which evidences the beneficial ownership of, or the right to receive all or a portion of the payment of the principal of or interest on, any of the foregoing; and

(v) a share or interest in a mutual fund, partnership or other fund registered under the Securities Act of 1933, as amended, and operated in accordance with Rule 2a-7 of the Investment Company Act of 1940, as amended, wholly comprised of any of the foregoing obligations;

**“HHC”** means the New York City Health and Hospitals Corporation, a public benefit corporation established under the laws of the State of New York;

**“Health Facility or Health Facilities”** means any “health facilities,” as such term is defined in the Act, described from time to time in Exhibit A of the Agreement;

**“Interest Commencement Date”** means, with respect to any particular Deferred Income Bond, the date prior to the maturity date thereof specified in the Series Resolution authorizing such Bond or in the Bond Series Certificate relating to such Bond, after which interest accruing on such Bond shall be payable on the interest payment date immediately succeeding such Interest Commencement Date and semi-annually thereafter on January 15 and July 15 of each Bond Year;

**“Interest Rate Exchange Agreement”** means an agreement entered into by the Authority in connection with the issuance of or which relates to Bonds of one or more Series which (i) provides that during the term of such agreement the Authority is to pay to the Counterparty an amount based on the interest accruing at a fixed or variable rate per annum on an amount equal to the principal amount of such Bonds and that the Counterparty is to pay to the Authority an amount based on the interest accruing on a principal amount equal to the same principal amount of such Bonds at a fixed or variable rate per annum, in each case computed according to a formula set forth in such agreement, or that one shall pay to the other any net amount due under such agreement and (ii) in the opinion of Bond Counsel, will not adversely affect the exclusion of interest on Bonds from gross income for the purposes of federal income taxation;

**“Investment Agreement”** means a repurchase agreement or other agreement for the investment of money with a Qualified Financial Institution;

**“Liquidity Facility”** means an irrevocable letter of credit, surety bond, loan agreement, Standby Purchase Agreement, line of credit or other agreement or arrangement issued or extended by a bank, a trust company, a national banking association, an organization subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any successor provisions of law, a federal branch pursuant to the International Banking Act of 1978 or any successor provisions of law, a savings bank, a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, a savings and loan association, an insurance company or association chartered or organized under the laws of any state of the United States of America, the Government National Mortgage Association or any successor thereto, the Federal National Mortgage Association or any successor thereto, or any other federal agency or instrumentality approved by the Authority, pursuant to which moneys are to be obtained upon the terms and conditions contained therein for the purchase or redemption of Option Bonds tendered for purchase or redemption in accordance with the terms hereof and of the Series Resolution authorizing such Bonds or the Bond Series Certificate relating to such Bonds;

**“Maximum Interest Rate”** means, with respect to any particular Variable Interest Rate Bond, the numerical rate of interest, if any, set forth in the Series Resolution authorizing such

Bond or in the Bond Series Certificate relating to such Bond, that shall be the maximum rate at which such Bond may bear interest at any time;

**“Minimum Interest Rate”** means, with respect to any particular Variable Interest Rate Bond, a numerical rate of interest, if any, set forth in the Series Resolution authorizing such Bond or in the Bond Series Certificate relating to such Bond, that shall be the minimum rate at which such Bonds may bear interest at any time;

**“Moody’s”** means Moody’s Investor Service, Inc., or its successors and assigns;

**“1998 Resolution”** means the Municipal Health Facilities Improvement Program Lease Revenue Bond Resolution (New York City Issue) adopted by the Authority on August 12, 1998, as amended or supplemented to the date hereof;

**“Option Bond”** means any Bond which by its terms may be tendered by and at the option of the Holder thereof for redemption by the Authority prior to the stated maturity thereof or for purchase thereof, or the maturity of which may be extended by and at the option of the Holder thereof in accordance with the Series Resolution authorizing such Bonds or the Bond Series Certificate related to such Bonds;

**“Outstanding”** when used in reference to Bonds, means, as of a particular date, all Bonds authenticated and delivered hereunder and under any applicable Series Resolution except: (i) any Bond cancelled by the Trustee at or before such date; (ii) any Bond deemed to have been paid in accordance with Section 12.01 hereof; (iii) any Bond in lieu of or in substitution for which another Bond shall have been authenticated and delivered pursuant to Article III, Section 4.06 or Section 10.07 hereof; and (iv) Option Bonds tendered or deemed tendered in accordance with the provisions of the Series Resolution authorizing such Bonds or the Bond Series Certificate related to such Bonds on the applicable adjustment or conversion date, if interest thereon shall have been paid through such applicable date and the purchase price thereof shall have been paid or amounts are available for such payment as provided herein and in the Series Resolution authorizing such Bonds;

**“Paying Agent”** means, with respect to the Bonds of any Series, the Trustee and any other bank or trust company and its successor or successors, appointed pursuant to the provisions hereof or of a Series Resolution, a Bond Series Certificate or any other resolution of the Authority adopted prior to authentication and delivery of the Series of Bonds for which such Paying Agent or paying Agents shall be so appointed;

**“Permitted Collateral”** means:

(i) Government Obligations described in clauses (i), (ii) or (iii) of the definition of Government Obligation;

(ii) Federal Agency Obligations described in clauses (i) or (ii) of the definition of Federal Agency Obligation;

(iii) commercial paper that (a) matures within two hundred seventy (270) days after its date of issuance, (b) is rated in the highest short term rating



category by at least one Rating Service and (c) is issued by a domestic corporation whose unsecured senior debt is rated by at least one Rating Service no lower than in the second highest rating category;

(iv) financial guaranty agreements, surety or other similar bonds or other instruments of an insurance company that has an equity capital of at least \$125,000,000 and is rated by Bests Insurance Guide or a Rating Service in the highest rating category; and

(v) bankers' acceptances issued by a bank rated, at the time an investment therein is made or the same is deposited in any fund or account hereunder, in the highest short term rating category by at least one Rating Service and having maturities of not longer than three hundred sixty five (365) days from the date they are pledged;

**"Permitted Investments"** means any of the following:

(i) Government Obligations;

(ii) Federal Agency Obligations;

(iii) Exempt Obligations;

(iv) uncollateralized certificates of deposit that are fully insured by the Federal Deposit Insurance Corporation and issued by a banking organization authorized to do business in the State;

(v) collateralized certificates of deposit that are (a) issued by a banking organization authorized to do business in the State that has an equity capital of not less than \$125,000,000, whose unsecured senior debt, or debt obligations fully secured by a letter of credit, contract, agreement or surety bond issued by it, are, at the time an investment therein is made or the same is deposited in any fund or account hereunder, rated by at least one Rating Service in at least the second highest rating category, and (b) fully collateralized by Permitted Collateral;

(vi) commercial paper issued by a domestic corporation rated, at the time an investment therein is made or the same is deposited in any fund or account hereunder, in the highest short term rating category by at least one Rating Service and having maturities of not longer than two hundred seventy (270) days from the date of purchase;

(vii) bankers' acceptances issued by a bank rated, at the time an investment therein is made or the same is deposited in any fund or account hereunder, in the highest short term rating category by at least one Rating Service and having maturities of not longer than three hundred sixty five (365) days from the date they are purchased;

(viii) Investment Agreements that are fully collateralized by Permitted Collateral; and

(ix) a share or interest in a mutual fund, partnership or other fund registered under the Securities Act of 1933, as amended, and operated in accordance with Rule 2a-7 of the Investment Company Act of 1940, as amended, whose objective is to maintain a constant share value of \$1.00 per share and that is rated, at the time an investment therein is made or the same is deposited in any fund or account hereunder, in the highest short term rating category by at least one Rating Service;

**“Project”** means the acquisition, design, construction, reconstruction, rehabilitation, improvement and equipping of the Health Facilities;

**“Provider Payments”** means the amount, certified by a Facility Provider to the Trustee, payable to such Facility Provider on account of amounts advanced by it under a Reserve Fund Facility, including interest on amounts advanced and fees and charges with respect thereto;

**“Qualified Financial Institution”** means any of the following entities that has an equity capital of at least \$125,000,000 or whose obligations are unconditionally guaranteed by an affiliate or parent having an equity capital of at least \$125,000,000:

(i) a securities dealer, the liquidation of which is subject to the Securities Investors Protection Corporation or other similar corporation, and (a) that is on the Federal Reserve Bank of New York list of primary government securities dealers and (b) whose senior unsecured long term debt is at the time an investment with it is made is rated by at least one Rating Service no lower than in the second highest rating category, or, in the absence of a rating on long term debt, whose short term debt is rated by at least one Rating Service no lower than in the highest rating category for such short term debt; *provided, however*, that no short term rating may be utilized to determine whether an entity qualifies under this paragraph as a Qualified Financial Institution if the same would be inconsistent with the rating criteria of any Rating Service or credit criteria of an entity that provides a Credit Facility or financial guaranty agreement in connection with Outstanding Bonds;

(ii) a bank, a trust company, a national banking association, a corporation subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any successor provisions of law, a federal branch pursuant to the International Banking Act of 1978 or any successor provisions of law, a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, a savings bank, a savings and loan association, an insurance company or association chartered or organized under the laws of the United States of America, any state of the United States of America or any foreign nation, whose senior unsecured long term debt is at the time an investment with it is made is rated by at least one Rating Service no

lower than in the second highest rating category, or, in the absence of a rating on long term debt, whose short term debt is rated by at least one Rating Service no lower than in the highest rating category for such short term debt; ***provided, however,*** that no short term rating may be utilized to determine whether an entity qualifies under this paragraph as a Qualified Financial Institution if the same would be inconsistent with the rating criteria of any Rating Service or credit criteria of an entity that provides a Credit Facility or financial guaranty agreement in connection with Outstanding Bonds;

(iii) a corporation affiliated with or which is a subsidiary of any entity described in (i) or (ii) above or which is affiliated with or a subsidiary of a corporation which controls or wholly owns any such entity, whose senior unsecured long term debt is at the time an investment with it is made is rated by at least one Rating Service no lower than in the second highest rating category, or, in the absence of a rating on long term debt, whose short term debt is rated by at least one Rating Service no lower than in the highest rating category for such short term debt; ***provided, however,*** that no short term rating may be utilized to determine whether an entity qualifies under this paragraph as a Qualified Financial Institution if the same would be inconsistent with the rating criteria of any Rating Service or credit criteria of an entity that provides a Credit Facility or financial guaranty agreement in connection with Outstanding Bonds;

(iv) the Government National Mortgage Association or any successor thereto, the Federal National Mortgage Association or any successor thereto, or any other federal agency or instrumentality approved by the Authority; or

(v) a corporation whose obligations, including any investments of any money held hereunder purchased from such corporation, are insured by an insurer that meets the applicable rating requirements set forth above.

**“Rating Service”** means each of Moody’s, S&P and any other nationally recognized statistical rating organization, in each case, which has assigned a rating to Outstanding Bonds at the request of the Authority, or their respective successors and assigns.

**“Record Date”** means, unless the Series Resolution authorizing Variable Interest Rate Bonds or Option Bonds or the Bond Series Certificate relating thereto provides otherwise with respect to such Variable Rate Bonds or Option Bonds, the first (1st) day (whether or not a Business Day) of the calendar month in which an interest payment date occurs;

**“Redemption Price”**, when used with respect to a Bond, means the principal amount of such Bond plus the applicable premium, if any, payable upon redemption prior to maturity thereof pursuant hereto or to the applicable Series Resolution or Bond Series Certificate;

**“Refunding Bonds”** means all Bonds, whether issued in one or more Series of Bonds, authenticated and delivered on original issuance pursuant to Section 2.04 hereof, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article III, Section 4.06 or Section 10.07 hereof;

**“Remarketing Agent”** means the person appointed by or pursuant to a Series Resolution authorizing the issuance of Option Bonds to remarket such Option Bonds tendered or deemed to have been tendered for purchase in accordance with such Series Resolution or the Bond Series Certificate relating to such Option Bonds;

**“Remarketing Agreement”** means, with respect to Option Bonds of a Series, an agreement between the Authority and the Remarketing Agent relating to the remarketing of such Bonds;

**“Reserve Fund Facility”** means a surety bond, insurance policy or letter of credit which constitutes any part of the Debt Service Reserve Fund Requirement authorized to be delivered to the Trustee pursuant to Section 5.07 hereof;

**“Resolution”** means this Amended and Restated Municipal Health Facilities Improvement Program Lease Revenue Bond Resolution (New York City Issue), as from time to time amended or supplemented by Supplemental Resolutions or Series Resolutions in accordance with the terms and provisions hereof;

**“Revenues”** means (i) the Basic Rent paid by the City pursuant to Section 4.01(a) of the Agreement, (ii) amounts paid to the Authority by the Comptroller of the State, pursuant to Section 7418-(2)(b) of the Act, relating to amounts due under the Agreement, (iii) the payments made by a Counterparty pursuant to an Interest Rate Exchange Agreement and (iv) the right to receive the same and the proceeds thereof and of such right;

**“S&P”** means S&P Global Ratings, a division of McGraw-Hill Corporation, or its successors and assigns;

**“Serial Bonds”** means the Bonds so designated in a Series Resolution or a Bond Series Certificate;

**“Series”** means all of the Bonds authenticated and delivered on original issuance and pursuant hereto and to the Series Resolution authorizing such Bonds as a separate Series of Bonds, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article III, Section 4.06 or Section 10.07 hereof, regardless of variations in maturity, interest rate, Sinking Fund Installments or other provisions;

**“Series Resolution”** means a resolution of the Authority authorizing the issuance of a Series of Bonds adopted by the Authority pursuant to Article II hereof;

**“Sinking Fund Installment”** means, as of any date of calculation, when used with respect to any Bonds of a Series, other than Option Bonds or Variable Interest Rate Bonds, so long as any such Bonds are Outstanding, the amount of money required hereby or by the Series Resolution pursuant to which such Bonds were issued or by the Bond Series Certificate relating thereto, to be paid on a single future January 15 for the retirement of any Outstanding Bonds of said Series which mature after said future January 15, but does not include any amount payable by the Authority by reason only of the maturity of a Bond, and said future January 15 is deemed to be the date when a Sinking Fund Installment is payable and the date of such Sinking Fund Installment and said Outstanding Bonds are deemed to be Bonds entitled to such Sinking Fund

Installment, and when used with respect to Option Bonds or Variable Interest Rate Bonds of a Series, so long as such Bonds are Outstanding, the amount of money required by the Series Resolution pursuant to which such Bonds were issued or by the Bond Series Certificate relating thereto, to be paid on a single future date for the retirement of any Outstanding Bonds of said Series which mature after said future date, but does not include any amount payable by the Authority by reason only of the maturity of a Bond, and said future date is deemed to be the date when a Sinking Fund Installment is payable and the date of such Sinking Fund Installment and said Outstanding Option Bonds or Variable Rate Interest Bonds of such Series are deemed to be Bonds entitled to such Sinking Fund Installment;

**“Standby Purchase Agreement”** means an agreement by and between the Authority and another person or by and among the Authority, the City and another person, pursuant to which such person is obligated to purchase an Option Bond tendered for purchase;

**“State”** means the State of New York;

**“Supplemental Resolution”** means any resolution of the Authority amending or supplementing the Resolution, any Series Resolution or any Supplemental Resolution adopted and becoming effective in accordance with the terms and provisions of Article IX hereof;

**“Term Bonds”** means the Bonds so designated in a Series Resolution or a Bond Series Certificate and payable from Sinking Fund Installments;

**“Trustee”** means the bank or trust company appointed as Trustee for the Bonds pursuant to Section 8.01 hereof and having the duties, responsibilities and rights provided for herein, and its successor or successors and any other bank or trust company which may at any time be substituted in its place pursuant hereto;

**“Valuation Date”** means (i) with respect to any Capital Appreciation Bond, the date or dates set forth in the Series Resolution authorizing such Bond or in the Bond Series Certificate relating to such Bond on which specific Accreted Values are assigned to such Capital Appreciation Bond, and (ii) with respect to any Deferred Income Bond, the date or dates prior to the Interest Commencement Date and the Interest Commencement Date set forth in the Series Resolution authorizing such Bond or in the Bond Series Certificate relating to such Bond on which specific Appreciated Values are assigned to such Deferred Income Bond;

**“Variable Interest Rate”** means the rate or rates of interest to be borne by a Series of Bonds or any one or more maturities within a Series of Bonds which is or may be varied from time to time in accordance with the method of computing such interest rate or rates specified in the Series Resolution authorizing such Bonds or the Bond Series Certificate relating to such Bonds, which shall be based on (i) a percentage or percentages or other function of an objectively determinable interest rate or rates (e.g., a prime lending rate) which may be in effect from time to time or at a particular time or times or (ii) a stated interest rate that may be changed from time to time as provided in the Series Resolution authorizing such Bonds or the Bond Series Certificate relating to such Bond; **provided, however**, that such variable interest rate may be subject to a Maximum Interest Rate and a Minimum Interest Rate and that there may be an initial rate specified, in each case as provided in such Series Resolution or a Bond Series

Certificate; **provided, further**, that such Series Resolution or Bond Series Certificate shall also specify either (x) the particular period or periods of time or manner of determining such period or periods of time for which each variable interest rate shall remain in effect or (y) the time or times at which any change in such variable interest rate shall become effective or the manner of determining such time or times; and

**“Variable Interest Rate Bond”** means any Bond which bears a Variable Interest Rate; **provided, however**, that a Bond the interest rate on which shall have been fixed for the remainder of the term thereof shall no longer be a Variable Interest Rate Bond.

**“Verification Report”** means, when used in connection with any Bonds for the payment of which Defeasance Securities and money have been deposited with the Trustee in accordance with Section 12.01(b) hereof, a letter or other written report verifying the accuracy of the arithmetical computations which establish the adequacy of such money and Defeasance Securities for such purpose.

Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies as well as natural persons.

The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder,” and any similar terms, as used in the Resolution, refer to the Resolution.

**SECTION 1.02. Authority for the Resolution.** The Resolution is adopted pursuant to the provisions of the Act.

**SECTION 1.03. Resolution and Bonds Constitute a Contract.** With respect to the Bonds, in consideration of the purchase and acceptance of any and all of the Bonds authorized to be issued hereunder by those who shall hold or own the same from time to time, the Resolution shall be deemed to be and shall constitute a contract among the Authority, the Trustee and the Holders from time to time of such Bonds, and the pledge made herein and the covenants and agreements set forth to be performed by or on behalf of the Authority shall be for the equal and ratable benefit, protection and security of the Holders of any and all of such Bonds, all of which, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction of any such Bonds over any other Bonds except as expressly provided herein or permitted hereby.

**SECTION 1.04. Amendment and Restatement; Effective Date.**

(a) This Resolution amends and restates in its entirety the 1998 Resolution.

(b) This Resolution shall become effective immediately upon (i) the filing with the Trustee of the written consent of the Facility Providers and the Holders of at least a majority in principal amount of the Bonds then Outstanding (and, pursuant to the last paragraph of Section 10.02 of the 1998 Resolution, the underwriters of the Bonds of a Series may consent with the same effect as a consent given by the Holder of such Bonds), (ii) the filing with the

Trustee of a copy of this Resolution certified by an Authorized Officer of the Authority, (iii) delivery to the Authority and the Trustee of an opinion of Bond Counsel to the effect that this Resolution has been duly and lawfully adopted and filed by the Authority in accordance with the provisions of the 1998 Resolution, is authorized or permitted under the 1998 Resolution, and is valid and binding on the Authority and enforceable in accordance with its terms and (iv) the filing with the Trustee of proof of mailing of the notice required by Section 10.02 of the 1998 Resolution.

## ARTICLE II

### AUTHORIZATION AND ISSUANCE OF BONDS

**SECTION 2.01. Authorization of Bonds.** There are hereby authorized to be issued Bonds of the Authority to be designated as “Municipal Health Facilities Improvement Program Lease Revenue Bonds (New York City Issue),” and there is hereby created a continuing pledge and lien as provided hereby to secure the payment of the principal, Sinking Fund Installments, if any, and Redemption Price of and interest on all the Bonds. The Bonds shall be special obligations of the Authority payable solely from the Revenues and the funds and accounts (excluding the Arbitrage Rebate Fund) established by the Resolution, all in the manner more particularly provided herein. The aggregate principal amount of Bonds which may be executed, authenticated and delivered is not limited except as provided hereby.

The Bonds of the Authority shall not be a debt of the State or the City, nor shall the State or the City be liable thereon, nor shall the Bonds be payable out of any funds other than those of the Authority hereby pledged to the payment of the principal, Sinking Fund Installments, if any, and Redemption Price of and interest on all of the Bonds.

The Bonds may, if and when authorized by the Authority pursuant hereto and to one or more Series Resolutions, be issued in one or more Series and the Bonds of each Series shall contain an appropriate Series designation.

Nothing contained herein shall be deemed to preclude or restrict the consolidation pursuant to a Series Resolution of any Bonds of any two or more separate Series authorized pursuant hereto and to any such Series Resolution to be issued pursuant to any of the provisions of Sections 2.03 and 2.04 hereof into a single Series of Bonds for purposes of sale and issuance; **provided, however,** that each of the tests, conditions and other requirements contained in Sections 2.02, 2.03 and 2.04 hereof as applicable to each such separate Series shall be met and complied with. Except as otherwise provided in this Section or in such Series Resolution, such a consolidated Series shall be treated as a single Series of Bonds for all purposes hereof.

**SECTION 2.02. Provisions for Issuance of Bonds.** The issuance of Bonds shall be authorized by a Series Resolution or Series Resolutions adopted at the time of or subsequent to the adoption hereof. The Bonds of a Series authorized to be issued shall be executed by the Authority and delivered to the Trustee. Such Bonds shall from time to time and in such amounts as directed by the Authority be authenticated by the Trustee and by it delivered to or upon the order of the Authority upon receipt of the consideration therefor and upon delivery to the Trustee of:

- (a) A copy of the Resolution and the Series Resolution authorizing such Bonds, certified by an Authorized Officer of the Authority;
- (b) A copy of the Agreement, certified by an Authorized Officer of the Authority;
- (c) A copy of the Bond Series Certificate executed in connection with such Bonds;
- (d) If such Series of Bonds is to be secured by the Debt Service Reserve Fund, a copy of the applicable Supplemental Resolution adopted pursuant to Section 9.01(i) certified by an Authorized Officer of the Authority together with a copy of the required consents of the Facility Providers and, if a Reserve Fund Facility is to be provided in connection with the issuance of the Bonds of such Series, such Reserve Fund Facility and the opinion of counsel to the Facility Provider required by Section 5.07(1)(b) hereof;
- (e) A written order as to the delivery of such Bonds, signed by an Authorized Officer of the Authority, describing the Bonds to be delivered, designating the purchaser or purchasers to whom such Bonds are to be delivered and stating the consideration for such Bonds;
- (f) A certificate of an Authorized Officer of the Authority stating the amount on deposit in the Debt Service Reserve Fund as of a date not more than five (5) days prior to the sale of such Bonds, the amount required to be in the Debt Service Reserve Fund with respect to the Existing Bonds, and that the amount on deposit in the Debt Service Reserve Fund is not less than the amount then required to be therein;
- (g) Except in the case of Refunding Bonds, a certificate of an Authorized Officer of the Authority stating that the Authority is not, and, as a result of the issuance of such Bonds, shall not be, in default in the performance of any of the covenants, conditions, agreements or provisions contained herein;
- (h) A certificate of an Authorized Officer of the Authority stating that there is estimated to be sufficient moneys from (i) the proceeds of such Bonds deposited in the Construction Fund which, together with the amount then available in the Construction Fund and the projected interest earnings on such proceeds and amount and (ii) other funds, if any, provided or to be provided by the City or HHC or others, to pay the then estimated Costs of the Project, including the Health Facilities in connection with which such Bonds are to be issued, but exclusive of interest on Bonds;
- (i) Except in the case of Refunding Bonds, a certificate of an Authorized Officer of the City stating that no “event of default” under the Agreement has occurred and is continuing nor will an “event of default” under the Agreement occur as a result of the issuance of such Bonds;
- (j) If Bonds of such Series are Book Entry Bonds, unless the Trustee is a party thereto, a copy of the agreement, if any, between the Authority and the Depository for such Bonds;
- (k) If any Bonds of such Series are Option Bonds, a Credit Facility or Liquidity Facility in such an amount as would provide sufficient moneys for the purchase or redemption of



all Option Bonds of such Series if the Holders thereof elected to tender for purchase or redemption the entire aggregate Outstanding principal amount of the Option Bonds of such Series; and

(l) An opinion of Bond Counsel stating, in the opinion of Bond Counsel, that the Resolution and the applicable Series Resolution authorizing the Series of Bonds have been duly and lawfully adopted by the Authority; that the Resolution and the applicable Series Resolution are in full force and effect and are valid and binding upon the Authority and enforceable in accordance with their terms; that the Resolution creates the valid pledge and the valid lien upon the Revenues which it purports to create, subject only to the provisions of the Resolution permitting the withdrawal, payment, setting apart or appropriation thereof for the purposes and on the terms and conditions set forth in the Resolution and each applicable Series Resolution; and that the Authority is duly authorized and entitled to issue such Series of Bonds and, upon the execution and delivery thereof and upon authentication by the Trustee, such Series of Bonds will be duly and validly issued and will constitute valid and binding special obligations of the Authority entitled to the benefits of the Resolution; **provided, however**, that such opinion may be qualified to the extent that enforceability of rights and remedies may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally or as to the availability of any particular remedy.

**SECTION 2.03. Series Resolutions.** Each Series Resolution authorizing the issuance of a Series of Bonds shall specify, or delegate to an Authorized Officer of the Authority the power to determine and carry out, the following:

(a) The sale of the Bonds of such Series at public or private sale; the approval of the terms of and publication of an official statement or other offering document describing the Bonds of such Series and, if such Bonds are to be sold at public sale, publication of a notice of sale; and the execution of a contract or contracts of purchase at public or private sale on behalf of the Authority;

(b) The authorized principal amount of such Series of Bonds;

(c) The purpose or purposes for which such Series of Bonds is being issued, which shall be limited to (i) payment of the Costs of the Project, (ii) payment of the Costs of Issuance of such Series of Bonds, (iii) making a deposit to the Debt Service Reserve Fund, (iv) funding or refunding of Bonds, which may include interest thereon, and (v) funding or refunding of notes or bonds of the Authority, which may include interest thereon, all or a portion of the proceeds of which were issued to finance or refinance Costs of the Project for the payment of which Bonds may be issued hereunder;

(d) The Health Facility or Health Facilities in connection with which the Bonds of such Series are being issued;

(e) The date or dates, the maturity date or dates and principal amounts of each maturity of the Bonds of such Series, the amount and date of each Sinking Fund Installment, if any, and which Bonds of such Series are Serial Bonds or Term Bonds, if any, and the Record Date or Record Dates of the Bonds of such Series for which the Record Date or Record Dates is

other than the first (1st) day of the calendar month in which an interest payment date for such Bonds occurs;

(f) Except in the case of Capital Appreciation Bonds and Deferred Income Bonds prior to the Interest Commencement Date, the interest rate or rates, if any, of the Bonds of such Series or the manner of determining such rate or rates, the date from which interest on the Bonds of such Series shall accrue, the first date on which interest on the Bonds of such Series shall be payable and the date or dates on which the rate at which Variable Interest Rate Bonds of such Series bear interest shall be adjusted and the date or dates on which interest on such Variable Interest Rate Bonds shall be paid, or the manner of determining the same and the manner in which interest is to be paid on such Variable Interest Rate Bonds;

(g) If Bonds of such Series are Capital Appreciation Bonds, the Valuation Dates for such Bonds and the Accreted Value on each such Valuation Date;

(h) If Bonds of such Series are Deferred Income Bonds, the Interest Commencement Date for such Bonds, the Valuation Date or Dates prior to the Interest Commencement Date for such Bonds and the Appreciated Value on each such Valuation Date;

(i) The Maximum Interest Rate, if any, in connection with any Variable Interest Rate Bonds or Option Bonds of such Series;

(j) If Bonds of such Series are Option Bonds, provisions regarding the tender for purchase or redemption thereof, payment of the purchase or Redemption Price thereof and the appointment of a Remarketing Agent with respect thereto;

(k) The denomination or denominations of and the manner of numbering and lettering the Bonds of such Series;

(l) The Paying Agent or Paying Agents for such Bonds and, subject to the provisions of Section 3.01 hereof, the place or places of payment of the principal, Sinking Fund Installments, if any, or Redemption Price of and interest on the Bonds of such Series; **provided, however,** that such Paying Agent or Paying Agents may be appointed by resolution adopted prior to authentication and delivery of such Series of Bonds in accordance with the provisions of Section 8.02 hereof;

(m) The Redemption Price or Redemption Prices, if any, and, subject to Article IV hereof, the redemption terms, if any, for the Bonds of such Series;

(n) Provisions for the sale or exchange of the Bonds of such Series and for the delivery thereof if other than as provided herein;

(o) The form of the Bonds of such Series and the form of the Trustee's certificate of authentication thereon, and whether any Bonds of such Series are to be issued as Book Entry Bonds and the Depository therefor;

(p) Directions for the application of the proceeds of the Bonds of such Series;

(q) For all Bonds other than those denoted as federally taxable, covenants as shall be necessary to maintain the exclusion of interest on such Bonds from gross income for federal income tax purposes; and

(r) Any other provisions deemed advisable by an Authorized Officer of the Authority, not in conflict with the provisions hereof or of any Series Resolution.

An Authorized Officer to whom a Series Resolution has delegated the power to determine any of the foregoing shall execute a Bond Series Certificate evidencing such determinations or other actions taken pursuant to such delegation, and such Bond Series Certificate shall be conclusive evidence of the determinations or actions of such Authorized Officer as to the matters stated therein.

Bonds of a Series of like maturity may be Capital Appreciation Bonds, Deferred Income Bonds, Variable Interest Rate Bonds and Bonds which bear interest from their date to the maturity or earlier redemption date thereof at a fixed rate payable semi-annually on January 15 and July 15 of each year.

**SECTION 2.04. Refunding Bonds.** All or any portion of one or more Series of Refunding Bonds may be authenticated and delivered upon original issuance to refund all Outstanding Bonds, one or more Series of Outstanding Bonds, a portion of a Series of Outstanding Bonds or a portion of a maturity of a Series of Outstanding Bonds. The Authority may issue Refunding Bonds in an aggregate principal amount sufficient, together with other moneys available therefor, to accomplish such refunding and to make such deposits required by the provisions of this Section and of the Series Resolution authorizing such Series of Refunding Bonds.

The Refunding Bonds of such Series shall be authenticated and delivered by the Trustee only upon receipt by the Trustee (in addition to the documents required by Section 2.02 hereof) of

(a) If the Bonds to be refunded are to be redeemed, irrevocable instructions to the Trustee, satisfactory to it, to give due notice of redemption of all the Bonds to be refunded on a redemption date specified in such instructions;

(b) Irrevocable instructions to the Trustee, satisfactory to it, to duly give the notice provided for in Section 12.01 hereof to the Holders of the Bonds being refunded;

(c) Either (i) moneys in an amount sufficient to effect payment of the principal at maturity or the Redemption Price at the applicable Redemption Price of the Bonds to be refunded, together with accrued interest on such Bonds to the maturity or redemption date, which money shall be held by the Trustee or any one or more of the Paying Agents in a separate account irrevocably in trust for and assigned to the respective Holders of the Bonds to be refunded or (ii) Defeasance Securities in such principal amounts, of such maturities, bearing such interest and otherwise having such terms and qualifications, as shall be necessary to comply with the provisions of said Section 12.01 hereof, which Defeasance Securities and moneys shall be held in trust and used only as provided in said Section; and

(d) A certificate of an Authorized Officer of the Authority containing such additional statements as may be reasonably necessary to show compliance with the requirements of this Section.

The proceeds, including accrued interest, of Refunding Bonds shall be applied simultaneously with the delivery of such Refunding Bonds in the manner provided in or as determined in accordance with the Series Resolution authorizing such Refunding Bonds.

**SECTION 2.05. Additional Obligations.** The Authority reserves the right to issue bonds, notes or any other obligations or otherwise incur indebtedness pursuant to other and separate resolutions or agreements of the Authority, so long as such bonds, notes or other obligations are not, or such other indebtedness is not, except as may be provided herein, entitled to a charge, lien or right prior or equal to the charge or lien created hereby, or prior or equal to the rights of the Authority and Holders of Bonds.

### ARTICLE III

#### GENERAL TERMS AND PROVISIONS OF BONDS

**SECTION 3.01. Place And Medium Of Payment.** The Bonds shall be payable, with respect to interest, principal, Sinking Fund Installments and Redemption Price, in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts; **provided, however,** that the Bonds of a Series or of any maturity within a Series may be payable in any coin or currency of any other nation as may be authorized by the Series Resolution authorizing the issuance of such Bonds or by the Bond Series Certificate relating to such Bonds. Except as otherwise provided in Section 4.06 hereof, upon presentation and surrender of Bonds, the principal, Sinking Fund Installments or Redemption Price of such Bonds shall be payable at the principal corporate trust office of the Trustee. Except as otherwise provided in a Series Resolution authorizing the issuance of Variable Interest Rate Bonds or Option Bonds or the Bond Series Certificate relating to such Bonds, interest on the Bonds shall be paid by check or draft mailed to the registered owner thereof at the address thereof as it appears on the registry books of the Authority; **provided, however,** that interest on Bonds of a Series may be authorized to be paid, at the option of the registered owner of at least one million dollars (\$1,000,000) in principal amount of Bonds of such Series, by wire transfer to such registered owner at the wire transfer address in the continental United States to which such registered owner has, not less than five (5) days prior to the Record Date immediately preceding such interest payment date for such Bonds, directed the Trustee to wire such interest payment. For purposes of this Section, interest is payable to the registered owner of a Bond at the close of business on the Record Date for such Bond. All payments of principal, Sinking Fund Installments or Redemption Price of or interest on Bonds shall specify the CUSIP number or numbers of the Bonds in connection with which such payment is made.

The Bonds of each Series shall be issued in the form of fully registered Bonds without coupons.

Bonds of each Series issued prior to the first interest payment date thereof shall be dated as of the date specified in the Series Resolution authorizing the issuance thereof or the Bond Series Certificate applicable thereto. Bonds of each Series issued on or subsequent to the first interest payment date thereof shall be dated as of the interest payment date immediately preceding the date of authentication thereof by the Trustee, unless such date of authentication shall be an interest payment date, in which case they shall be dated as of such date of authentication; **provided, however**, that if, as shown by the records of the Trustee, interest on the Bonds of any Series shall be in default, the Bonds of such Series issued in lieu of Bonds surrendered for transfer or exchange may be dated as of the date to which interest has been paid in full on the Bonds surrendered. Bonds of each Series shall bear interest from their date.

For all purposes of the Act relating to or dealing with the date of the Bonds, Bonds of any Series shall be deemed to be dated as of the date provided for the Bonds of such Series in the manner provided in the Series Resolution authorizing the issuance thereof or in the Bond Series Certificate applicable thereto.

All Bonds of each Series shall mature on January 15 of each year in which a maturity is fixed by the Series Resolution authorizing the issuance of such Bonds or the Bond Series Certificate relating to such Bonds. Interest on all Bonds of each Series, except the first installment of interest due on such Bonds of a Series and interest on Variable Interest Rate Bonds the rate at which such Bonds bear interest is adjusted annually or more frequently than annually, shall be payable semi-annually on January 15 and July 15 of each year in which an installment of interest becomes due as fixed in the Series Resolution authorizing the issuance of such Bonds or in the Bond Series Certificate relating to such Bonds. Interest on Variable Interest Rate Bonds the rate at which such Bonds bear interest is adjusted annually or more frequently than annually shall be payable at such times as shall be provided in the Series Resolution authorizing the issuance thereof or the Bond Series Certificate related thereto. The first installment of interest due on the Bonds of a Series may be for such period as the Authority shall fix in the Series Resolution authorizing the issuance thereof or the Bond Series Certificate applicable thereto.

**SECTION 3.02. Legends.** The Bonds may contain, or have endorsed thereon, such provisions, specifications and descriptive words not inconsistent herewith or with any Series Resolution authorizing the same, as may be necessary or desirable and as may be determined by the Authority prior to their delivery.

**SECTION 3.03. CUSIP Numbers.** The Authority shall provide for the assignment of CUSIP numbers for such Bonds and cause such CUSIP numbers to be printed thereon, and the Trustee shall use such CUSIP numbers in notices of redemption and of the tender of Option Bonds and on all checks payable to Bondholders as a convenience to Bondholders; **provided, however**, that any such notice shall state that no representation is made as to the correctness of such number either as printed on such Bonds or as contained in any notice of redemption or tender, and that an error in a CUSIP number as printed on such Bond or as contained in any notice of redemption or of tender shall not affect the validity of the proceedings for redemption or tender.

**SECTION 3.04. Execution and Authentication.** The Bonds shall be executed in the name of the Authority by the manual or facsimile signature of its Chair, Vice Chair or other

Authorized Officer and its corporate seal (or a facsimile thereof) shall be thereunto affixed, imprinted, engraved or otherwise reproduced, and attested by the manual or facsimile signature of the Secretary, an Assistant Secretary or other Authorized Officer of the Authority, or in such other manner as may be permitted by law. In case any one or more of the officers or employees who shall have signed or sealed any of the Bonds shall cease to be such officer or employee before the Bonds so signed and sealed shall have been actually authenticated and delivered by the Trustee, such Bonds may, nevertheless, be delivered as provided herein, and may be issued as if the persons who signed or sealed such Bonds had not ceased to hold such offices or be so employed. Any Bond may be signed and sealed on behalf of the Authority by such persons as at the actual time of the execution of such Bond shall be duly authorized or hold the proper office in or be employed by, the Authority, although at the date of the Bonds such persons may not have been so authorized or have held such office or employment.

The Bonds of each Series shall bear thereon a certificate of authentication, in the form set forth in the Series Resolution authorizing the issuance of such Bonds or the Bond Series Certificate relating to such Bonds, executed manually by the Trustee unless the Series Resolution or a Bond Series Certificate shall authorize execution by the Trustee by facsimile signature. Only such Bonds as shall bear thereon such certificate of authentication shall be entitled to any right or benefit hereunder and no Bond shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the Trustee. Such certificate of the Trustee upon any Bond executed on behalf of the Authority shall be conclusive evidence that the Bond so authenticated has been duly authenticated and delivered hereunder and that the Holder thereof is entitled to the benefits hereof.

**SECTION 3.05. Interchangeability of Bonds.** Bonds, upon surrender thereof at the principal corporate trust office of the Trustee with a written instrument of transfer satisfactory to the Trustee, duly executed by the registered owner or his attorney duly authorized in writing, may, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of Bonds of the same Series, maturity and tenor of any other authorized denominations.

**SECTION 3.06. Negotiability, Transfer and Registry.** All Bonds issued hereunder shall be negotiable as provided in the Act, subject to the provisions for registration and transfer contained herein and in the Bonds. So long as any of the Bonds shall not have matured or been called for redemption, the Authority shall maintain and keep, or cause to be maintained and kept, at the principal corporate trust office of the Trustee, books for the registration and transfer of Bonds; and, upon presentation thereof for such purpose at said office, the Authority shall register or cause to be registered therein, and permit to be transferred thereon, under such reasonable regulations as it or the Trustee may prescribe, any Bond entitled to registration or transfer. So long as any of the Bonds have not matured or been called for redemption, the Authority shall make all necessary provisions to permit the exchange of Bonds at the principal corporate trust office of the Trustee.

**SECTION 3.07. Transfer of Bonds.** Each Bond shall be transferable only upon the books of the Authority, which shall be kept for that purpose at the principal corporate trust office of the Trustee, by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered owner or his duly authorized attorney and the payment of

a charge sufficient to reimburse the Authority or the Trustee for any tax, fee or other governmental charge required to be paid with respect to such transfer. Upon the transfer of any such Bond, the Authority shall cause to be issued in the name of the transferee a new Bond or Bonds of the same aggregate principal amount, Series, maturity and tenor as the surrendered Bond.

The Authority and the Trustee may deem and treat the person in whose name any Outstanding Bond shall be registered upon the books of the Authority as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal, Sinking Fund Installments, if any, or Redemption Price of and, subject to the provisions of Section 3.01 hereof with respect to Record Dates, interest on such Bond and for all other purposes whatsoever, and all such payments so made to any such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums paid, and neither the Authority nor the Trustee shall be affected by any notice to the contrary. The Authority agrees to indemnify and save the Trustee harmless from and against any and all loss, cost, charge, expense, judgment or liability incurred by it, acting in good faith and without negligence hereunder, in so treating such registered owner.

**SECTION 3.08. Regulations with Respect to Exchanges and Transfers.** In all cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, the Authority shall execute and the Trustee shall authenticate and deliver Bonds in accordance with the provisions hereof. All Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Trustee. For every such exchange or transfer of Bonds, whether temporary or definitive, the Authority or the Trustee may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. Notwithstanding any other provisions hereof, the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Authority or the Trustee incurred in connection therewith, shall be paid by the person requesting such exchange or transfer. The Authority shall not be obliged to make, or cause to be made, any exchange or transfer of Bonds of any Series, other than the exchange or transfer of an Option Bond which has been tendered or deemed to have been tendered by the Holder thereof for purchase, during the period beginning on the Record Date for such Bonds next preceding an interest payment date on such Bonds and ending on such interest payment date, or, in the case of any proposed redemption of Bonds of such Series, after the date next preceding the date of the selection of Bonds to be redeemed.

**SECTION 3.09. Bonds Mutilated, Destroyed, Lost or Stolen.** In case any Bond shall become mutilated or be destroyed, lost or stolen, the Authority in its discretion may execute, and upon its request the Trustee shall authenticate and deliver, a new Bond of like Series, maturity, tenor and principal amount as the Bond so mutilated, destroyed, lost or stolen, in exchange and substitution for the mutilated, destroyed, lost or stolen Bond, upon surrender and cancellation of such mutilated Bond or in lieu of and substitution for such Bond so destroyed, lost or stolen, upon filing with the Authority evidence satisfactory to the Authority and the Trustee that such Bond has been destroyed, lost or stolen and proof of ownership thereof, and upon furnishing the Authority and the Trustee with indemnity satisfactory to them and complying with such other

reasonable regulations as the Authority and the Trustee may prescribe and paying such expenses as the Authority and the Trustee may incur in connection therewith. All Bonds so surrendered to the Trustee shall be cancelled by it and evidence of such cancellation shall be given to the Authority. In case any Bond which has matured or is about to mature shall have become mutilated or have been destroyed, lost or stolen, the Authority may, instead of issuing a Bond in exchange or substitution therefor, pay or authorize the payment of such mutilated Bond upon the surrender on or after the maturity date thereof, or authorize the payment of such destroyed, lost or stolen Bond, upon the Holder thereof filing evidence satisfactory to the Authority and the Trustee that such Bond has been destroyed, lost or stolen and proof of ownership thereof, and upon furnishing the Authority and the Trustee with indemnity satisfactory to them and complying with such other reasonable regulations as the Authority and the Trustee may prescribe and paying such expenses as the Authority and the Trustee may incur in connection therewith.

**SECTION 3.10. Book Entry Bonds.** Anything herein to the contrary notwithstanding, Bonds may be authorized and issued as Book Entry Bonds in accordance with the Series Resolution authorizing such Bonds or the Bond Series Certificate relating to such Bonds.

For all purposes of the Resolution the Holder of a Book Entry Bond shall be the Depository therefor and neither the Authority nor the Trustee shall have responsibility or any obligation to the beneficial owner of such Bond or to any direct or indirect participant in such Depository. Without limiting the generality of the foregoing, neither the Authority nor the Trustee shall have any responsibility or obligation to any such participant or to the beneficial owner of a Book Entry Bond with respect to (i) the accuracy of the records of the Depository or any participant with respect to any beneficial ownership interest in such Bond, (ii) the delivery to any participant of the Depository, the beneficial owner of such Bond or any other person, other than the Depository, of any notice with respect to such Bond, including any notice of the redemption thereof, or (iii) the payment to any participant of the Depository, the beneficial owner of such Bond or any other person, other than the Depository, of any amount with respect to the principal, Sinking Fund Installments or Redemption Price of, or interest on, such Bond. The Authority and the Trustee may treat the Depository therefor as the absolute owner of a Book Entry Bond for the purpose of (x) payment of the principal, Sinking Fund Installments or Redemption Price of, and interest on such Bond, (y) giving notices of redemption and of other matters with respect to such Bond, (z) registering transfers with respect to such Bond, and for all other purposes whatsoever. The Trustee shall pay all principal, Sinking Fund Installments or Redemption Price of, and interest on, such Bond only to or upon the order of the Depository, and all such payments shall be valid and effective to fully satisfy and discharge the Authority's obligations with respect to such principal, Sinking Fund Installments or Redemption Price and interest to the extent of the sum or sums so paid. No person other than the Depository shall receive a Bond or other instrument evidencing the Authority's obligation to make payments of the principal, Sinking Fund Installments or Redemption Price thereof, and interest thereon.

Anything herein to the contrary notwithstanding, payment of the Redemption Price of a Book Entry Bond which is redeemed in part prior to maturity may be paid to the Depository by wire transfer without surrender of such Bond to the Trustee; **provided, however,** that the Trustee shall maintain records as to each such payment and of the principal amount of such Bond Outstanding, which shall be binding on the Authority and the Holders from time to time of such Bond; **provided, further,** that payment of the principal or Redemption Price of and interest on a



Book Entry Bond at the maturity date or earlier date on which such Bond has been called for redemption in whole shall only be made upon presentation and surrender of such Bond to the Trustee at its principal corporate trust office.

The Authority, in its sole discretion and without the consent of the Trustee, the beneficial owner of a Book Entry Bond or any other person, may terminate the services of the Depository with respect to a Book Entry Bond if the Authority determines that (i) the Depository is unable to discharge its responsibilities with respect to such Bonds or (ii) a continuation of the requirement that all of the Outstanding Bonds of like Series issued in book entry form be registered in the registration books of the Authority in the name of the Depository, is not in the best interest of the beneficial owners of such Bonds, and the Authority shall terminate the services of the Depository upon receipt by the Authority and the Trustee of written notice from the Depository that it has received written requests that such Depository be removed from its participants having beneficial interest, as shown in the records of the Depository, in an aggregate amount of not less than a majority in principal amount of the then Outstanding Bonds for which the Depository is serving as Depository.

Upon the termination of the services of a Depository with respect to a Book Entry Bond, or upon the resignation of a Depository with respect to a Book Entry Bond, after which no substitute securities depository willing to undertake the functions of such Depository can be found which, in the opinion of the Authority, is able to undertake such functions upon reasonable and customary terms, such Bonds shall no longer be registered in the registration books kept by the Trustee in the name of a Depository, but shall be registered in the name or names of the Bondholders transferring or exchanging such Bonds as such Bondholders shall designate, in accordance with the provisions of Article III hereof.

**SECTION 3.11. Preparation of Definitive Bonds; Temporary Bonds.** The definitive Bonds of each Series shall be lithographed or printed on steel engraved borders, except that Book Entry Bonds may be typewritten. Until the definitive Bonds of any Series are prepared, the Authority may execute, in the same manner as is provided in Section 3.04 hereof, and deliver, in lieu of definitive Bonds, but subject to the same provisions, limitations and conditions as the definitive Bonds, except as to the denominations thereof and as to exchangeability for registered Bonds, one or more temporary Bonds, substantially of the tenor of the definitive Bonds in lieu of which such temporary Bond or Bonds are issued, in authorized denominations or any whole multiples thereof authorized by the Authority, and with such omissions, insertions and variations as may be appropriate to such temporary Bonds. The Authority at its own expense shall prepare and execute and, upon the surrender at the principal corporate trust office of the Trustee of such temporary Bonds for exchange and the cancellation of such surrendered temporary Bonds the Trustee shall authenticate and, without charge to the Holder thereof, deliver in exchange therefor, at the principal corporate trust office of the Trustee, definitive Bonds of the same aggregate principal amount, Series and maturity as the temporary Bonds surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefits and security as definitive Bonds issued pursuant hereto.

All temporary Bonds surrendered in exchange for a definitive Bond or Bonds shall be forthwith cancelled by the Trustee.

**SECTION 3.12. Tender of Option Bonds.** An Option Bond which is required to be delivered for redemption or purchase pursuant to the provisions hereof or of the Series Resolution authorizing such Bonds or of the Bond Series Certificate relating to such Bond shall be deemed surrendered as provided in the Series Resolution authorizing the issuance thereof or the Bond Series Certificate relating thereto even though such Bond has not been actually presented and surrendered by the Holder thereof.

**SECTION 3.13. Cancellation of Bonds.** The Trustee shall forthwith cancel all Bonds which have been redeemed or paid in full and shall dispose of them in accordance with its normal procedure and notice thereof shall be given to the Authority if requested by the Authority. No such Bonds shall be deemed Outstanding Bonds hereunder and no Bonds shall be issued in lieu thereof.

## **ARTICLE IV**

### **REDEMPTION OF BONDS**

**SECTION 4.01. Authorization of Redemption.** Bonds subject to redemption prior to maturity pursuant hereto or to a Series Resolution or a Bond Series Certificate shall be redeemable, in accordance with this Article IV, at such times, at such Redemption Prices and upon such terms as may otherwise be specified herein or in the Series Resolution authorizing such Series or the applicable Bond Series Certificate.

**SECTION 4.02. Redemption at the Election or Direction of the Authority.** In the case of any redemption of Bonds other than as provided in Section 4.03 hereof, the Authority shall give written notice to the Trustee and each Facility Provider of a Reserve Fund Facility of its election or direction to redeem, of the Series and of the principal amounts of the Bonds of each maturity of such Series to be redeemed. The Series, maturities and principal amounts thereof to be redeemed at the election or direction of the Authority shall be determined by the Authority in its sole discretion, subject to any limitations with respect thereto contained herein or in the Series Resolution authorizing such Series or the applicable Bond Series Certificate. Such notice shall be given to the Trustee and each Facility Provider of a Reserve Fund Facility at least thirty (30) days prior to the date on which such Bonds are to be redeemed, or such lesser number of days as shall be acceptable to the Trustee and the Facility Providers, respectively. Unless the notice of redemption required by Section 4.05 hereof provides that the redemption is subject to the condition that money for payment of the Redemption Price is available on the redemption date (as is permitted with respect to Bonds other than Existing Bonds), such notice shall not be given unless prior to the date such notice is given (i) the Trustee shall have received an amount which, in addition to other amounts available therefor held by the Trustee and taking into account earnings on the investment thereof, is sufficient to redeem, on the redemption dates at the Redemption Price thereof, together with interest accrued and unpaid thereon to the redemption date, all of the Bonds to be so redeemed and (ii) the Authority shall have obtained the written consent of each Facility Provider to which Provider Payments are then due and unpaid.

**SECTION 4.03. Redemption Other Than at Authority's Election or Direction.** Whenever by the terms hereof the Trustee is required to redeem Bonds through the application of

mandatory Sinking Fund Installments, the Trustee shall select the Bonds of the Series and maturities to be redeemed in the manner provided in Section 4.04 hereof, give the notice of redemption and pay out of moneys available therefor the Redemption Price thereof, together with interest accrued and unpaid thereon to the redemption date, to the appropriate Paying Agents in accordance with the terms of this Article IV.

**SECTION 4.04. Selection of Bonds to Be Redeemed.** Unless otherwise provided in the Series Resolution authorizing the issuance of Bonds of a Series or the Bond Series Certificate relating to such Bonds, in the event of redemption of less than all of the Outstanding Bonds of like Series, maturity and tenor, the Trustee shall assign to each Outstanding Bond of the Series, maturity and tenor to be redeemed a distinctive number for each unit of the principal amount of such Bond equal to the lowest denomination in which the Bonds of such Series are authorized to be issued and shall select by lot, using such method of selection as it shall deem proper in its discretion, from the numbers assigned to such Bonds as many numbers as, at such unit amount equal to the lowest denomination in which the Bonds of such Series are authorized to be issued for each number, shall equal the principal amount of such Bonds to be redeemed. In making such selections the Trustee may draw the Bonds by lot (i) individually or (ii) by one or more groups, the grouping for the purpose of such drawing to be by serial numbers (or, in the case of Bonds of a denomination of more than the lowest denomination in which the Bonds of such Series are authorized to be issued, by the numbers assigned thereto as in this Section 4.04 provided) which end in the same digit or in the same two digits. If in such a case, upon any drawing by groups, the total principal amount of Bonds drawn shall exceed the amount to be redeemed, the excess may be deducted from any group or groups so drawn in such manner as the Trustee may determine. The Trustee may in its discretion assign numbers to aliquot portions of Bonds and select part of any Bond for redemption. The Bonds to be redeemed shall be the Bonds to which were assigned numbers so selected; **provided, however**, that only so much of the principal amount of each such Bond of a denomination of more than the lowest denomination in which the Bonds of such Series are authorized to be issued shall be redeemed as shall equal the lowest denomination in which the Bonds of such Series are authorized to be issued for each number assigned to it and so selected.

For purposes of this Section 4.04, the lowest denomination in which a Capital Appreciation Bond is authorized to be issued shall be the lowest Accreted Value authorized to be due at maturity on such Bonds, and the lowest denomination in which a Deferred Income Bond is authorized to be issued shall be the lowest Appreciated Value on the Interest Commencement Date authorized for such Bonds.

**SECTION 4.05. Notice of Redemption.** Whenever Bonds are to be redeemed, the Trustee shall give notice of the redemption of the Bonds in the name of the Authority which notice shall specify: (i) the Bonds to be redeemed which shall be identified by the designation of the Bonds given in accordance with Section 2.01 hereof, the maturity dates and interest rates of the Bonds to be redeemed and the date such Bonds were issued; (ii) the numbers and other distinguishing marks of the Bonds to be redeemed, including CUSIP numbers; (iii) the redemption date; (iv) the Redemption Price; (v) with respect to each such Bond, the principal amount thereof to be redeemed; (vi) the date of publication, if any, of the notice of redemption; (vii) that, except in the case of Book Entry Bonds, such Bonds will be redeemed at the principal corporate trust office of the Trustee giving the address thereof and the name and telephone

number of a representative of the Trustee to whom inquiries may be directed; (viii) that no representation is made as to the correctness of the CUSIP number either as printed on the Bonds or as contained in such notice and that an error in a CUSIP number as printed on a Bond or as contained in such notice shall not affect the validity of the proceedings for redemption and (ix) with respect to Bonds other than Existing Bonds, if the Authority's obligation to redeem the Bonds is subject to conditions, a statement that describes the condition to such redemption. Such notice shall further state that on such date there shall become due and payable upon each Bond to be redeemed the Redemption Price thereof, together with interest accrued and unpaid thereon to the redemption date, and that, from and after such date, payment having been made or provided for, interest thereon shall cease to accrue. With respect to Bonds other than Existing Bonds, such notice shall be given by mailing a copy of such notice not less than twenty (20) days nor more than forty-five (45) days prior to the redemption date and with respect to Existing Bonds, such notice shall be given by mailing a copy of such notice not less than thirty (30) days nor more than sixty (60) days prior to the redemption date or, in the case of Variable Interest Rate Bonds or Option Bonds, such shorter period as shall be established by the Series Resolution authorizing such Bonds or the Bond Series Certificate relating thereto, but in no event less than fifteen (15) days prior to the redemption date. Such notice shall be sent by first class mail, postage prepaid, to the registered owners of the Bonds which are to be redeemed, at their last known addresses, if any, appearing on the registration books not more than ten (10) Business Days prior to the date such notice is given. Upon giving such notice, the Trustee shall promptly certify to the Authority that it has mailed or caused to be mailed such notice to the Holders of the Bonds to be redeemed in the manner provided herein. Such certificate shall be conclusive evidence that such notice was given in the manner required hereby. The failure of any Holder of a Bond to be redeemed to receive such notice shall not affect the validity of the proceedings for the redemption of the Bonds. If directed in writing by an Authorized Officer of the Authority, the Trustee shall also give such notice by publication thereof once in an Authorized Newspaper, with respect to Bonds other than Existing Bonds, such publication to be not less than twenty (20) days nor more than forty-five (45) days prior to the redemption date and with respect to Existing Bonds, such publication to be not less than thirty (30) days nor more than sixty (60) days prior to the redemption date, or, in the case of Variable Interest Rate Bonds or Option Bonds, such shorter period as shall be established by the Series Resolution authorizing such Bonds or the Bond Series Certificate relating thereto, but in no event less than fifteen (15) days prior to the redemption date; **provided, however**, that such publication shall not be a condition precedent to such redemption, and failure to so publish any such notice or a defect in such notice or in the publication thereof shall not affect the validity of the proceedings for the redemption of the Bonds.

**SECTION 4.06. Payment of Redeemed Bonds.** Notice having been given by mail in the manner provided in Section 4.05 hereof, the Bonds or portions thereof so called for redemption shall become due and payable on the redemption date so designated at the Redemption Price, plus interest accrued and unpaid to the redemption date, upon presentation and surrender of such Bonds, other than a Book Entry Bond which has been called for redemption in part, at the office or offices specified in such notice, and, in the case of Bonds presented by other than the registered owner, together with a written instrument of transfer duly executed by the registered owner or his duly authorized attorney, such Bonds, or portions thereof, shall be paid at the Redemption Price plus interest accrued and unpaid to the redemption date. Payment of the Redemption Price shall be made, upon the request of the registered owner

of one million dollars (\$1,000,000) or more in principal amount of Bonds to be redeemed, by wire transfer to such registered owner at the wire transfer address in the continental United States to which such registered owner has, at the time such Bonds are surrendered to the Trustee, directed in writing the Trustee to wire such Redemption Price. If there shall be drawn for redemption less than all of the principal amount of a registered Bond, the Authority shall execute and the Trustee shall authenticate and deliver, upon the surrender of such Bond, without charge to the owner thereof, for the unredeemed balance of the principal amount of the registered Bond so surrendered, Bonds of like Series, maturity and tenor in any of the authorized denominations. If, on the redemption date, moneys for the redemption of all Bonds or portions thereof of any like Series, maturity and tenor to be redeemed, together with interest accrued and unpaid thereon to the redemption date, shall be held by the Trustee and Paying Agents so as to be available therefor on such date and if notice of redemption shall have been mailed as aforesaid, then, from and after the redemption date, interest on the Bonds or portions thereof so called for redemption shall cease to accrue and such Bonds shall no longer be considered to be Outstanding hereunder. If such moneys shall not be so available on the redemption date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

## ARTICLE V

### PLEDGE OF REVENUES; FUNDS AND ACCOUNTS; REVENUES AND APPLICATION THEREOF

**SECTION 5.01. Pledge of Revenues.** The proceeds from the sale of the Bonds, the Revenues and, except as otherwise provided in Section 5.02 hereof, all funds and accounts established hereby, other than the Arbitrage Rebate Fund and the Debt Service Reserve Fund (with respect to Bonds other than Existing Bonds), are hereby pledged to the Trustee as security for the payment of the principal, Sinking Fund Installments, if any, and Redemption Price of and interest on the Bonds and as security for the performance of any other obligation of the Authority hereunder and under any Series Resolution, all in accordance with the provisions hereof and thereof. The Debt Service Reserve Fund and amounts transferred from the Debt Service Reserve Fund to the Debt Service Fund are hereby pledged to the Trustee solely as security for the payment of the principal, Sinking Fund Installments, if any, and Redemption Price of and interest on the Existing Bonds (and no other Bonds) and as security for the performance of any other obligation of the Authority hereunder with respect to the Existing Bonds and under any Series Resolution for any Existing Bonds, all in accordance with the provisions hereof and thereof. The pledge of the Revenues shall also be for the benefit of each Facility Provider as security for the payment of any amounts payable to such Facility Provider hereunder; **provided, however,** that such pledge shall, in all respects, be subject and subordinate to the rights and interest therein of the Bondholders. The pledge made hereby is valid, binding and perfected from the time when the pledge attaches and the proceeds from the sale of the Bonds, the Revenues and the funds and accounts established hereby and by any Series Resolution which are pledged hereby shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid, binding and perfected as against all parties having claims of any kind in tort, contract or otherwise against the Authority irrespective of whether such parties have notice thereof. No instrument by which such pledge is created nor any financing statement need be recorded or filed. The Bonds shall be special

obligations of the Authority payable solely from and secured by a pledge of the proceeds from the sale of the Bonds, the Revenues and the funds and accounts established hereby, and which are pledged hereby as provided herein, which pledge shall constitute a first lien thereon.

**SECTION 5.02. Establishment of Funds and Accounts.** The following funds and separate accounts within funds are hereby established and, except for the Construction Fund which shall be held and maintained by the Authority, shall be held and maintained by the Trustee:

- Construction Fund;
- Debt Service Fund;
  - Debt Service Account – Existing Bonds;
  - Debt Service Account – Other Bonds;
- Debt Service Reserve Fund; and
- Arbitrage Rebate Fund.

All moneys at any time deposited in any fund, account or subaccount created and pledged hereby or by any Series Resolution or required thereby to be created shall be held in trust for the benefit of the Holders of Bonds, but shall nevertheless be disbursed, allocated and applied solely for the uses and purposes provided herein; **provided, however**, the Debt Service Reserve Fund and amounts transferred from the Debt Service Reserve Fund to the Debt Service Fund are pledged to the Trustee solely as security for the payment of the principal, Sinking Fund Installments, if any, and Redemption Price of and interest on the Existing Bonds (and no other Bonds) and as security for the performance of any other obligation of the Authority hereunder with respect to the Existing Bonds and under any Series Resolution for any Existing Bonds, all in accordance with the provisions hereof and thereof; **provided, further**, that the moneys derived from the remarketing of Option Bonds tendered or deemed to have been tendered for purchase or redemption in accordance with the Series Resolution authorizing the issuance of such Bonds or the Bond Series Certificate relating to such Bonds or derived from a Liquidity Facility or a Credit Facility relating to such Bonds, and any fund or account established by or pursuant to such Series Resolution for the payment of the purchase price or Redemption Price of Option Bonds so tendered or deemed to have been tendered, shall not be held in trust for the benefit of the Holders of Bonds other than the Holders of such Option Bonds, and such moneys and each such fund and account are pledged hereby for the payment of the purchase price or Redemption Price of such Option Bonds.

**SECTION 5.03. Application of Bond Proceeds and Allocation Thereof.** Upon the receipt of proceeds from the sale of a Series of Bonds, the Authority shall apply such proceeds as specified herein and in the Series Resolution authorizing such Series or in the Bond Series Certificate relating to such Series.

Accrued interest, if any, received upon the delivery of a Series of Bonds shall be deposited in the Debt Service Fund unless all or any portion of such amount is to be otherwise applied as specified in the Series Resolution authorizing such Series or the Bond Series Certificate relating to such Series.

**SECTION 5.04. Application of Moneys in the Construction Fund.** 1. As soon as practicable after the delivery of each Series of Bonds, there shall be deposited in the Construction Fund the amount required to be deposited therein pursuant to the Series Resolution authorizing such Series or the Bond Series Certificate relating to such Series. In addition, the Authority shall deposit in the Construction Fund any moneys paid to the Authority pursuant to Section 7.08 hereof.

2. Except as otherwise provided in this Article V and in any applicable Series Resolution or Bond Series Certificate, moneys deposited in the Construction Fund shall be used only to pay the Costs of Issuance of the Bonds and the Costs of the Project. For purposes of internal accounting, the Construction Fund may contain one or more subaccounts, as the Authority may deem proper.

3. Consistent with the provisions of the Agreement, payments from the Construction Fund shall be made by the Authority upon the filing in the records of the Authority of, and in accordance with, a requisition signed by an Authorized Officer of the Authority stating with respect to each payment to be made (i) in the case of a payment for the Costs of the Project, the Health Facility in connection with which payment is to be made, (ii) the names of the payees, (iii) the purpose for which payment is to be made in terms sufficient for identification, (iv) the respective amount of each such payment and (v) that such purpose constitutes a proper purpose for which moneys in the Construction Fund may be applied and has not been the basis of any previous withdrawal from the Construction Fund. Notwithstanding the provisions of this subdivision, moneys in the Construction Fund to be applied to pay interest on Bonds shall be transferred from the Construction Fund to the Debt Service Fund at such times and in such amounts as shall be determined by an Authorized Officer of the Authority.

4. A Health Facility shall be deemed to be complete upon the filing in the records of the Authority of the notice of final completion required by Section 3.06 of the Agreement. Upon the filing of notices of final completion relating to all of the Health Facilities the Project shall be deemed to be complete. The moneys, if any, then remaining in the Construction Fund, after making provision in accordance with the direction of an Authorized Officer of the Authority for the payment of any Costs of Issuance and Costs of the Project then unpaid, shall be paid by the Authority to the Trustee and applied by it as follows and in the following order of priority:

First: To the Arbitrage Rebate Fund, the amount determined by the Authority to be required to be deposited therein; and

Second: To the Debt Service Fund, to be applied in accordance with Section 5.06 hereof, any balance remaining.

5. Following the occurrence and during the continuation of an Event of Default under the Agreement, the Authority may, in its sole discretion, transfer moneys in the Construction Fund to the Trustee for application pursuant to the provisions of Section 5.06 hereof.

**SECTION 5.05. Deposit of Revenues and Allocation Thereof.** 1. The Revenues and any other moneys, which, by any of the provisions of the Agreement, are required to be paid to

the Trustee, shall upon receipt thereof be deposited or paid by the Trustee in the following order of priority:

First: To each account of the Debt Service Fund (i) in the case of Revenues received during the period from January 15 of a Bond Year until July 14 thereof, the amount, if any, necessary to make the amount in such account equal to (a) the interest on Outstanding Bonds payable from such account on or prior to the next succeeding July 15, including the interest estimated by the Authority to be payable on a Variable Interest Rate Bond on and prior to the next succeeding July 15, assuming that such Variable Interest Rate Bond will bear interest, from and after the next date on which the rate at which such Variable Interest Rate Bond bears interest is to be adjusted, at a rate per annum equal to the rate per annum at which such Bonds then bear interest, plus one percent (1%) per annum, and (b) the purchase price or Redemption Price of Outstanding Bonds payable from such account theretofore contracted to be purchased or called for redemption pursuant to Section 5.06 hereof, plus accrued interest thereon to the date of purchase or redemption; and (ii) in the case of Revenues received during the period from July 15 of such Bond Year until January 14 thereof, the amount, if any, necessary to make the amount in each account of the Debt Service Fund equal to (a) the interest on Outstanding Bonds payable from such account on and prior to the next succeeding January 15, including the interest estimated by the Authority to be payable on a Variable Interest Rate Bond on and prior to the next succeeding January 15, assuming that such Variable Interest Rate Bond will bear interest, from and after the next date on which the rate at which such Variable Interest Rate Bond bears interest is to be adjusted, at a rate per annum equal to the rate per annum at which such Bonds then bear interest, plus one percent (1%) per annum, (b) the principal and Sinking Fund Installments of Outstanding Bonds payable from such account on the next succeeding January 15 and (c) the purchase price or Redemption Price of Outstanding Bonds payable from such account theretofore contracted to be purchased or called for redemption on or prior to the next succeeding January 15 pursuant to Section 5.06 hereof, plus accrued interest thereon to the date of purchase or redemption; **provided**, in the event Revenues and any other moneys received by the Trustee are insufficient to make the deposits described above, such Revenues and any other moneys shall be divided pro rata between the accounts of the Debt Service Fund based on the total amount required to be deposited into all accounts on such day and the respective amounts to be deposited in each Debt Service Account (without giving effect to any amounts transferred from the Debt Service Reserve Fund);

Second: To reimburse, pro rata, each Facility Provider for Provider Payments which are then unpaid, in proportion to the respective Provider Payments then unpaid to each Facility Provider;

Third: Upon the direction of an Authorized Officer of the Authority, to the Arbitrage Rebate Fund the amount set forth in such direction;

Fourth: To the Debt Service Reserve Fund, such amount, if any, necessary to make the amount on deposit in such fund equal to the Debt Service Reserve Fund Requirement; and



Fifth: To the Authority, unless otherwise paid, such amounts as are payable to the Authority for: (i) any expenditures of the Authority for fees and expenses of auditing, and fees and expenses of the Trustee and Paying Agents, all as required hereby, (ii) all other expenditures reasonably and necessarily incurred by the Authority in connection with the financing of the Project, including expenses incurred by the Authority to compel full and punctual performance of all the provisions of the Agreement in accordance with the terms thereof, and (iii) any fees of the Authority; but only upon receipt by the Trustee of a certificate signed by an Authorized Officer of the Authority, stating in reasonable detail the amounts payable to the Authority pursuant to this paragraph fifth.

2. After making the payments required by subdivision 1 of this Section, the balance, if any, of the Revenues remaining shall be deposited by the Trustee in the Debt Service Fund and applied pursuant to the provisions of Section 5.06(4) hereof. The Trustee shall notify the Authority promptly after making the payments required by subdivision 1 of this Section, of any balance of Revenues then remaining.

**SECTION 5.06. Debt Service Fund.** 1. The Trustee shall on or before the Business Day preceding each interest payment date pay to itself and any other Paying Agent out of the applicable account in the Debt Service Fund:

- (a) the interest due and payable on all Outstanding Bonds payable from such account on such interest payment date;
- (b) the principal amount due and payable on all Outstanding Bonds payable from such account on such interest payment date; and
- (c) the Sinking Fund Installments or other amounts related to a mandatory redemption, if any, due and payable on all Outstanding Bonds payable from such account on such interest payment date.

Amounts in the Debt Service Account – Existing Bonds shall be used only to make the payments described above with respect to Existing Bonds and amounts in the Debt Service Account – Other Bonds shall be used only to make the payments described above with respect to Bonds other than Existing Bonds. The amounts paid out pursuant to this Section shall be irrevocably pledged to and applied to such payments.

2. In the event that on the fourth Business Day preceding any interest payment date for a Series of Existing Bonds, the amount in the Debt Service Account – Existing Bonds shall be less than the amount required for payment of the interest on and the principal and Sinking Fund Installments of such Outstanding Existing Bonds due and payable on such interest payment date, together with the purchase price or Redemption Price of such Outstanding Existing Bonds theretofore contracted to be purchased or called for redemption pursuant to subdivision 3 or 4 of this Section 5.06, plus accrued interest thereon to the date of purchase or redemption, the Trustee shall withdraw from the Debt Service Reserve Fund and deposit to the Debt Service Account – Existing Bonds in the Debt Service Fund such amount as will increase the amount therein to an amount sufficient to make such payments.

3. Notwithstanding the provisions of subdivision 1 of this Section, the Authority may, at any time subsequent to the first day of any Bond Year but in no event less than forty-five (45) days prior to the succeeding date on which a Sinking Fund Installment is scheduled to be due, direct the Trustee to purchase, with moneys on deposit in the applicable account in the Debt Service Fund, at a price not in excess of par plus interest accrued and unpaid to the date of such purchase, Term Bonds to be redeemed from such Sinking Fund Installment. Any Term Bond so purchased and any Term Bond purchased by the City and delivered to the Trustee shall be cancelled upon receipt thereof by the Trustee and evidence of such cancellation shall be given to the Authority. The principal amount of each Term Bond so cancelled shall be credited against the Sinking Fund Installment due on such date; **provided, however**, that such Term Bond is cancelled by the Trustee prior to the date on which notice of redemption is given.

4. Promptly after making the payments from the Debt Service Fund required pursuant to this Section 5.06 (in each case taking into account amounts, if any, on deposit in the Construction Fund and available for the payment of interest on the Bonds), moneys remaining in the Debt Service Fund shall be paid or applied by the Trustee in accordance with the direction of an Authorized Officer of the Authority pursuant to a direction of the City (i) to the purchase of Outstanding Bonds of any Series at purchase prices not exceeding the Redemption Price applicable on the next interest payment date on which such Bonds are redeemable, plus accrued and unpaid interest to such date, at such times, at such purchase prices and in such manner as an Authorized Officer of the Authority shall direct or (ii) to the redemption of Bonds as provided in Article IV hereof, at the Redemption Prices specified in the Series Resolution authorizing the issuance of the Bonds to be redeemed or Bond Series Certificate relating to such Bonds or (iii) to or for the account of the City.

**SECTION 5.07. Debt Service Reserve Fund.** 1. (a) The Trustee shall deposit to the credit of the Debt Service Reserve Fund such proceeds of the sale of Bonds secured by the Debt Service Reserve Fund, if any, as shall be prescribed in the Series Resolution authorizing the issuance of such Series of Bonds or the Bond Series Certificate relating to such Series. The Debt Service Reserve Fund and amounts transferred from the Debt Service Reserve Fund to the Debt Service Account – Existing Bonds of the Debt Service Fund are pledged to the Trustee solely as security for the payment of the principal, Sinking Fund Installments, if any, and Redemption Price of and interest on the Existing Bonds (and no other Series of Bonds) and as security for the performance of any other obligation of the Authority hereunder with respect to the Existing Bonds and under any Series Resolution for any Existing Bonds, all in accordance with the provisions hereof and thereof. Any reference to Bonds in this Section 5.07 refers to Existing Bonds secured by a Debt Service Reserve Fund.

(b) In lieu of or in substitution for moneys, the Authority may deposit or cause to be deposited with the Trustee a Reserve Fund Facility for the benefit of the Holders of the Existing Bonds for all or any part of the Debt Service Reserve Fund Requirement; **provided, however**, (i) that any such surety bond or insurance policy shall be issued by an insurance company or association duly authorized to do business in the State and either (A) the claims paying ability of such insurance company or association is rated in the highest rating category accorded by a nationally recognized insurance rating agency or (B) obligations insured by a surety bond or an insurance policy issued by such company or association are rated at the time such surety bond or insurance policy is delivered, without regard to qualification of such rating by symbols such as

“+” or “-” or numerical notation, in the highest rating category by Moody’s and S&P or, if Outstanding Bonds are not rated by both Moody’s and S&P, by whichever of said rating services that then rates Outstanding Bonds and (ii) that any such letter of credit shall be issued by a bank, a trust company, a national banking association, a corporation subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any successor provision of law, a federal branch pursuant to the International Banking Act of 1978 or any successor provision of law, or a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, the unsecured or uncollateralized long term debt obligations of which, or long term obligations secured or supported by a letter of credit issued by such person, are rated at the time such letter of credit is delivered, without regard to qualification of such rating by symbols such as “+” or “-” or numerical notation, in at least the second highest rating category by Moody’s and S&P or, if Outstanding Bonds are not rated by Moody’s and S&P, by whichever of said rating services that then rates Outstanding Bonds.

In addition to the conditions and requirements set forth above, no Reserve Fund Facility shall be deposited in full or partial satisfaction of the Debt Service Reserve Fund Requirement unless the Trustee and each Facility Provider of a Reserve Fund Facility shall have received prior to such deposit (i) an opinion of counsel acceptable to the Trustee and to each Facility Provider of a Reserve Fund Facility to the effect that such Reserve Fund Facility has been duly authorized, executed and delivered by the Facility Provider thereof and is valid, binding and enforceable in accordance with its terms, (ii) in the event such Facility Provider is not a domestic entity, an opinion of foreign counsel in form and substance satisfactory to the Trustee and to each Facility Provider and (iii) in the event such Reserve Fund Facility is a letter of credit, an opinion of counsel acceptable to the Trustee and to each Facility Provider of a Reserve Fund Facility substantially to the effect that payments under such letter of credit will not constitute avoidable preferences under Section 547 of the United States Bankruptcy Code in a case commenced by or against the Authority or the City thereunder or under any applicable provisions of the Debtor and Creditor Law of the State.

Notwithstanding the foregoing, if at any time after a Reserve Fund Facility has been deposited with the Trustee the ratings on any Outstanding Bonds are less than “Aa” by Moody’s without regard to qualification of such rating by symbols such as “+” or “-” or numerical notation or “AA” by S&P without regard to qualification of such rating by symbols such as “+” or “-” or numerical notation and the unsecured or uncollateralized long term debt of the Facility Provider or the long term debt obligations secured or supported by a surety bond, insurance policy or letter of credit of a Facility Provider is reduced below “A” by Moody’s or S&P without regard to qualification of such rating by symbols such as “+” or “-” or numerical notation, the Authority shall either (i) replace or cause to be replaced said Reserve Fund Facility with another Reserve Fund Facility which satisfies the requirements of the two preceding paragraphs or (ii) deposit or cause to be deposited in the Debt Service Reserve Fund an amount of moneys equal to the value of the Reserve Fund Facility of such Facility Provider, such deposits to be, as nearly as practicable, in ten equal semi-annual installments commencing on the earlier of the January 15 or July 15 next succeeding the reduction in said ratings.

Each such surety bond, insurance policy or letter of credit shall be payable (upon the giving of such notice as may be required thereby) on any date on which moneys are required to

be withdrawn from the Debt Service Reserve Fund and such withdrawal cannot be made without obtaining payment under such Reserve Fund Facility.

For the purposes of this Section, in computing the amount on deposit in the Debt Service Reserve Fund, a Reserve Fund Facility shall be valued at the amount available to be paid thereunder on the date of computation (which shall be the then applicable policy limit specified in the Reserve Fund Facility); **provided, however**, that, if the Authority is required to take an action pursuant to the third paragraph of this Section 5.07(1)(b), said Reserve Fund Facility shall be valued at an amount (not less than \$0) equal to the product of (i) the amount available to be paid thereunder on the date the Authority is first required to take such action and (ii) a fraction the numerator of which is the difference between 10 and the aggregate number of January 15th's and July 15th's which has elapsed since action was required and the denominator of which is ten.

2. Moneys held for the credit of the Debt Service Reserve Fund shall be withdrawn by the Trustee and deposited to the credit of the Debt Service Account – Existing Bonds of the Debt Service Fund at the times and in the amounts required to comply with the provisions of subdivision 2 of Section 5.06 hereof; **provided, however**, that no payment under a Reserve Fund Facility shall be sought unless and until moneys are not available in the Debt Service Reserve Fund and the amount required to be withdrawn from the Debt Service Reserve Fund pursuant to this Subdivision cannot be withdrawn therefrom without obtaining payment under such Reserve Fund Facility; **provided, further**, that, if more than one Reserve Fund Facility is held for the credit of the Debt Service Reserve Fund at the time moneys are to be drawn therefrom, unless the Authority and the issuers of all such Reserve Fund Facilities otherwise agree, the Trustee shall obtain payment under each such Reserve Fund Facility, pro rata, based upon the respective amounts then available to be paid thereunder.

With respect to any demand for payment under any Reserve Fund Facility, the Trustee shall make such demand for payment in accordance with the terms of such Reserve Fund Facility at the earliest time provided therein to assure the availability of moneys on the interest payment date for which such moneys are required, but in no event less than two (2) Business Days prior to such interest payment date.

3. (a) The income or interest earned on investments held for the credit of the Debt Service Reserve Fund, upon the direction of an Authorized Officer of the Authority, shall be withdrawn by the Trustee, as received, and deposited in the Arbitrage Rebate Fund, the Debt Service Account – Existing Bonds of the Debt Service Fund or the Construction Fund in accordance with such direction. If on January 14 of a Bond Year the value of the moneys and investments held for the credit of the Debt Service Reserve Fund exceeds the Debt Service Reserve Fund Requirement, upon direction of an Authorized Officer of the Authority, such excess shall be withdrawn by the Trustee and deposited in the Arbitrage Rebate Fund, the Debt Service Account – Existing Bonds of the Debt Service Fund or the Construction Fund in accordance with such direction; **provided, however**, that if such amount results from the substitution of a Reserve Fund Facility for moneys or investments in the Debt Service Reserve Fund, such amount shall not be deposited in the Debt Service Fund or the Construction Fund unless in the opinion of Bond Counsel such application will not adversely affect the exclusion of interest on any of the Bonds from gross income for federal income tax purposes.

(b) Notwithstanding the provisions hereof, if, upon an Existing Bond having been deemed to have been paid in accordance with Section 12.01 hereof, the moneys and investments held for the credit of the Debt Service Reserve Fund will exceed the Debt Service Reserve Fund Requirement, then the Trustee shall, simultaneously with such redemption or a deposit made in accordance with Section 12.01 hereof, withdraw all or any portion of such excess from the Debt Service Reserve Fund and either (i) apply such amount to the payment of the principal or Redemption Price of and interest on such Bond in accordance with the irrevocable instructions of the Authority or to fund any reserve for the payment of the principal and Sinking Fund Installments of or interest on the bonds, notes or other obligations, if any, issued to provide for the payment of such Bond or (ii) pay such amount to the Authority for deposit to the Construction Fund if, in the opinion of Bond Counsel, application of such moneys to the payment of Costs of the Project will not adversely affect the exclusion of interest on any Bonds from gross income for federal income tax purposes; **provided, however**, that after such withdrawal the amount remaining in the Debt Service Reserve Fund shall not be less than the Debt Service Reserve Fund Requirement.

(c) If on January 14 of a Bond Year the value of the moneys and investments held for the credit of the Debt Service Reserve Fund is less than the Debt Service Reserve Fund Requirement, the Trustee shall immediately notify the Authority, the City and each Facility Provider of such deficiency. The amount of such deficiency shall be included in the Basic Rent payable during the next succeeding Bond Year.

**SECTION 5.08. Arbitrage Rebate Fund.** The Trustee shall deposit to the Arbitrage Rebate Fund any moneys delivered to it by the City for deposit therein and, notwithstanding any other provisions of this Article V, shall transfer to the Arbitrage Rebate Fund, in accordance with the directions of an Authorized Officer of the Authority, moneys on deposit in any other funds held by the Trustee hereunder at such times and in such amounts as shall be set forth in such directions.

Moneys on deposit in the Arbitrage Rebate Fund shall be applied by the Trustee in accordance with the direction of an Authorized Officer of the Authority to make payments to the Department of the Treasury of the United States of America at such times and in such amounts as the Authority shall determine to be required by the Code to be rebated to the Department of the Treasury of the United States of America. Moneys which an Authorized Officer of the Authority determines to be in excess of the amount required to be so rebated shall first, be applied to reimburse, pro rata, each Facility Provider for moneys advanced under a Reserve Fund Facility, including interest thereon, which is then unpaid, in proportion to the respective amounts advanced by each such Facility Provider; and then be deposited to any fund or account established hereunder in accordance with the written direction of such Authorized Officer.

If and to the extent required by the Code, the Authority shall periodically, at such times as may be required to comply with the Code, determine the amount required by the Code to be rebated to the Department of the Treasury of the United States of America with respect to each Series of Bonds and (i) transfer or direct the Trustee to transfer from any other of the funds and accounts held hereunder and deposit to the Arbitrage Rebate Fund, such amount as the Authority shall have determined to be necessary in order to enable it to comply with its obligation to rebate moneys to the Department of the Treasury of the United States of America with respect to each

Series of Bonds and (ii) pay out of the Arbitrage Rebate Fund to the Department of the Treasury of the United States of America the amount, if any, required by the Code to be rebated thereto.

**SECTION 5.09. Application of Moneys in Certain Funds for Retirement of Bonds.**

Notwithstanding any other provisions hereof, if at any time the money held in an account of the Debt Service Fund established in connection with a Series of Bonds for the payment of the principal and Sinking Fund Installments of the Bonds of such Series, together with the money held in the Debt Service Reserve Fund securing such Bonds, are sufficient to pay the principal or Redemption Price of all Outstanding Bonds of such Series and the interest accrued and unpaid and to accrue on such Bonds to the next date of redemption when all such Bonds are redeemable, or to make provision pursuant to Section 12.01(b) hereof for the payment of such Bonds at the maturity or redemption dates thereof, the Trustee shall so notify the Authority. Upon receipt of such notice, the Authority may (i) direct the Trustee to redeem all such Bonds, whereupon the Trustee shall proceed to redeem or provide for the redemption of such Bonds in the manner provided for redemption of such Bonds hereby and by each Series Resolution as provided in Article IV hereof, or (ii) give the Trustee irrevocable instructions in accordance with Section 12.01(b) hereof and make provision for the payment of such Bonds at the maturity or redemption dates thereof in accordance therewith.

**SECTION 5.10. Transfer of Investments.** Whenever money in any fund or account established hereunder is to be paid in accordance herewith to another such fund or account, such payment may be made, in whole or in part, by transferring to such other fund or account investments held as part of the fund or account from which such payment is to be made, whose value, together with the money, if any, to be transferred, is at least equal to the amount of the payment then to be made; **provided, however**, that no such transfer of investments would result in a violation of any investment standard or guideline applicable to such fund.

**ARTICLE VI**

**SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS**

**SECTION 6.01. Security for Deposits.** All moneys held hereunder by the Trustee shall be continuously and fully secured, for the benefit of the Authority and the Holders of the Bonds, by direct obligations of the United States of America or obligations the principal of and interest on which are guaranteed by the United States of America of a market value equal at all times to the amount of the deposit so held by the Trustee; **provided, however**, (a) that if the securing of such moneys is not permitted by applicable law, then in such other manner as may then be required or permitted by applicable State or federal laws and regulations regarding the security for, or granting a preference in the case of, the deposit of trust funds, and (b) that it shall not be necessary for the Trustee or any Paying Agent to give security for the deposit of any moneys with them pursuant to Section 5.06 or Section 12.01 hereof and held in trust for the payment of the principal, Sinking Fund Installments, if any, or Redemption Price of or interest on any Bonds, or for the Trustee to give security for any moneys which shall be represented by obligations purchased or other investments made under the provisions hereof as an investment of such moneys.

**SECTION 6.02. Investment of Funds and Accounts.** (a) Money held hereunder by the Trustee, if permitted by law, shall, as nearly as may be practicable, be invested by the Trustee, upon direction of the Authority given or confirmed in writing, signed by an Authorized Officer of the Authority (which direction shall specify the amount thereof to be so invested), in Government Obligations, Federal Agency Obligations or Exempt Obligations; **provided, however,** that each such investment shall permit the money so deposited or invested to be available for use at the times at which the Authority reasonably believes such money will be required for the purposes hereof.

(b) In lieu of the investments of money in obligations authorized in paragraph (a) of this Section, the Trustee shall, to the extent permitted by law, upon direction of the Authority given or confirmed in writing, signed by an Authorized Officer of the Authority, invest money in the Construction Fund or Debt Service Reserve Fund in any Permitted Investment; **provided, however,** that each such investment shall permit the money so deposited or invested to be available for use at the times at which the Authority reasonably believes such money will be required for the purposes hereof, **provided, further** that (x) any Permitted Collateral required to secure any Permitted Investment shall have a market value, determined by the Trustee or its agent periodically, but no less frequently than weekly, at least equal to the amount deposited or invested including interest accrued thereon, (y) the Permitted Collateral shall be deposited with and held by the Trustee or an agent of the Trustee approved by an Authorized Officer of the Authority, and (z) the Permitted Collateral shall be free and clear of claims of any other person.

(c) Permitted Investments purchased as an investment of money in any fund or account held by the Trustee under the provisions hereof shall be deemed at all times to be a part of such fund or account and the income or interest earned, profits realized or losses suffered by a fund or account due to the investment thereof shall be retained in, credited or charged, as the case may be, to such fund or account.

(d) In computing the amount in any fund or account held by the Trustee under the provisions hereof, each Permitted Investment shall be valued at par if purchased at par or, if purchased at other than par, at amortized value.

(e) Notwithstanding anything to the contrary herein, the Authority, in its discretion, may direct the Trustee to, and the Trustee shall, sell, present for redemption or exchange any investment held by the Trustee pursuant hereto and the proceeds thereof may be reinvested as provided in this Section. Except as otherwise provided herein, the Trustee shall sell at the best price obtainable, or present for redemption or exchange, any investment held by it pursuant hereto whenever it shall be necessary in order to provide money to meet any payment or transfer from the fund or account in which such investment is held. The Trustee shall advise the Authority in writing, on or before the fifteenth (15th) day of each calendar month, of the amounts required to be on deposit in each fund and account hereunder and of the details of all investments held for the credit of each fund and account in its custody under the provisions hereof as of the end of the preceding month and as to whether such investments comply with the provisions of paragraphs (a), (b) and (c) of this Section. The details of such investments shall include the par value, if any, the cost and the current market value of such investments as of the end of the preceding month. The Trustee shall also describe all withdrawals, substitutions and other transactions occurring in each such fund and account in the previous month.

(f) No part of the proceeds of any Series of Bonds or any other funds of the Authority shall be used directly or indirectly to acquire any securities or investments the acquisition of which would cause any Bond to be an “arbitrage bond” within the meaning of Section 148(a) of the Code.

**SECTION 6.03. Liability for Investments.** Neither the Authority nor the Trustee shall have any liability arising out of or in connection with the making of any investment authorized by the provisions of this Article VI, in the manner provided in this Article VI, for any depreciation in value of any such investment, or for any loss, direct or indirect, resulting from any such investment.

## **ARTICLE VII**

### **PARTICULAR COVENANTS**

The Authority covenants and agrees with the Holders of the Bonds as follows:

**SECTION 7.01. Payment of Principal and Interest.** The Authority shall pay or cause to be paid the principal, Sinking Fund Installments, if any, or Redemption Price of and interest on every Bond of each Series on the date and at the places and in the manner provided in the Bonds according to the true intent and meaning thereof.

**SECTION 7.02. Extension of Payment of Bonds.** The Authority shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or claims for interest by the purchase or funding of such Bonds or claims for interest or by any other arrangement and, in case the maturity of any of such Bonds or the time for payment of any such claims for interest shall be extended, such Bonds, or claims for interest shall not be entitled, in case of any default hereunder, to the benefit hereof or of any Series Resolution or to any payment out of any assets of the Authority or the funds (except funds held in trust for the payment of particular Bonds or claims for interest pursuant hereto and to any Series Resolution) held by the Trustee, except subject to the prior payment of the principal of all Outstanding Bonds the maturity of which has not been extended and of such portion of the interest on such Bonds as shall not be represented by such extended claims for interest. Nothing herein shall be deemed to limit the right of the Authority to issue Option Bonds or Refunding Bonds or other bonds or notes to refund Outstanding Bonds as permitted hereby and by the Act and such issuance shall not be deemed to constitute an extension of the maturity of the Bonds.

**SECTION 7.03. Powers as to Bonds and Pledge.** The Authority is duly authorized under the Act and all applicable laws to create and issue the Bonds, to adopt the Resolution and each Series Resolution and to pledge and assign the proceeds from the sale of the Bonds, the Revenues and all funds and accounts established hereby which are pledged hereby, in the manner and to the extent provided herein and therein. The Authority further covenants that the proceeds from the sale of the Bonds, the Revenues and all funds and accounts established hereby which are pledged hereby are and shall be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto, prior to, or of equal rank with, the pledge created hereby, other than any pledge, lien, charge or encumbrance upon the Revenues created by the Authority to secure its obligations to a Facility Provider which has provided a Credit Facility or a Liquidity



Facility, which may be of equal priority and rank with the charge and lien thereon created hereby. The Authority further covenants that all corporate action on the part of the Authority to that end has been duly and validly taken. The Authority further covenants that the Bonds and the provisions hereof and of each Series Resolution are and shall be the valid and legally enforceable obligations of the Authority in accordance with their terms and the terms hereof and of each Series Resolution. The Authority further covenants that it shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Revenues and all funds and accounts established hereby which are pledged hereby and all of the rights of the Holders of Bonds under the Resolution and each Series Resolution against all claims and demands of all persons whomsoever.

**SECTION 7.04. Further Assurance.** The Authority, at any and all times, shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning and confirming all and singular the rights, and the pledges hereby made or intended so to be, or which the Authority may hereafter become bound to pledge or assign.

**SECTION 7.05. Accounts and Audits.** The Authority shall keep proper books of records and accounts (separate from all other records and accounts), which may be kept on behalf of the Authority by the Trustee, in which complete and correct entries shall be made of its transactions relating to each Series of Bonds, which books and accounts, at reasonable hours and subject to the reasonable rules and regulations of the Authority, shall be subject to the inspection of the City, the Trustee, any Facility Provider or any Holder of a Bond or such Holder's representative duly authorized in writing. The Trustee shall annually prepare a report which shall be furnished to the Authority, each Facility Provider and the City. Such report shall include at least: a statement of all funds (including investments thereof) held by the Trustee and the Authority pursuant to the provisions hereof and of each Series Resolution; a statement of the Revenues collected in connection herewith and with each Series Resolution; a statement that the balance in the Debt Service Reserve Fund meets the requirements hereof and of the applicable Series Resolution; and complete and correct entries of the Authority's transactions relating to each Series of Bonds. A copy of such report, shall upon receipt of a written request therefor and payment of any reasonable fee or charge made in connection therewith, be furnished to the registered owner of a Bond or any beneficial owner of a Book-Entry Bond requesting the same.

**SECTION 7.06. Creation of Liens.** Except as permitted hereby the Authority shall not create or cause to be created any lien or charge prior or equal to that of the Bonds on the proceeds from the sale of the Bonds, the Revenues or the funds and accounts established hereby or by any Series Resolution which are pledged hereby; **provided, however,** that nothing contained herein shall prevent the Authority from issuing bonds, notes or other obligations under another and separate resolution so long as the charge or the lien created by such resolution is not prior or equal to the charge or lien created hereby.

**SECTION 7.07. Enforcement of Obligations of the City.** The Authority shall take all legally available action to cause the City to perform fully its obligation to pay the Basic Rent and other amounts which under the Agreement are to be paid to the Trustee, in the manner and at the times provided in the Agreement.

**SECTION 7.08. Deposit of Certain Moneys in the Construction Fund.** In addition to the proceeds of Bonds to be deposited in the Construction Fund, any moneys paid to the Authority for the acquisition, construction, reconstruction, rehabilitation or improvement of any Health Facility, including without limitation, other funds, if any, provided by the City or HHC, shall be deposited in the Construction Fund.

**SECTION 7.09. Offices for Payment and Registration of Bonds.** The Authority shall at all times maintain an office or agency in the State where Bonds may be presented for payment. The Authority may, pursuant to a Supplemental Resolution or a Series Resolution or pursuant to a resolution adopted in accordance with Section 8.02 hereof, designate an additional Paying Agent or Paying Agents where Bonds of the Series authorized thereby or referred to therein may be presented for payment. The Authority shall at all times maintain an office or agency in the State where Bonds may be presented for registration, transfer or exchange and the Trustee is hereby appointed as its agent to maintain such office or agency for the registration, transfer or exchange of Bonds. The provisions of this Section shall be subject to the provisions of Section 3.01 hereof.

**SECTION 7.10. Amendment, Change, Modification or Waiver of Agreement.** (a) Except as otherwise provided herein, the Agreement may not be amended, changed, modified or terminated, nor may any provision thereof be waived, without the consent of the Holders of Outstanding Bonds as herein provided, if such amendment, change, modification, termination or waiver (i) reduces the amount of Basic Rent payable on any date or delays the date on which Basic Rent is payable (except as contemplated by the Agreement) or (ii) modifies the events which constitute events of default under Section 8.01 of the Agreement or diminishes, limits or conditions the rights of or remedies which may be exercised by the Authority upon the occurrence of an event of default under the Agreement.

No such amendment, change, modification, termination or waiver pursuant to the first paragraph of Section 7.10(a) hereof shall take effect unless the prior written consent of (a) the Holders of at least a majority in principal amount of the Bonds then Outstanding, or (b) in case less than all of the several Series of Bonds then Outstanding are affected by the amendment, change, modification, termination or waiver, the Holders of not less than a majority in principal amount of the Bonds of the Series so affected and then Outstanding; **provided, however,** that if such amendment, change, modification, termination or waiver will, by its terms, not take effect so long as any Bonds of any specified Series and maturity remain Outstanding, the consent of the Holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section.

(b) The Agreement may be amended, changed or modified or any provision thereof waived in any other respect without the consent of the Holders of Outstanding Bonds, including without limitation, to modify the Exhibits attached thereto, to add Leased Property, Health Facilities or to substitute one or more Health Facilities or parcels on which a Health Facility is to be constructed or renovated for the Leased Property on which such Health Facility was to be constructed or renovated, except that no amendment, change, modification or alteration of the Agreement to cure any ambiguity or defect or inconsistent provision in the Agreement or to insert such provisions clarifying matters or questions arising under the Agreement as are necessary or desirable, shall be made unless such amendment, change, modification or waiver is

not contrary to or inconsistent with the Agreement as theretofore in effect and unless consented to by the Trustee.

(c) No amendment, change, modification or termination of the Agreement or waiver or a provision thereof shall be made other than pursuant to a written instrument signed by the Authority and the City. A copy of each such amendment, change, modification, termination or waiver shall be filed with the Trustee.

(d) For the purposes of this Section, the purchasers of the Bonds of a Series, whether purchasing as underwriters or Remarketing Agents, for resale or otherwise, upon such purchase, may consent to an amendment, change, modification, termination or waiver permitted by this Section with the same effect as a consent given by the Holder of such Bonds.

For the purposes of this Section, a Series shall be deemed to be adversely affected by an amendment, change, modification or alteration of the Agreement if the same adversely affects or diminishes the rights of the Holders of the Bonds of such Series in any material respect. The Trustee may in its discretion determine whether or not, in accordance with the foregoing provisions, Bonds of any particular Series would be adversely effected in any material respect by any amendment, change, modification or alteration, and any such determination shall be binding and conclusive on the Authority and all Holders of Bonds.

For the purposes of this Section, the Trustee shall be entitled to rely upon an opinion of counsel, including an opinion of Bond Counsel, which counsel shall be satisfactory to the Trustee, with respect to whether any amendment, change, modification or alteration adversely affects the interests of any Holders of Bonds then Outstanding in any material respect.

**SECTION 7.11. Notice as to Agreement Default.** The Authority shall notify the Trustee in writing that an “Event of Default” under the Agreement, as such term is defined in the Agreement, has occurred and is continuing, which notice shall be given within five (5) days after the Authority has obtained actual knowledge thereof.

**SECTION 7.12. Basic Rent.** The Agreement shall provide for the payment of Basic Rent which shall be sufficient at all times (i) to pay the principal and Sinking Fund Installments of and interest on Outstanding Bonds as the same become due and payable and (ii) to make the payments to the Debt Service Reserve Fund required hereby.

**SECTION 7.13. Payment of Lawful Charges.** The Authority shall pay or take all legally available action to cause the City to pay all taxes and assessments or other municipal or governmental charges, if any, lawfully levied or assessed upon any Revenues or any fund or account created hereunder or under any Series Resolution, when the same shall become due. Except as otherwise provided hereby and by the Agreement, the Authority shall not create or suffer to be created any lien or charge upon the Revenues or any fund or account created hereunder or under any Series Resolution, except the pledge and lien hereof and of the Bonds. The Authority shall pay or cause to be discharged, or shall make adequate provisions to satisfy and discharge all lawful claims and demands for labor, materials, equipment, supplies or other objects which, if unpaid, might by law become a lien upon the Revenues; **provided, however,** that nothing in this Section shall require the Authority to pay or cause to be paid or discharged,

or make provision for, any such lien or charge, so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings.

**SECTION 7.14. Disposition of a Health Facility.** The Authority shall not permit the sale, lease or other disposition of a Health Facility except in accordance with the provisions of the Agreement.

**SECTION 7.15. Certificate to the State Comptroller, State Budget Director and State Commissioner of Health.** In order to assure the payment of the Basic Rent payable pursuant to Section 4.01(a) of the Agreement, including amounts necessary to restore the Debt Service Reserve Fund to the Debt Service Reserve Fund Requirement, an Authorized Officer of the Authority shall, pursuant to and in accordance with Section 7418-(2)(b) of the Act, make and deliver a certificate to the chief fiscal officer of the City setting forth the amount of Basic Rent, if any, due and not paid within five days of the due date. In the event of the failure or inability of the City to pay over the stated amount to the Authority within ten days of receipt of such certificate, or such other period of time as may be specified in the Act, the Authority shall, pursuant to and in accordance with Section 7418-(2)(b) of the Act, forthwith make and deliver to the Comptroller of the State, the Director of the Budget of the State and the Commissioner of Health of the State a further certificate restating the amount of Basic Rent due and not paid.

Nothing contained herein is intended to waive, impair or limit, or shall be construed as a waiver, impairment or limitation of, the Authority's right pursuant to Section 7418-(2)(b) of the Act to certify to the Comptroller of the State, the Director of the Budget of the State and the Commissioner of Health of the State at the time and in the manner provided therein, the amount, if any, of the rentals, other than the Basic Rent, required to have been paid by the City under the Agreement which remains unpaid.

**SECTION 7.16. General.** The Authority shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the Authority under the provisions hereof in accordance with the terms of such provisions.

Upon the date of issuance of Bonds, all conditions, acts and things required by the statutes of the State and hereby to exist, to have happened and to have been performed precedent to and in the issuance of such Bonds, shall exist, have happened and have been performed and the issuance of such Bonds, together with all other indebtedness of the Authority, shall be within every debt and other limit prescribed by the laws of the State.

## **ARTICLE VIII**

### **CONCERNING THE TRUSTEE**

**SECTION 8.01. Appointment and Acceptance of Trustee.** The Authority, prior to the issuance of any Bonds, shall appoint a Trustee who shall also serve as Paying Agent. The Trustee shall signify its acceptance of the duties and obligations of Trustee and Paying Agent imposed upon it hereby by written instrument of acceptance delivered to the Authority.

**SECTION 8.02. Appointment and Acceptance of Paying Agents.** In addition to the Trustee, the Authority may appoint one or more Paying Agents for the Bonds of any Series in the

Series Resolution authorizing such Bonds or in the manner provided herein or in such Series Resolution or shall appoint such Paying Agent or Paying Agents by resolution of the Authority adopted prior to the authentication and delivery of the Bonds, and may at any time or from time to time appoint one or more other Paying Agents in the manner and subject to the conditions set forth in Section 8.13 hereof for the appointment of a successor Paying Agent. Each Paying Agent shall signify its acceptance of the duties and obligations imposed upon it hereby by written instrument of acceptance deposited with the Authority and the Trustee.

**SECTION 8.03. Responsibilities of Trustee and Paying Agent.** The recitals of fact contained herein and in each Series Resolution and in the Bonds shall be taken as the statements of the Authority and neither the Trustee nor any Paying Agent assumes any responsibility for the correctness of the same. Neither the Trustee nor any Paying Agent makes any representations as to the validity or sufficiency hereof, of any Series Resolution or of any Bonds, or in respect of the security afforded hereby or by each Series Resolution, and neither the Trustee nor any Paying Agent shall incur any responsibility in respect thereof. Neither the Trustee nor any Paying Agent shall be under any responsibility or duty with respect to: (i) the issuance of the Bonds for value; (ii) the application of the proceeds thereof except to the extent that such proceeds are received by it in its capacity as Trustee or Paying Agent; or (iii) the application of any moneys paid to the Authority or others in accordance herewith and with each Series Resolution except as to the application of any moneys paid to it in its capacity as Trustee or Paying Agent. Neither the Trustee nor any Paying Agent shall be liable in connection with the performance of or failure to perform its duties hereunder and under each Series Resolution except for its own negligence or default; **provided, however**, that neither the Trustee nor any Paying Agent shall be liable for any default based upon an action taken or omitted to be taken by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it hereby or by any Series Resolution.

The duties and obligations of the Trustee and any Paying Agent shall be determined by the express provisions hereof and of each Series Resolution and neither the Trustee nor any Paying Agent shall be liable except for the performance of or failure to perform such duties and obligations as are specifically set forth herein and in each Series Resolution.

**SECTION 8.04. Property Held in Trust.** All moneys and securities conveyed to or held by the Trustee, except for amounts held in the Arbitrage Rebate Fund, at any time pursuant to the terms hereof and of each Series Resolution shall be and hereby are signed, transferred and set over unto the Trustee in trust for the purposes and under the terms and conditions hereof and of each Series Resolution.

The Trustee shall hold all moneys in the Arbitrage Rebate Fund as the agent of the Authority and shall not disburse amounts therefrom except pursuant to the written instructions of an Authorized Officer of the Authority.

**SECTION 8.05. Evidence on Which Fiduciaries May Act.** The Trustee and any Paying Agent shall be protected in acting upon any notice, resolution, request, consent, order, certificate, report, opinion, bond or other paper or document reasonably believed by it in good faith to be genuine, and to have been signed or presented by the proper party or parties. The Trustee and any Paying Agent may consult with counsel, who may or may not be of counsel to

the Authority, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it in good faith and in accordance therewith.

Whenever the Trustee or any Paying Agent shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder and under any Series Resolution, such matter (unless other evidence in respect thereof be specifically prescribed hereby) may be deemed to be conclusively proved and established by a certificate signed by an Authorized Officer of the Authority or, with the permission of an Authorized Officer of the Authority, signed by an Authorized Officer of the City. Such certificate shall be full warrant for any action taken or suffered in good faith under the provisions hereof and of the Series Resolution upon the faith thereof, but in its discretion the Trustee or any Paying Agent may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as it may deem reasonable. Except as otherwise expressly provided herein and in each Series Resolution, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision hereof and of any Series Resolution by the Authority to the Trustee or any Paying Agent shall be sufficiently executed if executed in the name of the Authority by an Authorized Officer.

**SECTION 8.06. Compensation.** Unless otherwise provided by contract with the Trustee or any Paying Agent, the Authority shall pay to the Trustee and to each Paying Agent, from time to time, reasonable compensation for all services rendered by it hereunder and under the applicable Series Resolution, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of their attorneys, agents and employees, incurred in and about the performance of their powers and duties hereunder and under the applicable Series Resolution and the Trustee and each Paying Agent shall have a lien therefor on any and all funds at any time held by it hereunder and under the applicable Series Resolution (other than the Arbitrage Rebate Fund) prior to any of the Bonds for which such services have been rendered. The Authority shall indemnify and save the Trustee and each Paying Agent harmless against any liabilities which it may incur in the exercise and performance of its powers and duties hereunder and under the applicable Series Resolution and which are not due to its negligence or default. None of the provisions contained herein or in any Series Resolution shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if there is reasonable ground for believing that the repayment of such funds or liability is not reasonably assured to it. The Trustee shall not be required to take any action at the request or direction of a Facility Provider made or given pursuant to Article XI hereof unless and until such Facility Provider shall have indemnified and saved the Trustee harmless against any liabilities and all reasonable expenses, charges, counsel fees and other disbursements, including those of the Trustee's attorneys, agents and employees, incurred in connection with or as a result of taking the action requested or directed by the Facility Provider to be taken.

**SECTION 8.07. Permitted Acts.** The Trustee and any Paying Agent may become the owner of or may deal in Bonds as fully and with the same rights as if it were not such Trustee or Paying Agent. The Trustee and any Paying Agent may act as depository for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, the Authority or any committee formed to protect the rights of Holders of Bonds or to effect or aid in

any reorganization growing out of the enforcement hereof or of the Bonds or any Series Resolution whether or not such committee shall represent the Holders of a majority in principal amount of the Outstanding Bonds in respect of which any such action is taken.

**SECTION 8.08. Resignation of Trustee.** The Trustee, or any successor thereof, may at any time resign and be discharged of its duties and obligations hereunder and under each Series Resolution by giving not less than sixty (60) days written notice to the Authority, the City and each Facility Provider and publishing notice thereof, specifying the date when such resignation shall take effect, at least once in an Authorized Newspaper, the first publication to be made within ten (10) days after the giving of such written notice. Such resignation shall take effect upon the date specified in such notice unless previously a successor shall have been appointed as provided in Section 8.10 hereof, in which event such resignation shall take effect immediately on the appointment of such successor; **provided, however,** that such resignation shall not take effect until a successor Trustee has been appointed and has accepted such appointment pursuant to Section 8.10 hereof.

**SECTION 8.09. Removal of Trustee.** The Trustee, or any successor thereof, may be removed at any time by the Holders of a majority in principal amount of the Outstanding Bonds, excluding any Bonds held by or for the account of the Authority, by an instrument or concurrent instruments in writing signed and acknowledged by such Bondholders or by their attorneys-in-fact duly authorized and delivered to the Authority. The Trustee, or any successor thereof, may also be removed at any time for cause or any breach of trust or for acting or proceeding in violation of, or failing to act or proceed in accordance with, any provisions hereof or of any Series Resolution with respect to the duties and obligations of the Trustee by any court of competent jurisdiction upon application by the Holders of not less than twenty per centum (20%) in aggregate principal amount of the Outstanding Bonds, excluding any Bonds held by or for the account of the Authority. The Trustee may also be removed at any time, other than during the continuance of an event of default hereunder, by the Authority, by an instrument in writing signed and acknowledged by an Authorized Officer of the Authority. No removal hereunder shall take effect until a successor Trustee has been appointed. A copy of each instrument or order providing for the removal of the Trustee, or any successor thereof, shall be delivered by the Authority to the Trustee or such successor thereof, to the City and to each Facility Provider.

**SECTION 8.10. Successor Trustee.** In case the Trustee, or any successor thereof, shall resign or shall be removed or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee or of its property shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs, the Authority shall forthwith appoint a Trustee to act as Trustee and Paying Agent. Copies of any resolution of the Authority providing for any such appointment shall be delivered by the Authority to the Trustee so appointed, the predecessor Trustee, to each Facility Provider and to the City. The Authority shall give notice of any such appointment to each registered owner of a Bond. Such notice shall be sent not later than thirty (30) days after such appointment, by first class mail, postage prepaid, to each registered owner at its last known address, if any, appearing on the registration books of the Authority.

If in a proper case no appointment of a successor shall be made within forty-five (45) days after the giving of written notice in accordance with Section 8.08 hereof or after the

occurrence of any other event requiring or authorizing such appointment, the Trustee or any Bondholder may apply to any court of competent jurisdiction for the appointment of such a successor, and such court may thereupon, after such notice, if any, as such court may deem proper, appoint such successor. Any successor appointed under the provisions of this Section shall be a bank located in the State having trust powers or a trust company organized under the laws of the State or national banking association located in the State having a capital and surplus aggregating at least \$50,000,000, if there be such a bank having trust powers or trust company or national banking association willing and able to accept the appointment on reasonable and customary terms and authorized by law to perform all the duties required hereby and by each Series Resolution.

**SECTION 8.11. Transfer of Rights and Property to Successor Trustee.** Any successor appointed under the provisions of Section 8.10 hereof shall execute, acknowledge and deliver to its predecessor, and also to the Authority, an instrument accepting such appointment, and thereupon such successor, without any further act, deed or conveyance shall become fully vested with all moneys, estates, properties, rights, powers, duties and obligations of its predecessor hereunder and under each Series Resolution, with like effect as if originally appointed as Trustee. However, the Trustee then ceasing to act shall nevertheless, on request by the Authority or of such successor, execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor all the right, title and interest of such Trustee in and to any property held by it hereunder, and shall pay over, assign and deliver to such successor any moneys or other properties subject to the trusts and conditions set forth herein. Should any deed, conveyance or instrument in writing from the Authority be required by such successor for more fully and certainly vesting in and confirming to it any such moneys, estates, properties, rights, powers, duties or obligations, any and all such deeds, conveyances and instruments in writing shall, on request, and so far as may be authorized by law, be executed, acknowledged and delivered by the Authority.

**SECTION 8.12. Merger or Consolidation of the Trustee.** Any company into which the Trustee may be merged or with which it may be consolidated or any company resulting from any merger or consolidation to which it shall be a party or any company to which such Trustee may sell or transfer all or substantially all of its corporate trust business, provided such company shall be a bank having trust powers or trust company or national banking association qualified to be a successor to such Trustee under the provisions of Section 8.10 hereof, shall be the successor to such Trustee, without any further act, deed or conveyance.

**SECTION 8.13. Resignation or Removal of the Paying Agents and Appointment of Successors.** Any Paying Agent (other than the Trustee) may at any time resign and be discharged of the duties, and obligations created hereby and by the applicable Series Resolution by giving at least sixty (60) days' written notice to the Authority and Trustee. Any Paying Agent may be removed at any time by an instrument filed with such Paying Agent and the Trustee and signed by an Authorized Officer of the Authority. Any successor Paying Agent shall be appointed by the Authority and (subject to the requirements of Section 7.09 hereof) shall be a bank having trust powers or trust company organized under the laws of any state of the United States of America or a national banking association, having a capital and surplus aggregating at least \$25,000,000, and willing and able to accept the office of Paying Agent on reasonable and



customary terms and authorized by law to perform all the duties imposed upon it hereby and by the applicable Series Resolution.

In the event of the resignation or removal of any Paying Agent, such Paying Agent shall pay over, assign and deliver any moneys held by it to its successor, or if there be no successor then appointed, to the Trustee until such successor be appointed. The Authority shall give written notice of the resignation or removal of any Paying Agent of any Series of Bonds to the City and to each Facility Provider.

**SECTION 8.14. Amortization Schedule.** Upon the request of an Authorized Officer of the Authority or the City, the Trustee shall prepare a schedule setting forth as of the date of such schedule the principal amount of Outstanding Bonds of each Series, the dates on which the principal and Sinking Fund Installments, if any, of all Outstanding Bonds of each Series are payable, the dates on which the interest on all Outstanding Bonds other than Variable Interest Rate Bonds are payable, the amount payable on each such date for the principal and Sinking Fund Installments, if any, of and interest on Outstanding Bonds of each Series, exclusive of the interest payable on Variable Interest Rate Bonds, the aggregate amount thereof payable on each such date and the aggregate amount payable on each such date for the principal and Sinking Fund Installments, if any, of Outstanding Bonds of all Series and interest on Outstanding Bonds of all Series other than Variable Interest Rate Bonds.

## **ARTICLE IX**

### **SERIES RESOLUTIONS AND SUPPLEMENTAL RESOLUTIONS**

**SECTION 9.01. Modification and Amendment without Consent.** Notwithstanding any other provisions of this Article IX or Article X hereof, the Authority may adopt at any time or from time to time Series Resolutions or Supplemental Resolutions for any one or more of the following purposes, and any such Series Resolutions or Supplemental Resolution shall become effective in accordance with its terms upon the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Authority:

(a) To provide for the issuance of a Series of Bonds pursuant to the provisions hereof and to prescribe the terms and conditions pursuant to which such Bonds may be issued, paid or redeemed;

(b) To add additional covenants and agreements of the Authority for the purpose of further securing the payment of the Bonds, provided such additional covenants and agreements are not contrary to or inconsistent with the covenants and agreements of the Authority contained herein;

(c) To prescribe further limitations and restrictions upon the issuance of Bonds and the incurring of indebtedness by the Authority which are not contrary to or inconsistent with the limitations and restrictions thereon theretofore in effect;

(d) To surrender any right, power or privilege reserved to or conferred upon the Authority by the terms hereof, provided that the surrender of such right, power or privilege is not contrary to or inconsistent with the covenants and agreements of the Authority contained herein;

(e) To confirm, as further assurance, any pledge hereunder, and the subjection to any lien, claim or pledge created or to be created by the provisions hereof, of the Revenues, or any pledge of any other moneys, investments thereof or funds;

(f) To modify any of the provisions hereof or of any previously adopted Series Resolution or Supplemental Resolution in any other respects, provided that such modifications shall not be effective until after all Bonds of any Series of Bonds Outstanding as of the date of adoption of such Supplemental Resolution or Series Resolution shall cease to be Outstanding, and all Bonds issued under such Resolutions shall contain a specific reference to the modifications contained in such subsequent Resolutions;

(g) With the consent of the Trustee, to cure any ambiguity or defect or inconsistent provision herein or to insert such provisions clarifying matters or questions arising hereunder as are necessary or desirable, provided that any such modifications are not contrary to or inconsistent herewith as theretofore in effect, or to modify any of the provisions hereof or of any previously adopted Series Resolution or Supplemental Resolution in any other respect, provided that such modification shall not adversely affect the interests of the Bondholders in any material respect;

(h) To modify any of the provisions hereof or of any previously adopted Series Resolution or Supplemental Resolution in order to conform the provisions hereof or thereof to amendments made to the Agreement pursuant to Section 4.01 of the Agreement; or

(i) With the consent of the Facility Providers, to modify any of the provisions hereof in order to provide for a Series of Bonds to be secured by the Debt Service Reserve Fund (including provisions relating to the amount of the Debt Service Reserve Fund Requirement for such Series of Bonds and provisions relating to Reserve Fund Facilities for such Series of Bonds) so long as such modification shall not reduce the Debt Service Reserve Fund Requirement for the Existing Bonds and the amount on deposit in the Debt Service Reserve Fund upon the issuance of such additional Series of Bonds shall be not less than the Debt Service Reserve Fund Requirement for the Existing Bonds and for such additional Series of Bonds.

#### **SECTION 9.02. Supplemental Resolutions Effective with Consent of Bondholders.**

The provisions hereof may also be modified or amended at any time or from time to time by a Supplemental Resolution, subject to the consent of the Bondholders in accordance with and subject to the provisions of Article X hereof, such Supplemental Resolution to become effective upon the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Authority. The Trustee shall transmit a copy of such Supplemental Resolution to the City upon its becoming effective.

**SECTION 9.03. General Provisions Relating to Series Resolutions and Supplemental Resolutions.** The Resolution shall not be modified or amended in any respect except in accordance with and subject to the provisions of this Article IX and Article X hereof. Nothing contained in this Article IX or Article X hereof shall affect or limit the rights or obligations of the Authority to adopt, make, do, execute or deliver any resolution, act or other instrument pursuant to the provisions of Section 7.04 hereof or the right or obligation of the

Authority to execute and deliver to the Trustee or any Paying Agent any instrument elsewhere herein provided or permitted to be delivered to the Trustee or any Paying Agent.

A copy of every Series Resolution and Supplemental Resolution adopted by the Authority, when filed with the Trustee, shall be accompanied by an opinion of Bond Counsel stating that such Series Resolution or Supplemental Resolution has been duly and lawfully adopted in accordance with the provisions hereof, is authorized or permitted hereby and is valid and binding upon the Authority and enforceable in accordance with its terms. The Trustee shall transmit a copy of such Supplemental Resolution to the City and to each Facility Provider upon its becoming effective.

The Trustee is hereby authorized to accept delivery of a certified copy of any Series Resolution or Supplemental Resolution permitted or authorized pursuant to the provisions hereof and to make all further agreements and stipulations which may be contained therein, and, in taking such action, the Trustee shall be fully protected in relying on the opinion of Bond Counsel that such Series Resolution or Supplemental Resolution is authorized or permitted by the provisions hereof.

No Series Resolution or Supplemental Resolution changing, amending or modifying any of the rights or obligations of the Trustee or of any Paying Agent shall become effective without the written consent of the Trustee or Paying Agent affected thereby.

## **ARTICLE X**

### **AMENDMENTS OF RESOLUTION**

**SECTION 10.01. Powers of Amendment.** Any modification or amendment hereof and of the rights and obligations of the Authority and of the Holders of the Bonds hereunder, in any particular, may be made by a Supplemental Resolution, with the written consent given as hereinafter provided in Section 10.02 hereof, (i) of the Holders of at least a majority in principal amount of the Bonds Outstanding at the time such consent is given, or (ii) in case less than all of the several Series of Bonds then Outstanding are affected by the modification or amendment, of the Holders of at a majority in principal amount of the Bonds of each Series so affected and Outstanding at the time such consent is given, or (iii) in case the modification or amendment changes the amount or date of any Sinking Fund Installment, of the Holders of at least a majority in principal amount of the Bonds of the particular Series, maturity and interest rate entitled to such Sinking Fund Installment, Outstanding at the time such consent is given; **provided, however,** that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified like Series, maturity and tenor remain Outstanding, the consent of the Holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section. No such modification or amendment shall permit a change in the terms of redemption or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or in the rate of interest thereon without the consent of the Holder of such Bond, or shall reduce the percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment. For the purposes of this Section, a Series shall be deemed to be affected by a

modification or amendment hereof if the same adversely affects or diminishes the rights of the Holders of Bonds of such Series in any material respect. The Trustee may in its discretion determine whether or not, in accordance with the foregoing provisions, the Bonds of any particular Series or maturity would be affected by any modification or amendment hereof and any such determination shall be binding and conclusive on the Authority and all Holders of Bonds. The Trustee may receive an opinion of counsel, including an opinion of Bond Counsel, as conclusive evidence as to whether the Bonds of any particular Series or maturity would be so affected by any such modification or amendment hereof. The Trustee shall transmit a copy of such Supplemental Resolution to the City upon its becoming effective.

**SECTION 10.02. Consent of Bondholders.** The Authority may at any time adopt a Supplemental Resolution making a modification or amendment permitted by the provisions of Section 10.01 hereof to take effect when and as provided in this Section. A copy of such Supplemental Resolution (or brief summary thereof or reference thereto in form approved by the Trustee) together with a request to the Bondholders for their consent thereto in form satisfactory to the Trustee, shall promptly after adoption be mailed by the Authority to the Bondholders (but failure to mail such copy and request to any particular Bondholder shall not affect the validity of the Supplemental Resolution when consented to as in this Section provided). Such Supplemental Resolution shall not be effective unless and until (i) there shall have been filed with the Trustee (a) the written consent of the Holders of the percentages of Outstanding Bonds specified in Section 10.01 hereof and (b) an opinion of Bond Counsel stating that such Supplemental Resolution has been duly and lawfully adopted and filed by the Authority in accordance with the provisions hereof, is authorized or permitted hereby, and is valid and binding upon the Authority and enforceable in accordance with its terms, and (ii) a notice shall have been mailed as hereinafter in this Section provided. Each such consent shall be effective only if accompanied by proof of the holding or owning at the date of such consent, of the Bonds with respect to which such consent is given, which proof shall be such as is permitted by Section 13.01 hereof. A certificate or certificates by the Trustee filed with the Trustee that it has examined such proof and that such proof is sufficient in accordance with Section 13.01 hereof shall be conclusive proof that the consents have been given by the Holders of the Bonds described in the certificate or certificates of the Trustee. Any consent given by a Bondholder shall be binding upon the Bondholder giving such consent and, anything in Section 13.01 hereof to the contrary notwithstanding, upon any subsequent Holder of such Bond and of any Bonds issued in exchange therefor (whether or not such subsequent Holder thereof has notice thereof), unless such consent is revoked in writing by the Bondholder giving such consent or a subsequent Holder thereof by filing such revocation with the Trustee, prior to the time when the written statement of the Trustee hereinafter in this Section provided for is filed. The fact that a consent has not been revoked may likewise be proved by a certificate of the Trustee filed with the Trustee to the effect that no revocation thereof is on file with the Trustee. At any time after the Holders of the required percentages of Bonds shall have filed their consents to the Supplemental Resolution, the Trustee shall make and file with the Authority and the Trustee a written statement that such Holders of such required percentages of Bonds have filed such consents. Such written statement shall be conclusive that such consents have been so filed. At any time thereafter notice, stating in substance that the Supplemental Resolution (which may be referred to as a Supplemental Resolution adopted by the Authority on a stated date, a copy of which is on file with the Trustee) has been consented to by the Holders of the required percentages of Bonds and will be effective as provided in this Section, shall be given to the Bondholders by the

Authority by mailing such notice to the Bondholders and, at the discretion of the Authority, by publishing the same at least once not more than ninety (90) days after the Holders of the required percentages of Bonds shall have filed their consents to the Supplemental Resolution and the written statement of the Trustee hereinabove provided for is filed (but failure to publish such notice shall not prevent such Supplemental Resolution from becoming effective and binding as in this Section provided). The Authority shall file with the Trustee proof of the mailing of such notices and, if the same shall have been published, of the publication thereof. A transcript, consisting of the papers required or permitted by this Section to be filed with the Trustee, shall be proof of the matters therein stated. Such Supplemental Resolution making such amendment or modification shall be deemed conclusively binding upon the Authority, the Trustee, each Paying Agent and the Holders of all Bonds upon the filing with the Trustee of proof of the mailing of such notice or at the expiration of thirty (30) days after the filing with the Trustee of the proof of the first publication of such last mentioned notice, if such notice is published, except in the event of a final decree of a court of competent jurisdiction setting aside such Supplemental Resolution in a legal action or equitable proceeding for such purpose commenced within such thirty (30) day period; **provided, however**, that the Authority, the Trustee and any Paying Agent during such thirty (30) day period and any such further period during which any such action or proceeding may be pending shall be entitled in their reasonable discretion to take such action, or to refrain from taking such action, with respect to such Supplemental Resolution as they may deem expedient.

For the purposes of this Article X, the purchasers of the Bonds of a Series, whether purchasing as underwriters or Remarketing Agents, for resale or otherwise, upon such purchase, may consent to a modification or amendment permitted by Section 10.01 or 10.03 hereof in the manner provided herein, except that no proof of ownership shall be required, and with the same effect as a consent given by the Holder of such Bonds; **provided, however**, that, if such consent is given by a purchaser who is purchasing as an underwriter or Remarketing Agent or for resale, the nature of the modification or amendment and the provisions for the purchaser consenting thereto shall be described in the official statement, prospectus, offering memorandum or other offering document prepared in connection with the primary offering of the Bonds of such Series by the Authority.

**SECTION 10.03. Modifications by Unanimous Consent.** The terms and provisions hereof and the rights and obligations of the Authority and of the Holders of the Bonds may be modified or amended in any respect upon the adoption and filing with the Trustee by the Authority of a copy of a Supplemental Resolution certified by an Authorized Officer of the Authority and the consent of the Holders of all of the Bonds then Outstanding, such consent to be given as provided in Section 10.02 hereof, except that no notice to the Bondholders either by mailing or publication shall be required.

**SECTION 10.04. Consent of Facility Provider.** Whenever by the terms of this Article X the consent of any of the Holders of the Bonds to a modification or amendment hereof made by a Series Resolution or Supplemental Resolution is required, such modification or amendment shall not become effective until the written consent of each Facility Provider has been obtained; **provided, however**, that the consent of a Facility Provider which has provided a Credit Facility or a Liquidity Facility shall not be required unless the modification or amendment requires the consent of the Holders of any percentage in principal amount of Outstanding Bonds or of the

Holders of any percentage in principal amount of the Bonds of the Series in connection with which such Credit Facility or Liquidity Facility was provided. No modification or amendment hereof which adversely affects a Facility Provider shall be made without the written consent thereto of the Facility Provider affected thereby. Notice of the adoption of any such Series Resolution or Supplemental Resolution and of the effectiveness of the modification or amendment made thereby shall be given to each Facility Provider by mail at the times and in the manner provided herein with respect to notices thereof required to be given to the Holders of the Bonds. Notice thereof shall also be given to Moody's and S&P as soon as practical after adoption of such Supplemental Resolution and of the effectiveness thereof.

**SECTION 10.05. Mailing and Publication.** Any provision in this Article X for the mailing of a notice or other document to Bondholders shall be fully complied with if it is mailed postage prepaid only (i) to each registered owner of Bonds then Outstanding at such person's address, if any, appearing upon the registry books of the Authority and (ii) to the Trustee.

Any provision in this Article X for publication of a notice or other matter shall require the publication thereof only in an Authorized Newspaper.

**SECTION 10.06. Exclusion of Bonds.** Bonds owned or held by or for the account of the Authority shall not be deemed Outstanding for the purpose of consent or other action provided for herein, and the Authority shall not be entitled with respect to such Bonds to give any consent or take any other action provided for herein. At the time of any consent or other action taken hereunder, the Authority shall furnish the Trustee a certificate of an Authorized Officer, upon which the Trustee may rely, describing all Bonds so to be excluded.

**SECTION 10.07. Notation on Bonds.** Bonds delivered after the effective date of any action taken as provided in Article IX hereof or this Article X may, and if the Trustee so determines, shall, bear a notation by endorsement or otherwise in form approved by the Authority and the Trustee as to such action, and in that case upon demand of the Holder of any Bond Outstanding at such effective date and upon presentation of his Bond for such purpose at the principal corporate trust office of the Trustee, suitable notation shall be made on such Bond by the Trustee as to any such action. If the Authority or the Trustee shall so determine, new Bonds so modified as, in the opinion of the Trustee and the Authority, conform to such action shall be prepared and delivered, and upon demand of the Holder of any Bond then Outstanding shall be exchanged, without cost to such Bondholder, for Bonds of the same Series and maturity then Outstanding, upon surrender of such Bonds.

## **ARTICLE XI**

### **DEFAULTS AND REMEDIES**

**SECTION 11.01. Trustee to Exercise Powers of Statutory Trustee.** The Trustee shall be and hereby is vested with all of the rights, powers and duties of a trustee appointed by Bondholders pursuant to Section 7425 of the Act which are not inconsistent with the provisions of the Resolution and the right of Bondholders to appoint a trustee pursuant to Section 7425 of the Act is hereby abrogated in accordance with the provisions of paragraph (j) of subdivision 3 of Section 7416 of the Act.

**SECTION 11.02. Events of Default.** An event of default shall exist hereunder and under each Series Resolution (herein called “event of default”) if:

(a) Payment of the principal, Sinking Fund Installments or Redemption Price of any Bond shall not be made by the Authority when the same shall become due and payable, either at maturity or by proceedings for redemption or otherwise; or

(b) Payment of an installment of interest on any Bond shall not be made by the Authority when the same shall become due and payable; or

(c) With respect to the Bonds of any Series, the Authority shall default in the due and punctual performance of any covenants contained in the Series Resolution authorizing the issuance thereof to the effect that the Authority shall comply with the provisions of the Code applicable to such Bonds necessary to maintain the exclusion of interest therein from gross income under Section 103 of the Code and shall not take any action which would adversely affect the exclusion of interest on such Bonds from gross income under Section 103 of the Code and, as a result thereof, the interest on the Bonds of such Series shall no longer be excludable from gross income under Section 103 of the Code; or

(d) The Authority shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained herein or in the Bonds or in any Series Resolution on the part of the Authority to be performed and such default shall continue for thirty (30) days after written notice specifying such default and requiring same to be remedied shall have been given to the Authority by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds, unless, if such default is not capable of being cured within thirty (30) days, the Authority has commenced to cure such default within said thirty (30) days and diligently prosecutes the cure thereof; or

(e) The State Comptroller shall have failed to make payment to or upon the order of the Authority in accordance with Section 7418-(2)(b) of the Act upon receipt of a certificate of an Authorized Officer of the Authority, as provided therein.

**SECTION 11.03. No Acceleration of Maturity.** The Bonds are not subject to acceleration upon an event of default hereunder.

**SECTION 11.04. Enforcement of Remedies.** Upon the happening and continuance of any event of default specified in Section 11.02 hereof, then and in every such case, the Trustee may proceed, and upon the written request of the Facility Provider of a Reserve Fund Facility, or of the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds or, in the case of a happening and continuance of an event of default specified in paragraph (c) of Section 11.02 hereof, upon the written request of the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of the Series affected thereby, shall proceed (subject to the provisions of Section 8.06 hereof), to protect and enforce its rights and the rights of the Bondholders or of such Facility Provider hereunder or under any Series Resolution or under the laws of the State by such suits, actions or special proceedings in equity or at law, either for the specific performance of any covenant

contained hereunder or under any Series Resolution or in aid or execution of any power herein or therein granted, or for an accounting against the Authority as if the Authority were the trustee of an express trust, or for the enforcement of any proper legal or equitable remedy as the Trustee shall deem most effectual to protect and enforce such rights.

In the enforcement of any remedy hereunder and under each Series Resolution the Trustee shall be entitled to sue for, enforce payment of, and receive any and all amounts then, or during any default becoming, and at any time remaining, due from the Authority for principal or interest or otherwise under any of the provisions of the Resolution or of any Series Resolution or of the Bonds, with interest on overdue payments of the principal of or interest on the Bonds at the rate or rates of interest specified in such Bonds, together with any and all costs and expenses of collection and of all proceedings hereunder and under any Series Resolution and under such Bonds, without prejudice to any other right or remedy of the Trustee or of the Holders of such Bonds, and to recover and enforce judgment or decree against the Authority but solely as provided herein, in any Series Resolution and in such Bonds, for any portion of such amounts remaining unpaid, with interest, costs and expenses, and to collect in any manner provided by law, the moneys adjudged or decreed to be payable.

**SECTION 11.05. Priority of Payments after Default.** If at any time the moneys held by the Trustee hereunder and under each Series Resolution shall not be sufficient to pay the principal of and interest on the Bonds as the same become due and payable (by their terms), such moneys together with any moneys then available or thereafter becoming available for such purpose, whether through exercise of the remedies provided for in this Article XI or otherwise, shall be applied (after payment of all amounts owing to the Trustee hereunder) as follows; **provided**, that distributions pursuant to this section shall first be made with moneys other than amounts on deposit in the Debt Service Reserve Fund and then moneys in the Debt Service Reserve Fund shall be distributed pursuant to this Section but only to pay amounts remaining due on the Existing Bonds:

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

First: To the payment to the persons entitled thereto of all installments of interest then due in the order of the maturity of the installments of such interest, and, if the amount available shall not be sufficient to pay in full any installment, then to the payment thereof ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or preference; and

Second: To the payment to the persons entitled thereto of the unpaid principal, Sinking Fund Installments or Redemption Price of any Bonds which shall have become due whether at maturity or by call for redemption in the order of their due dates and, if the amount available shall not be sufficient to pay in full all such amounts due on any date, then to the payment thereof ratably, according to the amount of principal, Sinking Fund Installments or Redemption Price due on such date, to the persons entitled thereto, without any discrimination or preference.

(b) If the principal of all of the Bonds shall have become or 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 without preference or priority of principal over interest or of 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 preference except as to the difference in the respective rates of interest specified in the Bonds.

The provisions of this Section are in all respects subject to the provisions of Section 7.02 hereof.

Whenever moneys are to be applied by the Trustee pursuant to the provisions of this Section, such moneys shall be applied by the Trustee at such times, and from time to time, as the Trustee in its sole discretion 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. The setting aside of such moneys in trust for application in accordance with the provisions of this Section shall constitute proper application by the Trustee, and the Trustee shall incur no liability whatsoever to the Authority, to any Holder of Bonds or to any other person for any delay in applying any such moneys so long as the Trustee acts with reasonable diligence, having due regard to the circumstances, and ultimately applies the same in accordance with such provisions hereof as may be applicable at the time of application by the Trustee. Whenever the Trustee shall exercise such discretion in applying such moneys, it shall fix the date (which shall be on an interest payment date unless the Trustee shall deem another date more suitable) upon which such application is to be made, and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the fixing of any such date. The Trustee shall not be required to make payment to the Holder of any Bond unless such Bond shall be presented to the Trustee for appropriate endorsement.

Amounts held by the Trustee after payments to be made pursuant to this Section 11.05 have been made and no Bonds are Outstanding shall be paid and applied in accordance with Section 12.01 hereof.

**SECTION 11.06. Termination of Proceedings.** In case any proceedings commenced by the Trustee on account of any default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee, then and in every such case the Authority, the Trustee, each Facility Provider, the City and the Bondholders shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Trustee shall continue as though no such proceeding had been commenced.

**SECTION 11.07. Bondholders' Direction of Proceedings.** Anything herein to the contrary notwithstanding, the Holders of a majority in principal amount of the Outstanding Bonds or, in the case of an event of default specified in paragraph (c) of Section 11.02 hereof, the Holders of a majority in principal amount of the Outstanding Bonds of the Series affected thereby shall have the right by an instrument in writing executed and delivered to the Trustee, to direct the method and place of conducting all remedial proceedings to be taken by the Trustee hereunder and under each Series Resolution, provided, such direction shall not be otherwise than in accordance with law and the provisions hereof and of each Series Resolution, and that the

Trustee shall have the right to decline to follow any such direction which in the opinion of the Trustee would be unjustly prejudicial to Bondholders not parties to such direction.

**SECTION 11.08. Limitation of Rights of Individual Bondholders.** No Holder of any of the Bonds shall have any right to institute any suit, action or proceeding in equity or at law for the execution of any trust hereunder, or for any other remedy hereunder unless such Holder previously shall have given to the Trustee written notice of the event of default on account of which such suit, action or proceeding is to be instituted, and unless also the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds or, in the case of an event of default specified in paragraph (c) of Section 11.02 hereof, the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of the Series affected thereby, shall have made written request to the Trustee after the right to exercise such powers or right of action, as the case may be, shall have accrued, and shall have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers granted hereby or to institute such action, suit or proceeding in its or their name, and unless, also, there shall have been offered to the Trustee reasonable security and indemnity against the costs, expenses, and liabilities to be incurred therein or thereby, and the Trustee shall have refused or neglected to comply with such request within a reasonable time. Such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts hereof or for any other remedy hereunder and in equity or at law. It is understood and intended that no one or more Holders of the Bonds secured hereby shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security hereof or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted and maintained for the benefit of all Holders of the Outstanding Bonds. Notwithstanding any other provision hereof, the Holder of any Bond shall have the right which is absolute and unconditional to receive payment of the principal of (and premium, if any) and interest on such Bond on the stated maturity expressed in such Bond (or, in the case of redemption, on the redemption date) and to institute suit for the enforcement of any such payment, and such right shall not be impaired without the consent of such Holder.

**SECTION 11.09. Actions by Trustee; Possession of Bonds by Trustee Not Required.** All rights of action hereunder or under any of the Bonds secured hereby and thereby, enforceable by the Trustee, may be enforced by it without the possession of any of such Bonds or the production thereof at the trial or other proceeding relative thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in its name for the benefit of all the Holders of the Bonds to which such action relates, subject to the provisions hereof.

**SECTION 11.10. Remedies Not Exclusive.** No remedy herein conferred upon or reserved to the Trustee or to the Bondholders 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 now or hereafter existing at law or in equity or by statute.

**SECTION 11.11. Waiver and Non-Waiver of Default.** No delay or omission of the Trustee or any Bondholder to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein. Every power and remedy given by this Article XI to the Trustee and the

Bondholders, respectively, may be exercised from time to time and as often as may be deemed expedient.

The Trustee may, and upon written request of the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds or, in the case of a default specified in paragraph (c) of Section 11.02 hereof, the Holders of not less than twenty-five per centum (25%) in principal amount of the Outstanding Bonds of the Series affected thereby, shall waive any default which in its opinion shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions hereof or before the completion of the enforcement of any other remedy hereunder; **provided, however**, that no such waiver shall extend to or affect any other existing or any subsequent default or defaults or impair any rights or remedies consequent thereon.

**SECTION 11.12. Notice of Event of Default.** The Trustee shall give notice of each event of default hereunder known to the Trustee to the City and to each Facility Provider within five (5) days after knowledge of the occurrence thereof and to the Holders of Bonds within thirty (30) days after knowledge of the occurrence thereof, unless such event of default shall have been remedied or cured before the giving of such notice; **provided, however**, that, except in the case of default in the payment of the principal, Sinking Fund Installments or Redemption Price of, or interest on, any of the Bonds, the Trustee shall be protected in withholding notice thereof to the Holders of Bonds if and so long as the Trustee in good faith determines that the withholding of such notice is in the best interests of the Holders of the Bonds. Each such notice of event of default shall be given by the Trustee by mailing written notice thereof: (i) to all registered Holders of Bonds, as the names and addresses of such Holders appear on the books for registration and transfer of Bonds as kept by the Trustee, (ii) to each Facility Provider and (iii) to such other persons as is required by law. Any such notice required to be mailed to Holders of Bonds may, in the sole discretion of the Authority, be published by the Trustee in an Authorized Newspaper.

## **ARTICLE XII**

### **DEFEASANCE**

**SECTION 12.01. Defeasance.** (a) If the Authority shall pay or cause to be paid to the Holders of Bonds of a Series the principal, Sinking Fund Installments, if any, or Redemption Price of and interest thereon, at the times and in the manner stipulated therein, herein, and in the applicable Series Resolution and Bond Series Certificate, then the pledge of the Revenues or other moneys and securities pledged to such Bonds and all other rights granted hereby to such Bonds shall be discharged and satisfied. In such event, the Trustee shall, upon the request of the Authority, execute and deliver such documents to evidence such discharge and satisfaction as may be reasonably required by the Authority, and all moneys or securities held by it pursuant hereto and to the applicable Series Resolution which are not required for the payment or redemption of Bonds of such Series shall be paid or delivered by the Trustee as follows: first, to the Arbitrage Rebate Fund, the amount required to be deposited therein in accordance with the direction of an Authorized Officer of the Authority; second, to each Facility Provider the Provider Payments which have not been repaid, pro rata, based upon the respective Provider Payments then unpaid to each Facility Provider; third, to the Authority the amount certified by an

Authorized Officer of the Authority to be then due or past due pursuant to the Agreement for fees and expenses of the Authority or pursuant to any indemnity; and, then, the balance thereof to the City. Such securities so paid or delivered shall be released from any trust, pledge, lien, encumbrance or security interest created hereby.

(b) Bonds for the payment or redemption of which moneys shall have been set aside and shall be held in trust by the Trustee (through deposit of moneys for such payment or redemption or otherwise) at the maturity or redemption date thereof shall be deemed to have been paid within the meaning and with the effect expressed in paragraph (a) of this Section. All Outstanding Bonds of any Series or any maturity within a Series or a portion of a maturity within a Series shall prior to the maturity or redemption date thereof be deemed to have been paid within the meaning and with the effect expressed in paragraph (a) of this Section if:

(i) in case any of said Bonds are to be redeemed on any date prior to their maturity, the Authority shall have given to the Trustee, in form satisfactory to it, irrevocable instructions to give as provided in Article IV hereof notice of redemption on said date of such Bonds;

(ii) there shall have been deposited with the Trustee either moneys in an amount which shall be sufficient, or Defeasance Securities the principal of and interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Trustee at the same time, shall be sufficient to pay when due the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, and interest due and to become due on said Bonds on and prior to the redemption date or maturity date thereof, as the case may be;

(iii) the Trustee shall have received the written consent of each Facility Provider which has given written notice to the Trustee and the Authority that amounts advanced under a Credit Facility, Liquidity Facility or Reserve Fund Facility issued by it or the interest thereon have not been repaid to such Facility Provider;

(iv) in the event said Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days, the Authority shall have given the Trustee, in form satisfactory to it, irrevocable instructions to give, as soon as practicable, by first class mail, postage prepaid, to the Holders of said Bonds at their last known addresses appearing on the registration books, and, if directed by an Authorized Officer of the Authority, by publication, at least twice, at an interval of not less than seven (7) days between publications, in an Authorized Newspaper, a notice to the Holders of such Bonds that the deposit required by clause (ii) above has been made with the Trustee and that said Bonds are deemed to have been paid in accordance with this Section and stating such maturity or redemption date upon which moneys are to be available for the payment of the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, of and interest on said Bonds; and

(v) the Trustee shall have received a Verification Report.

The Authority shall give written notice to the Trustee of its selection of the Series and maturity payment of which shall be made in accordance with this Section. The Trustee shall select the Bonds of like Series and maturity payment of which shall be made in accordance with this Section in the manner provided in Section 4.04 hereof. Neither the Defeasance Securities nor moneys deposited with the Trustee pursuant to this Section nor principal or interest payments on any such Defeasance Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, of and interest on said Bonds; **provided, however,** that any moneys received from such principal or interest payments on such Defeasance Securities deposited with the Trustee, if not then needed for such purpose, shall, to the extent practicable, be reinvested in Defeasance Securities maturing at times and in amounts sufficient to pay when due the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, of and interest to become due on said Bonds on and prior to such redemption date or maturity date hereof, as the case may be; **provided, further,** with respect to Bonds other than Existing Bonds, that moneys and Defeasance Securities may be withdrawn and used by the Authority for any purpose upon (i) the simultaneous substitution therefor of either moneys in an amount which shall be sufficient, or Defeasance Securities the principal of and interest on which when due will provide moneys which without regard to reinvestment, together with the moneys, if any, held by or deposited with the Trustee at the same time, shall be sufficient to pay when due the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, and interest due and to become due on such Bonds on and prior to the redemption date or maturity date thereof, as the case may be, and (ii) receipt by the Trustee of a Verification Report. Any income or interest earned by, or increment to, the investment of any such moneys so deposited, shall, to the extent certified by the Trustee to be in excess of the amounts required hereinabove to pay the principal, Sinking Fund Installments, if any, or Redemption Price, if applicable, of and interest on such Bonds, as realized, be paid by the Trustee as follows: first, to the Arbitrage Rebate Fund, the amount required to be deposited therein in accordance with the direction of an Authorized Officer of the Authority; second, to each Facility Provider the Provider Payments which have not been repaid, pro rata, based upon the respective Provider Payments then unpaid to each Facility Provider; third, to the Authority the amount certified by an Authorized Officer of the Authority to be then due or past due pursuant to the Agreement for fees and expenses of the Authority or pursuant to any indemnity; and, then, the balance thereof to the City. Such securities so paid or delivered shall be released from any trust, pledge, lien, encumbrance or security interest created hereby.

(c) For purposes of determining whether Variable Interest Rate Bonds shall be deemed to have been paid prior to the maturity or redemption date thereof, as the case may be, in accordance with paragraph (b) of this Section 12.01, the interest to come due on such Variable Interest Rate Bonds on or prior to the maturity date or redemption date thereof, as the case may be, shall be calculated at the Maximum Interest Rate permitted by the terms thereof; **provided, however,** that if on any date, as a result of such Variable Interest Rate Bonds having borne interest at less than such Maximum Interest Rate for any period, the total amount of moneys and Defeasance Securities on deposit with the Trustee for the payment of interest on such Variable Interest Rate Bonds is in excess of the total amount which would have been required to be deposited with the Trustee on such date in respect of such Variable Interest Rate Bonds in order to satisfy clause (ii) of the second sentence of paragraph (b) of this Section 12.01, the Trustee shall pay the amount of such excess as follows: first, to the Arbitrage Rebate Fund, the amount

required to be deposited therein in accordance with the direction of an Authorized Officer of the Authority; second, to each Facility Provider the Provider Payments which have not been repaid, pro rata, based upon the respective Provider Payments then unpaid to each Facility Provider; third, to the Authority the amount certified by an Authorized Officer of the Authority to be then due or past due pursuant to the Agreement for fees and expenses of the Authority or pursuant to any indemnity; and, then, the balance thereof to the City. Such securities so paid or delivered shall be released from any trust, pledge, lien, encumbrance or security interest created hereby.

(d) Option Bonds shall be deemed to have been paid in accordance with paragraph (b) of this Section 12.01, there shall be deposited with the Trustee money in an amount which shall be sufficient to pay when due the maximum amount of principal of and premium, if any, and interest on such Bonds which could become payable to the Holders of such Bonds upon the exercise of any options provided to the Holders of such Bonds; **provided, however,** that if, at the time a deposit is made with the Trustee pursuant to paragraph (b) of this Section 12.01, the options originally exercisable by the Holder of an Option Bond are no longer exercisable, such Bond shall not be considered an Option Bond for purposes of this paragraph (d). If any portion of the moneys deposited with the Trustee for the payment of the principal of and premium, if any, and interest on Option Bonds is not required for such purpose, the Trustee shall, if requested by the Authority, pay the amount of such excess as follows: first, to the Arbitrage Rebate Fund, the amount required to be deposited therein in accordance with the direction of an Authorized Officer of the Authority; second, to each Facility Provider the Provider Payments which have not been repaid, pro rata, based upon the respective Provider Payments then unpaid to each Facility Provider; third, to the Authority the amount certified by an Authorized Officer of the Authority to be then due or past due pursuant to the Agreement for fees and expenses of the Authority or pursuant to any indemnity; and, then, the balance thereof to the City. Such securities so paid or delivered shall be released from of any trust, pledge, lien, encumbrance or security interest created hereby.

(e) Anything herein to the contrary notwithstanding, any moneys held by the Trustee or a Paying Agent in trust for the payment and discharge of any of the Bonds of a Series or the interest thereon which remain unclaimed for one (1) year after the date when all of the Bonds of such Series have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the Trustee or Paying Agent at such date, or for one (1) year after the date of deposit of such moneys if deposited with the Trustee or Paying Agent after said date when all of the Bonds of such Series become due and payable, or one (1) year after the date when the principal or Redemption Price of or interest on the Bonds for which said moneys is held was due and payable, shall, at the written request of the Authority, be repaid by the Trustee or Paying Agent to the Authority as its absolute property and free from trust, and the Trustee or Paying Agent shall thereupon be released and discharged with respect thereto and the Holders of Bonds shall look only to the Authority for the payment of such Bonds; **provided, however,** that, before being required to make any such payment to the Authority, the Trustee or Paying Agent may, at the expense of the Authority, cause to be published in an Authorized Newspaper a notice that such moneys remain unclaimed and that, after a date named in such notice, which date shall be not less than thirty (30) nor more than sixty (60) days after the date of publication of such notice, the balance of such moneys then unclaimed shall be returned to the Authority.

## ARTICLE XIII

### EXECUTION OF INSTRUMENTS BY BOND HOLDERS AND PROOF OF OWNERSHIP OF BONDS

#### **SECTION 13.01. Evidence of Signatures of Bondholders and Ownership of Bonds.**

Any request, consent or other instrument which the Resolution may require or permit to be signed and executed by the Holder or Holders of Bonds may be in one or more instruments of similar tenor, and shall be signed or executed by such Holder or Holders of Bonds in person or by his or their attorneys duly appointed in writing. Proof of the execution of any such instrument, or of an instrument appointing any such attorney, or the holding or owning by any person of such Bonds, shall be sufficient for any purpose hereof (except as otherwise herein expressly provided) if made in the manner set forth below, but the Trustee may nevertheless in its discretion require further or other proof in cases where it deems the same desirable.

The fact and date of the execution by any Bondholder or his attorney of such instrument may be proved by the certificate, which need not be acknowledged or verified, of any officer of a bank or trust company satisfactory to the Trustee or of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such executions duly sworn to before such notary public or other Officer. The authority of the person or persons executing any such instrument on behalf of a corporate Bondholder may be established without further proof if such instrument is signed by a person purporting to be the president or a vice-president of such corporation with a corporate seal affixed and attested by a person purporting to be its secretary or an assistant secretary.

The ownership of Bonds and the amount, numbers and other identification, and date of holding or owning the same shall be proved by the registry books. Any request, consent or vote of the owner of any Bond shall bind all future owners of such Bond in respect of anything done or suffered to be done or omitted to be done by the Authority or the Trustee in accordance therewith.

## ARTICLE XIV

### MISCELLANEOUS

**SECTION 14.01. Preservation and Inspection of Documents.** All documents received by the Trustee from the Authority or from Bondholders under the provisions hereof or of any Series Resolution shall be retained in its possession and shall be subject at all reasonable times to the inspection of the Authority, the City, any Bondholder and their agents and their representatives, any of whom may make copies thereof; **provided, however,** that with respect to inspection by a Bondholder a written request of such Bondholder must have been received by the Trustee at least five (5) Business Days prior to the date of inspection.

The Trustee shall maintain such records as a Facility Provider shall reasonably request with respect to matters relating to such Facility Provider.

**SECTION 14.02. Moneys and Funds Held for Particular Bonds.** The amounts held by the Trustee or any Paying Agent for the payment of the principal, Sinking Fund Installments, if any, or Redemption Price of and interest on the Bonds due on any date with respect to particular Bonds shall, pending such payment, be set aside and held in trust by it for the Holders of such Bonds entitled thereto, and for the purposes hereof such principal, Sinking Fund Installments, if any, or Redemption Price of and interest on such Bonds, due after such date thereof, shall no longer be considered to be unpaid.

**SECTION 14.03. No Recourse under Resolution or on the Bonds.** All covenants, stipulations, promises, agreements and obligations of the Authority contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Authority and not of any member, officer or employee of the Authority in his individual capacity, and no recourse shall be had for the payment of the principal, Sinking Fund Installments, if any, or Redemption Price of or interest on the Bonds or for any claims based thereon, hereon or on the Series Resolution against any member, officer or employee of the Authority or any person executing the Bonds, all such liability, if any, being expressly waived and released by every Holder of Bonds by the acceptance of the Bonds.

**SECTION 14.04. Severability of Invalid Provision.** If one or more of the covenants, stipulations, promises, agreements and obligations provided herein or in any Series Resolution on the part of the Authority or the Trustee to be performed should be contrary to law, then such covenant or covenants, stipulation or stipulations, promise or promises, agreement or agreements or obligation or obligations shall be null and void, shall be deemed and construed to be severable from the remaining covenants, stipulations, promises, agreements and obligations herein contained and shall in no way affect the validity of the other provisions hereof or of such Series Resolution or of the Bonds.

**SECTION 14.05. Parties of Interest.** Nothing herein or in any Series Resolution adopted pursuant to the provisions hereof, expressed or implied, is intended to or shall be construed to confer upon or to give to any person or party other than the Authority, Trustee, Paying Agents, each Facility Provider and the Holders of the Bonds any rights, remedies or claims hereunder or by reason hereof or of any Series Resolution or any covenant, condition or stipulation thereof; **provided, however,** that with respect to the provisions hereof which require the Trustee to pay or deliver to the City any moneys held by the Trustee hereunder, such provisions shall also be for the benefit of the City and, upon the failure of the Trustee to comply therewith, the City shall have such rights, remedies and claims as are provided hereunder or by reason hereof or by law. All covenants, stipulations, promises and agreements herein or in any Series Resolution contained by or on behalf of the Authority shall be for the sole and exclusive benefit of the Authority, Trustee and Paying Agents and the Holders from time to time of the Bonds.

**SECTION 14.06. Certain Provisions Relating to Capital Appreciation Bonds and Deferred Income Bonds.** 1. For the purposes of (i) receiving payment of the Redemption Price if a Capital Appreciation Bond is redeemed prior to maturity, (ii) receiving payment of a Capital Appreciation Bond if the principal of all Bonds is declared immediately due and payable following an “event of default”, as provided in Section 11.03 hereof or (iii) computing the principal amount of Bonds held by the registered owner of a Capital Appreciation Bond in giving



to the Authority, the City or the Trustee any notice, consent, request, or demand pursuant hereto for any purpose whatsoever, the then current Accreted Value of such Bond shall be deemed to be its principal amount. Notwithstanding any other provision hereof, the amount payable at any time with respect to the principal of and interest on any Capital Appreciation Bond shall not exceed the Accreted Value thereof at such time. For purposes of receiving payment of the Redemption Price or principal of a Capital Appreciation Bond called for redemption prior to maturity or the principal of which has been declared to be immediately due and payable pursuant to Section 11.03 hereof, the difference between the Accreted Value of such Bond when the Redemption Price or principal thereof is due upon such redemption or declaration and the principal of such Bond on the date the Bonds of the Series of which it is a part were first issued shall be deemed not to be accrued and unpaid interest thereon.

2. For the purposes of (i) receiving payment of the Redemption Price if a Deferred Income Bond is redeemed, or (ii) receiving payment of a Deferred Income Bond if the principal of all Bonds is declared immediately due and payable following an “event of default,” as provided in Section 11.03 of the Resolution or (iii) computing the principal amount of Bonds held by the registered owner of a Deferred Income Bond in giving to the Authority or the Trustee any notice, consent, request, or demand pursuant to the Resolution for any purpose whatsoever, the then current Appreciated Value of such Bond shall be deemed to be its principal amount. Notwithstanding any other provision hereof, the amount payable at any time prior to the Interest Commencement Date with respect to the principal of and interest on any Deferred Income Bond shall not exceed the Appreciated Value thereof at such time. For purposes of receiving payment prior to the Interest Commencement Date of the Redemption Price or principal of a Deferred Income Bond called for redemption prior to maturity or the principal of which has been declared to be immediately due and payable pursuant to Section 11.03 hereof, the difference between the Appreciated Value of such Bond when the Redemption Price or principal thereof is due upon such redemption or declaration and the principal of such Bond on the date the Bonds were first issued shall be deemed not to be accrued and unpaid interest thereon.

**SECTION 14.07. Termination of Facility Provider’s Rights.** Whenever by the terms hereof the consent or approval of a Facility Provider is required or a Facility Provider, alone or together with any other Facility Provider or the Holders of Bonds, is authorized to request or direct the Trustee to take any action, such consent or approval shall not be required and the Trustee shall not be obligated to comply with such request or direction if such Facility Provider is then in default in its payment obligations under the provisions of the Credit Facility, Liquidity Facility or Reserve Fund Facility issued by such Facility Provider. Nothing contained herein shall limit or impair the rights of the Holders of Bonds to give any consent or approval or to request or direct the Trustee to take any action and, if a Facility Provider is then in default under such Credit Facility, Liquidity Facility or Reserve Fund Facility, such consent or approval shall be effective without the consent or approval of such Facility Provider otherwise required hereby and the Trustee shall comply with such request or direction notwithstanding that such request or direction is required to be made or given together with such Facility Provider.

**SECTION 14.08. Notices.** Except as otherwise provided herein, any notices, directions or other instruments required to be given or delivered pursuant hereto or to any Series Resolution shall be in writing and shall be delivered by hand against the written receipt therefor or sent by registered or certified mail addressed: in the case of the Authority, to it to the attention of the

Authority's Executive Director with a copy to the Authority's General Counsel, at 515 Broadway, Albany, New York 12207; in the case of the Trustee, addressed to it at the principal corporate trust office of the Trustee at the address of such principal corporate trust office; in the case of the City, addressed to it to the attention of the City's Director of Management and Budget, at 75 Park Place, New York, New York 10007, with a copy to the City's Corporation Counsel, at 100 Church Street, New York, New York 10007; or, in each case, to such other individual and at such other address as the person to be notified shall have specified by notice to the other persons.

**SECTION 14.09. Other Resolutions.** The Authority expressly reserves the right to adopt one or more other bond resolutions and to issue bonds, bond anticipation notes, notes and other obligations thereunder without compliance with the provisions hereof.

**SECTION 14.10. Headings.** Any headings preceding the text of the several Articles and Sections hereof, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part hereof nor shall they affect its meaning, construction or effect.

**SECTION 14.11. Authority to Deliver this Resolution.** An Authorized Officer of the Authority is hereby authorized and directed to deliver this Resolution with such changes, insertions and omissions as may be approved by such Authorized Officer, such delivery being conclusive evidence of such approval; and **provided, however,** such changes, insertions and omissions shall be necessary to effectuate the intent of this Resolution.

**SECTION 14.12. Governing Laws.** The Resolution shall be governed by and construed in accordance with the laws of the State.

**SECTION 14.13. Effective Date.** This Resolution shall take effect as provided in Section 1.04 hereof.

DORMITORY AUTHORITY  
OF THE STATE OF NEW YORK

\_\_\_\_\_  
Municipal Health Facilities Improvement Program  
2018 Series Resolution  
(New York City Issue)  
\_\_\_\_\_

Authorizing Up To

\$395,000,000

2018 Series Bonds

Adopted June 20, 2018

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**MUNICIPAL HEALTH FACILITIES IMPROVEMENT PROGRAM  
2018 SERIES RESOLUTION  
(NEW YORK CITY ISSUE)**

**AUTHORIZING UP TO  
\$395,000,000**

**2018 SERIES BONDS**

**BE IT RESOLVED** by the Dormitory Authority of the State of New York, as follows:

**ARTICLE I.**

**Definitions and Statutory Authority**

**SECTION 1.01      2018 Series Resolution.** This Municipal Health Facilities Improvement Program 2018 Series Resolution Authorizing Up To \$395,000,000 2018 Series Bonds is supplemental to, and constitutes a Series Resolution within the meaning of and is adopted in accordance with Article IX of, the resolution adopted by the Authority on June 20, 2018, entitled “Amended and Restated Municipal Health Facilities Improvement Program Lease Revenue Bond Resolution Adopted June 20, 2018, A Resolution Authorizing The Issuance By The Dormitory Authority Of The State Of New York Of Municipal Health Facilities Improvement Program Lease Revenue Bonds (New York City Issue); Providing For The Payment Of The Principal of And Interest On Such Bonds; And Providing For The Rights Of The Holders Thereof,” as amended and supplemented, and referred to herein as the “Resolution.”

**SECTION 1.02      Definitions.** (a) All terms which are defined in Section 1.01 of the Resolution shall have the same meanings, respectively, in this 2018 Series Resolution as such terms are given in said Section 1.01 of the Resolution unless otherwise defined herein.

(b) In addition, as used in this 2018 Series Resolution, unless the context shall otherwise require, the following terms shall have the following respective meanings:

**“1998 Series 1 Bonds”** means the Bonds authorized to be issued under the Resolution by a Series Resolution, adopted August 12, 1998, entitled “Municipal Health Facilities Improvement Program 1998 Series 1 Resolution (New York Issue) Authorizing Up To \$320,000,000 1998 Series 1 Bonds”;

**“2001 Series 2 Bonds”** means the Bonds authorized to be issued under the Resolution by a Series Resolution, adopted October 3, 2001, entitled “Municipal Health Facilities Improvement Program 2001 Series 2 Resolution (New York Issue) Authorizing Up To \$646,755,000 2001 Series 2 Bonds”;

**“2008 Series 1 Bonds”** means the Bonds authorized to be issued under the Resolution by a Series Resolution, adopted March 26, 2008, entitled “Municipal Health Facilities Improvement Program 2008 Series Resolution (New York City Issue) Authorizing Up To \$520,000,000 2008 Series Bonds”;

**“2018 Series Resolution”** means this Municipal Health Facilities Improvement Program 2018 Series Resolution (New York City Issue) Authorizing Up To \$395,000,000 2018 Series Bonds; and

**“Tax Certificate”** means the Tax Certificate and Agreement, executed by an Authorized Officer of the Authority in connection with the issuance of the 2018 Series Bonds.

(c) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

(d) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder,” and any similar terms, as used in this 2018 Series Resolution, refer to the 2018 Series Resolution.

**SECTION 1.03 Authority for the 2018 Series Resolution.** This 2018 Series Resolution is adopted pursuant to the provisions of the Act and the Resolution.

## **ARTICLE II.**

### **Authorization, Terms and Issuance of 2018 Series Bonds**

**SECTION 2.01 Authorization of 2018 Series Bonds, Principal Amount, Designation and Series.** One or more Series of Bonds entitled to the benefit, protection and security of the Resolution are hereby authorized to be issued in an aggregate principal amount not to exceed \$395,000,000. Each such Series of Bonds shall be designated as and shall be distinguished from the Bonds of all other Series by the title “Municipal Health Facilities Improvement Program Lease Revenue Bonds (New York City Issue), 2018 Series \_” (with a number designation inserted in such blank) pursuant to and subject to the terms, conditions and limitations established in the Resolution and this 2018 Series Resolution. Such Series of Bonds may be issued from time to time in one or more Series in amounts not to exceed \$395,000,000.

**SECTION 2.02 Purposes.** The purposes for which the 2018 Series Bonds are being issued are (i) to refund all of the Outstanding 1998 Series 1 Bonds, 2001 Series 2 Bonds and 2008 Series 1 Bonds and (ii) to pay the Costs of Issuance of the 2018 Series Bonds.

**SECTION 2.03 No Debt Service Reserve Fund.** The Authority has determined that the 2018 Series 1 Bonds shall not be secured by the Debt Service Reserve Fund

established pursuant to the Resolution and shall not be taken into consideration when calculating the Debt Service Reserve Fund Requirement.

**SECTION 2.04      Delegation of Authority.** There is hereby delegated to any Authorized Officer of the Authority, subject to the limitations contained herein and in the Resolution and the Act, the power with respect to the 2018 Series Bonds to determine and carry out the following:

(a) Subject to the limitations set forth in Section 2.01 of this 2018 Series Resolution, whether to issue one or more than one Series of 2018 Series Bonds, the principal amount of each Series of 2018 Series Bonds to be issued and the date of issuance of each Series of 2018 Series Bonds (which may or may not be issued concurrently with one another);

(b) The sale of the 2018 Series Bonds at public or private sale, provided that in the case of a private sale the aggregate purchase price paid by the purchasers thereof shall not be less than ninety percent (90%) of the principal amount of Series 2018 Bonds so sold;

(c) The date or dates, maturity date or dates and principal amount of each maturity of the 2018 Series Bonds, the amount and date of each Sinking Fund Installment, if any, and which 2018 Series Bonds are Serial Bonds or Term Bonds, if any; **provided, however**, that no 2018 Series Bond that is issued shall mature later than 14 years from its date of issuance;

(d) The initial interest rate or rates of the 2018 Series Bonds, the date from which interest on the 2018 Series Bonds shall accrue, the first interest payment date therefor and the manner of determining the subsequent interest rate or rates thereon and the maximum interest rate which the Series 2018 Bonds shall bear; **provided, however**, that the true interest cost (as determined by an Authorized Officer of the Authority, which determination shall be conclusive) on the 2018 Series Bonds shall not exceed seven and one half percent (7.5%) per annum and the initial interest rate may not exceed 7.5%;

(e) The denomination or denominations of and the manner of numbering and lettering the 2018 Series Bonds;

(f) The 2018 Series Bonds which are Book-Entry Bonds, if any, and the Depository therefor;

(g) The Health Facility or Health Facilities in connection with which the 2018 Series Bonds are being issued;

(h) The Trustee and, subject to the provisions of Sections 3.01 and 8.02 of the Resolution, the place or places of payment of the principal, Sinking Fund Installments, if any, or Redemption Price or Purchase Price of and interest on the 2018 Series Bonds; **provided, however**, that such Trustee may be appointed by resolution adopted prior to authentication and delivery of the 2018 Series Bonds in accordance with the provisions of Section 8.02 of the Resolution;

(i) The Redemption Price or Purchase Price, if any, and, subject to Article IV of the Resolution, the redemption and mandatory tender terms, if any, for the 2018 Series Bonds;

provided, however, that the Redemption Price or Purchase Price of 2018 Series Bonds at the election or direction of the Authority shall not be greater than one hundred three percent (103%) of the principal amount of the 2018 Series Bonds to be redeemed or purchased, plus accrued interest thereon to the date of redemption or purchase;

(j) Provisions for the sale or exchange of the 2018 Series Bonds and for the delivery thereof;

(k) The form of the 2018 Series Bonds and the form of the Trustee's certificate of authentication thereon;

(l) Provisions with respect to funds and accounts and subaccounts therein, if applicable, and the Revenues and application thereof, as provided in Article V of the Resolution and Article IV hereof;

(m) Directions for the application of the proceeds of the 2018 Series Bonds;

(n) The terms of any Credit Facility; and

(o) Any other provisions deemed advisable by an Authorized Officer of the Authority, not in conflict with the provisions hereof or of the Resolution.

Such Authorized Officer shall execute one or more Bond Series Certificates evidencing determinations or other actions taken pursuant to the authority granted herein or in the Resolution, and any such Bond Series Certificate shall be conclusive evidence of the action or determination of such Authorized Officer as to the matters stated therein.

**SECTION 2.05**      **Approval of Purchase Contract.** The form of the Bond Purchase Agreement relating to the sale of the 2018 Series Bonds by and between the Authority and Raymond James & Associates, Inc., as representative of the underwriters named therein, as presented at this meeting, is hereby approved. Any Authorized Officer of the Authority is hereby authorized to execute a Bond Purchase Agreement in the name and on behalf of the Authority substantially in such form, with such changes, insertions and omissions as may be approved by said Authorized Officer, said execution being conclusive evidence of such approval.

**SECTION 2.06**      **Approval of Amendments to Financing Leases.** Any Authorized Officer of the Authority is hereby authorized to execute and deliver any amendment(s) to the Agreement of Lease and to the Agreement as may be necessary or desirable in connection with the issuance of the 2018 Series Bonds and the refunding of any 1998 Series 1 Bonds, any 2001 Series 2 Bonds or any 2008 Series 1 Bonds, said execution being conclusive evidence of such approval.

**SECTION 2.07**      **Official Statement.** (a) The preparation and distribution in connection with the offering and sale of the 2018 Series Bonds of a Preliminary Official Statement, with such changes, insertions and omissions as an Authorized Officer of the Authority deems advisable, is hereby authorized.

(b) Any Authorized Officer of the Authority is hereby authorized to execute and deliver, in the name and on behalf of the Authority, the final Official Statement in substantially the form of the Preliminary Official Statement, with such changes, insertions and omissions as said Authorized Officer deems advisable, and to permit the distribution of said Official Statement in connection with the offering and sale of the 2018 Series Bonds.

**SECTION 2.08**      **Approval of Continuing Disclosure Agreement.** The form of the agreement for continuing secondary market disclosure in connection with the 2018 Series Bonds, as presented at this meeting, is hereby approved. Any Authorized Officer of the Authority is hereby authorized to execute said agreements in the name and on behalf of the Authority substantially in such form, with such changes, insertions and omissions as may be approved by said Authorized Office, said execution being conclusive evidence of such approval.

**SECTION 2.09**      **Execution of Documents.** Any Authorized Officer of the Authority is hereby authorized to execute and deliver, in the name and on behalf of the Authority, any and all documents and instruments, and to do and cause to be done any and all acts and things, said Authorized Officer deems necessary or advisable in connection with the offering, sale and issuance of the 2018 Series Bonds and to carry out the transactions contemplated by this 2018 Series Resolution.

### **ARTICLE III.**

#### **Execution and Authentication of the 2018 Series Bonds**

**SECTION 3.01**      **Execution and Authentication of 2018 Series Bonds.** Pursuant to the provisions of Section 3.04 of the Resolution, the Chair or other Authorized Officer of the Authority is hereby authorized and directed to execute by his or her manual or facsimile signature the 2018 Series Bonds in the name of the Authority and the corporate seal (or a facsimile thereof) shall be thereunto affixed, imprinted, engraved or otherwise reproduced thereon. The Secretary or an Assistant Secretary of the Authority is hereby authorized and directed to attest by his or her manual or facsimile signature the execution of the 2018 Series Bonds.

The Trustee is hereby authorized to authenticate by manual or facsimile signature the 2018 Series Bonds, and deliver the same to or upon the order of the Authority, in such amounts and at such times as the Trustee shall be directed in writing by an Authorized Officer.

**SECTION 3.02**      **No Recourse on 2018 Series Bonds.** No recourse shall be had for the payment of the principal, Sinking Fund Installments, if any, or Redemption Price of or interest on the 2018 Series Bonds or for any claim based thereon or on the 2018 Series Resolution against any member, officer or employee of the Authority or any person executing the 2018 Series Bonds and neither the members of the Authority nor any other person executing the 2018 Series Bonds of the Authority shall be subject to any personal liability or accountability by reason of the issuance thereof, all such liability being expressly waived and released by every Holder of 2018 Series Bonds by the acceptance thereof.



## ARTICLE IV.

### Application of Proceeds

**SECTION 4.01**      **Application of Proceeds and Deposit of Moneys.** The Trustee shall on the date of delivery of the 2018 Series Bonds apply the proceeds of the sale of the 2018 Series Bonds as follows, unless otherwise directed by a bond series certificate executed by an Authorized Officer of the Authority: (a) the amount representing accrued interest on the 2018 Series Bonds from the date thereof to the date of delivery thereof shall be deposited in the Debt Service Fund and (b) the balance to the Construction Fund.

## ARTICLE V.

### Special Covenants

**SECTION 5.01**      **Tax Covenants Relating to the Internal Revenue Code of 1986.** (a) The Authority covenants that, in order to maintain the exclusion from gross income for Federal income tax purposes of the interest on the 2018 Series Bonds, the Authority will satisfy, or take such actions as are necessary to cause to be satisfied, each provision of the Internal Revenue Code of 1986 (the “Code”), or any predecessor or successor thereto, necessary to maintain such exclusion. In furtherance of this covenant, the Authority agrees to comply with such written instructions as may be provided by Bond Counsel. In furtherance of the covenant contained in the preceding sentence, the Authority agrees to continually comply with the provisions of the “Tax Certificate and Agreement” to be executed by the Authority in connection with the execution and delivery of the 2018 Series Bonds, as amended from time to time.

(b) The Authority covenants that no part of the proceeds of the 2018 Series Bonds shall be used, directly or indirectly, to acquire any “investment property,” as defined in Section 148 of the Code, which would cause the 2018 Series Bonds to become “arbitrage bonds” within the meaning of Section 148 of the Code, as in effect from time to time, or under applicable Treasury regulations promulgated thereunder. In order to assure compliance with the rebate requirement of Section 148 of the Code, the Authority further covenants that it will pay or cause to be paid to the United States Treasury Department the amounts necessary to satisfy the requirements of Section 148(f) of the Code, and that it will establish such accounting procedures as are necessary to adequately determine, account for and pay over any such amount or amounts required to be paid to the United States in a manner consistent with the requirements of Section 148 of the Code, such covenant to survive the defeasance of the 2018 Series Bonds.

(c) Notwithstanding any other provision of the Resolution to the contrary, so long as necessary in order to maintain the exclusion from gross income of interest on the 2018 Series Bonds for Federal income tax purposes, the covenants contained in this Section shall survive the payment of the 2018 Series Bonds and the interest thereon, including any payment or defeasance thereof pursuant to Section 12.01 of the Resolution.

**SECTION 5.02**      **Survival of Covenant.** The obligation of the Authority to comply with the provisions of Section 5.01 hereof with respect to the rebate to the Department of the Treasury of the United States of America relating to the 2018 Series Bonds shall remain in full force and effect so long as the Authority shall be required by the Code to rebate such earnings on the gross proceeds of the 2018 Series Bonds notwithstanding that the 2018 Series Bonds are no longer Outstanding.

## **ARTICLE VI.**

### **Miscellaneous**

**SECTION 6.01**      **When Effective.** The 2018 Series Resolution shall become effective immediately upon its adoption.

## TABLE OF CONTENTS

	Page
ARTICLE I. Definitions and Statutory Authority.....	1
SECTION 1.01 2018 Series Resolution .....	1
SECTION 1.02 Definitions .....	1
SECTION 1.03 Authority for the 2018 Series Resolution .....	2
ARTICLE II. Authorization, Terms and Issuance of 2018 Series Bonds.....	2
SECTION 2.01 Authorization of 2018 Series Bonds, Principal Amount, Designation and Series .....	2
SECTION 2.02 Purposes.....	2
SECTION 2.03 No Debt Service Reserve Fund.....	2
SECTION 2.04 Delegation of Authority .....	3
SECTION 2.05 Approval of Purchase Contract.....	4
SECTION 2.06 Amendments to Financing Leases .....	4
SECTION 2.07 Official Statements .....	4
SECTION 2.08 Approval of Continuing Disclosure Agreement .....	5
SECTION 2.09 Execution of Documents.....	5
ARTICLE III. Execution and Authentication of the 2018 Series Bonds.....	5
SECTION 3.01 Execution and Authentication of 2018 Series Bonds.....	5
SECTION 3.02 No Recourse on 2018 Series Bonds.....	5
ARTICLE IV. Application of Proceeds.....	6
SECTION 4.01 Application of Proceeds and Deposit of Moneys .....	6
ARTICLE V. Special Covenants.....	6
SECTION 5.01 Tax Covenants Relating to the Internal Revenue Code of 1986.....	6
SECTION 5.02 Survival of Covenant .....	7
ARTICLE VI. Miscellaneous .....	7
SECTION 6.01 When Effective .....	7