

## **NOTICE**

**THE SWEETWATER COUNTY BOARD OF COUNTY COMMISSIONERS  
WILL MEET ON TUESDAY, November 1, 2016 AT 8:30 A.M.**

**IN THE COMMISSIONERS' CHAMBERS  
(TENTATIVE AND SUBJECT TO CHANGE)**

**PLEASE ARRIVE 15 MINUTES EARLIER THAN YOUR SCHEDULED TIME**

### **PRELIMINARY**

**8:30** CALL TO ORDER  
QUORUM PRESENT  
PLEDGE OF ALLEGIANCE  
APPROVAL OF AGENDA  
APPROVAL OF MINUTES: October 18, 2016

### **ACCEPTANCE OF BILLS**

Approval of County Vouchers/Warrants  
Approval of Bonds

### **COMMISSIONER COMMENTS/REPORTS**

**8:40** Chairman Johnson  
**8:50** Commissioner Van Matre  
**9:00** Commissioner West  
**9:10** Commissioner Kolb  
**9:20** Commissioner Wendling

### **COUNTY RESIDENT CONCERNS**

**9:30**

### **ACTION/PRESENTATION ITEMS**

**9:40** Inventorying Lands with Wilderness Characteristics in the BLM Rock Springs Planning Area

**9:55** Letter of Support by the County Commissioners to Southwest Counseling Service for Gatekeeping in SWCO in relationship to Title 25

**10:05** Request Adoption of Bond Resolution to Refund Certain

Tax-Exempt Bonds and Approval of Related Documents

- 10:20** Vehicle Transfers/Exchange
- 10:30** Acceptance of 2016-2017 MOA with City of Rock Springs for the DSP Program
- 10:40** Approval of the Amendment to the Volunteers of America Northern Rockies 2014/2015 Subaward Grant Agreement
- 10:45** Approval of the FY 2017 Selective Traffic Enforcement Grant Agreement
- 10:50** MOU between DCI and the Sweetwater County Sheriff's Office- Livescan Fingerprint Machine
- 11:00** Request Approval of Health Insurance Plan Summary Plan Description
- 11:05** Updates between the SWCO Board of County Commissioners and the Memorial Hospital Board of Trustees

**OTHER**

**11:50**

**EXECUTIVE SESSION AS NEEDED**

**ADJOURN**

[Per Wyo. Stat. §18-3-516\(f\) County information can be accessed on the County's website at www.sweet.wy.us](http://www.sweet.wy.us)

**The draft packet will be available on the county website  
on Friday afternoon (prior to the meeting)**

October 18, 2016  
Green River, WY

The Board of County Commissioners met this day at 8:30 a.m. in Regular Session with all commissioners present. The meeting opened with the Pledge of Allegiance.

**Approval of Agenda**

*Commissioner Kolb moved to approve the agenda. Commissioner Van Matre seconded the motion.* The motion carried.

**Approval of Minutes: October 4, 2016**

*Commissioner West moved to approve the minutes. Commissioner Wendling seconded the motion.* The motion carried.

**Acceptance of Bills**

**Approval of County Vouchers/Warrants, Monthly Statements, Bonds, and Abates/Rebates**

*Commissioner Wendling moved to approve the county vouchers/warrants, monthly statements, bonds and the abates/rebates. Commissioner West seconded the motion.* The motion carried with Commissioner Kolb recusing himself.

\*\*\*\*\*

The following bonds were placed on file:

Harry Horn                      Memorial Hospital of SWCO, Treasurer                      \$50,000.00

\*\*\*\*\*

The following abates/rebates were placed on file:

TAXPAYER	VALUATION	TAXPAYER	VALUATION
MERIDIAN LEASING CORP	-1,194.00	MEMORIAL PRODUCTION OPERATING LLC	-23.00
BP AMERICA PROD CO	-2,051.00	WARPNESS JENNIFER C & BAKKALA DEANNA L	-4,244.00
BP AMERICA PROD CO	-858.00	KERR MCGEE OIL & GAS ONSHORE LP	-3,687.00
BP AMERICA PROD CO	-339.00	BP AMERICA PRODUCTION CO	-20,084.00
MEMORIAL PRODUCTION OPERATING LLC	-13,808.00	BLACK DIAMOND MINERALS LLC	-5,655.00
MEMORIAL PRODUCTION OPERATING LLC	-1,120.00	CROWN ENERGY PARTNERS LLC	-151.00
MEMORIAL PRODUCTION OPERATING LLC	-22.00	CROWN ENERGY PARTNERS LLC	-563.00

\*\*\*\*\*

**Commissioner Comments/Reports**

**Commissioner Wendling**

Commissioner Wendling reported on the meetings he attended to include the Joint Minerals Business and Economic Development Interim Committee members meeting and reception, a Chamber of Commerce Luncheon, the STAR Transit Board, a Wyoming Coal Informational Committee meeting, a Young at Heart Special Board meeting, an Open House at the Sweetwater County Fire Station, Communities Protecting the Green, and the Sweetwater County Library Board.

**Chairman Johnson**

Chairman Johnson read aloud the facility report received from Facilities Manager Chuck Radosevich. Chairman Johnson noted that he will be attending the Rock Springs RMP meeting to be held on October 18-20, 2016. Chairman Johnson presented an amendment to the Memorandum of Understanding between Sweetwater County and the Bureau of Land Management for the purpose of conducting an environmental analysis and preparing a draft and final Environmental Impact Statement for the proposed Sagebrush Focal Area Withdrawal for the commission to consider. Following discussion, Chairman Johnson entertained a motion to approve the amended Memorandum of Understanding and authorize the Chairman to sign. *Commissioner Wendling so moved. Commissioner Van Matre seconded the motion.* The motion carried. Chairman Johnson noted that he met with Senator Barrasso's State Natural Resource Advisor Travis McNiven and explained that the issues he discussed with him were regarding the Wilderness Study Areas (WSA) Study/Evaluation and that all interested parties involved should submit their recommendation. Chairman Johnson also noted that he addressed the preservation of Little Mountain and the Greater Little Mountain areas with Mr. McNiven. Chairman Johnson explained that he met with Wyoming County Commissioners Association Director Pete Obermueller and expressed that he took strong exception on the way that they came up with the Wyoming Public Lands Initiative (WPLI). Chairman Johnson explained that, while Governor Mead was in Rock Springs for the Chamber Luncheon, Chairman Johnson addressed the lack of understanding of a rainy day fund for cities, towns and counties. Chairman Johnson explained that he attended a small group meeting with Governor Mead, Green River Mayor Rust, Rock Springs Mayor Demshar, along with other key people within the county relative to the industrial complex. Governor Mead expressed to Chairman Johnson that he would like to see the industrial complex move forward and asked to come up with a committee to see where the complex could be located within Sweetwater County. Chairman Johnson recommended that he and Commissioner Wendling be the county representative liaisons along with Land Use Specialist Mark Kot, Land Use Director Eric Bingham and Public Works Director Gene Legerski and explained that both mayors would select liaisons for the cities and discussed the possibilities of including other entities. Following discussion, the commission concurred with the understanding that the commission as a whole be part of the process.

**Commissioner Van Matre**

Commissioner Van Matre reported that he attended the SLIB Board meeting October 5-6, 2016 and shared that the Sweetwater County/Rock Springs Airport was awarded \$2 million to complete its new runway, hanger and terminal building project.

Commissioner Van Matre explained that the runway has been completed and the hangers are scheduled to be completed November of 2017 and that the terminal building is scheduled to be completed March of 2018. Commissioner Van Matre noted that he attended the reception for the Joint Minerals Business and Economic Development Interim committee members and the Wyoming Coal Informational Committee meeting. Commissioner Van Matre reported on the meetings he attended including the Hospital Board, Airport Board, and the Museum Board. Commissioner Van Matre noted that he visited with IT Director Tim Knight, Human Resources Director Garry McLean, and will be meeting with Golden Hour Senior Director Sheela Schermetzler.

#### **Commissioner West**

Commissioner West reported that he attended the Rock Springs Chamber of Commerce Luncheon where Governor Mead was the guest speaker. Commissioner West also reported that he attended the reception for the Joint Minerals Business and Economic Development Interim committee members and the Wyoming Coal Informational Committee meeting.

#### **Commissioner Kolb**

Commissioner Kolb reported on the meeting he attended with Chairman Johnson, Memorial Hospital Board of Director members Joe Manatos and Richard Mathey relative to issues of agreement with the hospital's conduct and shared that he looks forward to a statute driven set of agreements. Commissioner Kolb noted that he spoke with Deputy County Attorney James Schermetzler, County Attorney Danny Erramouspe, Land Use Director Eric Bingham, Human Resources Director Garry McLean, Facilities Manager Chuck Radosevich, County Treasurer Robb Slaughter, and Public Works Director Gene Legerski. Commissioner Kolb explained that he was out of town with medical issues and expressed that he wished he could have attended meetings but extended his appreciation to his co-commissioners for attending the events. Commissioner Kolb explained that he received a letter from District Court Judge James inviting him to attend a meeting on October 20, 2016 to identify the causes of the dramatic increases in Title 25 cases and to explore solutions to the financial repercussions of that increase.

#### **Break**

Chairman Johnson called for a break.

#### **County Resident Concerns**

Chairman Johnson opened county resident concerns. Hearing no comments, the county resident concerns comment period was closed.

#### **Action/Presentation Items**

##### **STAR Transit Board Appointment (due to resignation of Sarah Havens)- this will fill an unexpired term through 7-1-19**

Following discussion, *Commissioner Wendling moved to appoint Stephen Shea to the STAR Transit Board to serve the remainder of the term. Commissioner West seconded the motion.* The motion carried with Commissioner Kolb voting in opposition.

##### **Request Adoption of Inducement Resolution to Refund Certain Tax-Exempt Bonds**

FMC Corporation- Corporate Finance Assistant Treasurer Brian Blair presented Resolution 16-10-CC-01. Following discussion, Chairman Johnson entertained a motion to approve Resolution 16-10-CC-01 with an understanding that FMC will pay a fee of at least \$1,000.00 and any other expense over \$1,000.00. *Commissioner Van Matre so moved. Commissioner Kolb seconded the motion.* Following further discussion, the motion carried.

### **RESOLUTION NO. 16-10-CC-01**

#### **AUTHORIZATION TO PROCEED TOWARD THE ISSUANCE AND SALE OF \$90,000,000 SOLID WASTE DISPOSAL REFUNDING REVENUE BONDS (FMC CORPORATION PROJECT) SERIES 2016 OF SWEETWATER COUNTY, WYOMING, TO REFUND REFUNDING REVENUE BONDS PREVIOUSLY ISSUED TO REFUND BONDS ISSUED TO FINANCE COSTS OF CERTAIN SOLID WASTE DISPOSAL FACILITIES FOR FMC CORPORATION**

WHEREAS, Sweetwater County, Wyoming (the "County"), is authorized pursuant to the provisions of Sections 15-1-701 to 15-1-710, inclusive, Wyoming Statutes, 1977, as amended (the "Act"), to issue revenue bonds to defray the cost of acquiring or improving any land, building, pollution control facility, including solid waste disposal facilities, or other improvement and all necessary and appurtenant real and personal properties, whether or not in existence, suitable for manufacturing, industrial, commercial or business enterprises, and to refund the same; and

WHEREAS, pursuant to and in accordance with the provisions of the Act, the County has heretofore issued its \$90,000,000 Solid Waste Disposal Refunding Revenue Bonds (FMC Corporation Project) Series 2005 (the "Prior Bonds") in order to refund certain bonds previously issued by the County to finance the costs of acquiring, improving, constructing and installing certain facilities for the disposal of solid wastes (the "Project") at the trona mining and soda ash manufacturing facilities previously owned by FMC Corporation, a Delaware corporation (the "Company") and now owned by Tronox Alkali Wyoming Corporation, a Delaware corporation, located in the County; and

WHEREAS, the Company has requested that the County agree to authorize, issue, sell and deliver, at a future time mutually agreeable to the County and the Company, the County's Solid Waste Disposal Refunding Revenue Bonds (FMC Corporation Project) Series 2016 in an aggregate principal amount of \$90,000,000 (the "Bonds"), pursuant to and in accordance with the provisions of the Act, in order to refund the Prior Bonds; and

WHEREAS, it is contemplated that a loan agreement (the "Loan Agreement") with respect to refunding the Prior Bonds will be executed by the Company and the County contemporaneously with the issuance of the Bonds, providing for the payment by the Company of sums sufficient in amount to pay the principal of, and premium, if any, and interest on the Bonds and any expenses of the County in connection with the Bonds as the same become due and payable; and

WHEREAS, in connection with the issuance of the Bonds and in accordance with the County's policy for issuing industrial development revenue bonds (the "Policy"), the County will charge the Company an issuance fee of \$1,000, plus actual expenses of the County incurred in connection with the issuance of the Bonds, and the Company has agreed to pay such amounts; and

WHEREAS, this Board of County Commissioners has determined that refunding the Prior Bonds will serve the purposes of the Act:

NOW, THEREFORE, Be It Resolved by the Board of County Commissioners of Sweetwater County, Wyoming, as follows:

*Section 1.* Based upon information presented to the Commissioners by the Company and in accordance with the Act and the Policy, the Commissioners hereby agree to proceed toward the issuance by the County of the Bonds.

*Section 2.* The County hereby agrees that it will authorize and issue the Bonds, in an aggregate maximum principal amount of \$90,000,000, and will take all further action which is necessary or desirable in connection therewith, and its officers are hereby authorized and directed to take all actions necessary or desirable in connection with refunding the Prior Bonds.

*Section 3.* The County will authorize and execute prior to or contemporaneously with the issuance of the Bonds (a) the Loan Agreement whereby the Company will make payments sufficient to pay all of the principal of, and premium, if any, and interest on the Bonds, and (b) such other instruments and documents as shall be necessary or desirable in connection with the issuance of the Bonds and the refunding of the Prior Bonds.

*Section 4.* Costs of refunding the Prior Bonds will be paid out of the proceeds from the sale of the Bonds and moneys to be provided by the Company, and the Bonds will not be a general obligation of the County, nor shall the Bonds, including interest thereon, constitute or give rise to a pecuniary liability of the County, or a charge against its general credit or taxing powers, but the Bonds shall be secured and payable only by a pledge of the payments derived from the Company pursuant to the Loan Agreement.

*Section 5.* Nothing contained in this Resolution shall constitute a general obligation of the County, within the meaning of the constitution or statutes of the State of Wyoming nor give rise to the pecuniary liability of the County, or a charge against its general credit or taxing powers.

*Section 6.* That this Resolution and the entire proceedings had in its adoption shall forthwith be published in the *Rock Springs Daily Rocket-Miner*, a newspaper published in Rock Springs, Wyoming, and of general circulation in Sweetwater County, Wyoming.

*Section 7.* That the provisions of this Resolution are hereby declared to be separable and if any section, phrase or provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions.

*Section 8.* That all resolutions or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

*Section 9.* All action (not inconsistent with the provisions of this Resolution) heretofore taken by the Commissioners and the officers of the County with respect to refunding the Prior Bonds and the authorization, issuance and sale of the Bonds be, and the same hereby is, ratified, approved and confirmed.

Section 10. Immediately after its adoption, this Resolution shall be signed by the Chairman and the County Clerk, shall be recorded in a book kept for that purpose and shall take immediate effect.

Passed and approved October 18, 2016.

THE BOARD OF COUNTY COMMISSIONERS  
OF SWEETWATER COUNTY, WYOMING

\_\_\_\_\_  
Wally J. Johnson, Chairman

\_\_\_\_\_  
John K. Kolb, Member

\_\_\_\_\_  
Don Van Matre, Member

\_\_\_\_\_  
Randal M. Wendling, Member

ATTEST:

\_\_\_\_\_  
Steven Dale Davis, County Clerk

\_\_\_\_\_  
Reid O. West, Member

\*\*\*\*\*

**Presentation of Sweetwater Solar Energy Project**

Hanwha Q Cells Permitting Director Betsy Biesty, Operations Manager Ken Caustack, and Stantec Representative Stephanie Lauer were present to propose construction of an 80 MW solar facility on federal lands in Sweetwater County, Wyoming. Following discussion, the commission expressed their appreciation for the update.

**Drop Structure Project Update**

Sweetwater County Conservation District Board Chair Mary Thoman, Board Treasurer Dwight Bliss, and District Clerk Karen Pecheny provided an update on the Drop Structure Project. Following discussion, the commission expressed their appreciation for the update.

**Break**

Chairman Johnson called for a break.

**Sweetwater County Events Complex Update**

Sweetwater County Events Complex Executive Director Larry Lloyd, Marketing & Events Manager Kandi Pendleton, and Facilities Director Drew Varley provided an update on the schedule of events for 2017 and 2018, maintenance and the time frame for the installation of the stalls. Following discussion, the commission expressed their appreciation for the update.

**Sweetwater County Lodging Tax Board: Amendment to Joint Powers Agreement**

Sweetwater County Joint Travel & Tourism Board Executive Director Jenissa Meredith provided an update explaining that the board will be requesting that the Joint Powers Agreement, that formed the Lodging Tax Board, be amended to remove the Wyoming Travel Commission reference as it became the Wyoming Office of Tourism, the Lodging Tax collection percentage from 2% to 3%, and to request the extension of board member term limits. She also shared that, once the Attorney General approves the amendment, the Joint Travel and Tourism Board will bring the amended resolution before the commission for their consideration. Following discussion, the commission expressed their appreciation for the update.

**Approval of the FY 2016 Emergency Management Performance Grant Agreement and Point-of-Contact Form**

Grants Manager Krisena Marchal and Sheriff Lowell presented the FY 2016 Emergency Management Performance Grant Agreement and Point-of-Contact Form. Discussion ensued relative to the recent threat that was a hoax. Sheriff Lowell explained that Emergency Management Director Judy Roderick did not receive notification and the state has admitted fault and currently are looking into procedural improvements; and, on a county level, are working with Human Resources to develop procedures. Chairman Johnson entertained a motion to approve, and authorize the Chairman to sign, the Fiscal Year 2016 Emergency Management Performance Grant Agreement and Point-of-Contact Form. *Commissioner Wendling so moved. Commissioner Kolb seconded the motion.* The motion carried.

**Letter of Support for WYDOT to Conduct a Speed Study on HWY 374 West of Green River**

Public Works Director Gene Legerski presented a letter of support for WYDOT to conduct a speed study on HWY 374 West of Green River. Following discussion, *Commissioner West moved to approve the request. Commissioner Van Matre seconded the motion.* The motion carried.

**Request to Re-Staff Vacant Position in the Custodial Department**

Custodial Supervisor Karen Bailey and Human Resource Specialist Brenda Rael requested authorization to re-staff a vacant position in the custodial department. Following discussion, *Commissioner Van Matre moved to replace the position with a full time position. Commissioner Wendling seconded the motion.* The motion carried with Commissioner Kolb voting in opposition.

**Request to Re-Staff Vacant Position in the County Attorney's Office**

County Attorney Dan Erramouspe and Human Resource Specialist Brenda Rael requested authorization to re-staff a vacant position in the attorney's office. Following discussion, Chairman Johnson entertained a motion to approve the request. *Commissioner Kolb so moved. Commissioner West seconded the motion.* The motion carried.

**Executive Session(s)-Personnel/Legal**

Chairman Johnson entertained a motion to enter into executive session for legal and real estate. *Commissioner Kolb so moved. Commissioner Van Matre seconded the motion.* The motion carried. A quorum of the commission was present.

After coming out of executive session, Chairman Johnson explained that no action was required.

**Adjourn**

There being no further business to come before the Board this day, the meeting was adjourned subject to the call of the Chairman.

This meeting was recorded and is available from the County Clerk's office at the Sweetwater County Courthouse in Green River, Wyoming

THE BOARD OF COUNTY COMMISSIONERS  
OF SWEETWATER COUNTY, WYOMING

\_\_\_\_\_  
Wally J. Johnson, Chairman

\_\_\_\_\_  
John K. Kolb, Member

\_\_\_\_\_  
Don Van Matre, Member

\_\_\_\_\_  
Randal M. Wendling, Member

\_\_\_\_\_  
Reid O. West, Member

ATTEST:

\_\_\_\_\_  
Steven Dale Davis, County Clerk

\*\*\*\*\*

	DATE	AMOUNT	WARRANT #'S	ADVICE #'S
EAL	10/21/2016	772,642.12	71606-71625	
EAL	10/28/2016	15,921.89		
EAL	11/1/2016	947,118.21		

	Check #	Advice #
Payroll Run	71605	18692
Payroll Run		
Payroll Run		

TOTAL AMOUNT \$1,736,755.06

John Kolb should abstain from approving the voucher to Alpha Petroleum Service Inc for \$2,480.00  
 Vouchers in the above amount are hereby approved and ordered paid this date of 11/01/16

\_\_\_\_\_  
 Wally J. Johnson, County Commissioner

\_\_\_\_\_  
 John K. Kolb, County Commissioner

\_\_\_\_\_  
 Don Van Matre, County Commissioner

\_\_\_\_\_  
 Randal M. Wendling, County Commissioner

Attest:

\_\_\_\_\_  
 Reid O. West, County Commissioner

\_\_\_\_\_  
 County Clerk

**Authorization for Bonds**

**11-1-16**

Bridget Renteria

SWCO Joint Travel & Tourism Board, Treasurer \$10,000.00

THE BOARD OF COUNTY COMMISSIONERS  
FOR SWEETWATER COUNTY, WYOMING

\_\_\_\_\_  
Wally J. Johnson, Chairman

\_\_\_\_\_  
John K. Kolb, Member

\_\_\_\_\_  
Donald Van Matre, Member

Attest:

\_\_\_\_\_  
Randal M. Wendling, Member

\_\_\_\_\_  
Steven Dale Davis, County Clerk

\_\_\_\_\_  
Reid O. West, Member

\_\_\_\_\_  
James P. Schermetzler, Deputy County Attorney

Wyoming



# Western Surety Company

## OFFICIAL BOND AND OATH

KNOW ALL PERSONS BY THESE PRESENTS:

Bond No. 55030535

That we Bridget Renteria,

of Rock Springs, Wyoming, as Principal, and WESTERN SURETY COMPANY, a corporation duly licensed to do business in the State of Wyoming, as Surety, are held and firmly bound

unto \_\_\_\_\_, the State of Wyoming, in the penal

sum of Ten Thousand and 00/100 DOLLARS (\$ 10,000.00), to which payment well and truly to be made, we bind ourselves and our legal representatives, jointly and severally, firmly by these presents.

Dated this 15th day of August, 2016.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas, the above bounden

Appointed

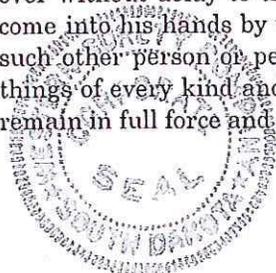
Principal was duly Elected  to the office of Treasurer

in the of Sweetwater County Joint Travel & Tourism Board,

and State aforesaid for the term beginning December 10, 2016, and ending

December 10, 2017.

NOW THEREFORE, If the above bounden Principal and his deputies shall faithfully, honestly and impartially perform all the duties of his said office of Treasurer as is or may be prescribed by law, and shall with all reasonable skill, diligence, good faith and honesty safely keep and be responsible for all funds coming into the hands of such officer by virtue of his office; and pay over without delay to the person or persons authorized by law to receive the same, all moneys which may come into his hands by virtue of his said office; and shall well and truly deliver to his successor in office, or such other person or persons as are authorized by law to receive the same, all moneys, books, papers and things of every kind and nature held by him as such officer, the above obligation shall be void, otherwise to remain in full force and effect.



Bridget Renteria

Principal

WESTERN SURETY COMPANY

By Paul T. Brydlat

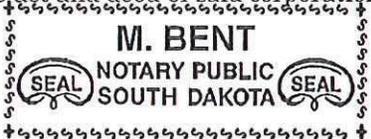
Paul T. Brydlat, Vice President

ACKNOWLEDGMENT OF SURETY  
(Corporate Officer)

STATE OF SOUTH DAKOTA }  
County of Minnehaha } ss

On this 15th day of August, 2016, before me, appeared

Paul T. Bruflat to me personally known, being by me sworn, and did say that he is the aforesaid officer of WESTERN SURETY COMPANY, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and said officer acknowledged said instrument to be the free act and deed of said corporation.



My Commission Expires March 2, 2020

M. Bent  
Notary Public

OATH OF OFFICE

I do solemnly swear (or affirm) that I will support, obey and defend the constitution of the United States, and the constitution of the state of Wyoming; that I have not knowingly violated any law related to my election or appointment, or caused it to be done by others; and that I will discharge the duties of my office with fidelity.

Bridget Renteria

State of Wyoming }  
County of Sweetwater } ss

This Oath of Office was subscribed and sworn to before me by Bridget Renteria on this 15th day of October, 2016



Hollie Batey  
Notary Public, Wyoming

ACKNOWLEDGMENT OF PRINCIPAL

THE STATE OF WYOMING }  
County of Sweetwater } ss

On this 6th day of October, 2016, before me, personally appeared

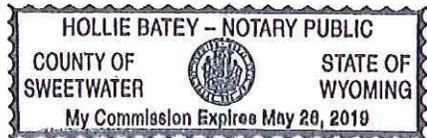
Bridget Renteria, to me known to be the person described in and who executed the foregoing instrument as Principal, and acknowledged that the same was executed as

\_\_\_\_\_ free act and deed.

My commission expires

May 26, 2019

Hollie Batey  
Notary Public, Wyoming



# BOARD OF COUNTY COMMISSIONERS

## MEETING REQUEST FORM

Meeting Date Requested: 11/01/2016	Presenters Name & Title: Shaleas Harrison BLM Wild Lands Community Organizer
Department or Organization: Wyoming Wilderness Association	Contact Phone and E-mail: (307) 272-7136, shaleas@wildwyo.org
Exact Wording for Agenda: Inventorying Lands with Wilderness Characteristics in the BLM Rock Springs Planning Area	Preference of Placement on Agenda & Amount of Time Requested for Presentation: Beginning of meeting, ~15 min presentation
Will there be Handouts? (If yes, include with meeting request form) Yes	Will handouts require SIGNATURES: yet
Additional Information: Handouts and powerpoint will be e-mailed the Wednesday prior to November 1st.	

• **INSTRUCTIONS**

- All requests to be added to the agenda will need to be submitted in writing on the "Meeting Request Form" by Wednesday at 12:00 p.m. prior to the scheduled meeting and returned in person or electronically to Clerk Sally Shoemaker at: [shoemakers@sweet.wy.us](mailto:shoemakers@sweet.wy.us)
- All handouts are also due by Wednesday at 12:00 p.m. prior to the scheduled meeting date. Handouts may be submitted to Clerk Sally Shoemaker either in person or electronically. ***\*\*If your handout is not accompanied with the request to be added to the agenda, your request will be dismissed and you may reschedule for the next meeting provided the handout(s) are received.\*\****
- Any documents requiring **Board Action** or **signature** are considered agenda items and need to be requested in the same manner.

## Sally Shoemaker

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**From:** Shaleas Harrison <shaleas@wildwyo.org>  
**Sent:** Tuesday, October 25, 2016 12:53 PM  
**To:** Sally Shoemaker  
**Subject:** Re: items for meeting  
**Attachments:** Field Tour Request SH.docx; Handout.pdf; Handouts.pdf; release of preliminary alternatives Sign on Letter.docx

Hey Sally,

Below are the materials for the meeting on Nov. 1st. I have attached:

- My powerpoint
- 2 files that are handouts to be included in commissioner packet
- 2 letters to be reviewed and signed by commissioners following the presentation, to also be included in commissioner packet

These may be too large to send in one email so I may send some of the items in a subsequent email.

It says in the meeting request form that items requiring signature must be emailed to Vickie Eastin. Do you have her email so I can pass these along? Please let me know if you have any questions. Also, whereThanks,

Shaleas

On Tue, Oct 25, 2016 at 12:51 PM, Shaleas Harrison <[shaleas@wildwyo.org](mailto:shaleas@wildwyo.org)> wrote:  
Hey Sally,

Below are the materials for the meeting on Nov. 1st. I have attached:

- My powerpoint
- 2 files that are handouts to be included in commissioner packet
- 2 letters to be reviewed and signed by commissioners following the presentation, to also be included in commissioner packet

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It says in the meeting request form that items requiring signature must be emailed to Vickie Eastin. Do you have her email so I can pass these along? Please let me know if you have any questions. Also, whereThanks,

Shaleas

--

Shaleas Harrison  
BLM Wild Lands Community Organizer  
[Wyoming Wilderness Association](http://WyomingWildernessAssociation.org)  
(307) 272-7136  
[shaleas@wildwyo.org](mailto:shaleas@wildwyo.org)



--  
Shaleas Harrison  
BLM Wild Lands Community Organizer  
[Wyoming Wilderness Association](#)  
(307) 272-7136  
[shaleas@wildwyo.org](mailto:shaleas@wildwyo.org)



# Lands with Wilderness Characteristics BLM Manuals- Issued 2012

Manual 6310-Conducting LWC Inventory	Manual 6320-Considering LWC in Planning Process
<b>When:</b> 1. Wilderness issue identified during scoping 2. Planning process 3. New information 4. Projects requiring NEPA analysis 5. New lands acquired by BLM	<b>Factors to Consider during a Land use plan:</b> 1. Manageability 2. Resource Values 3. Release of WSA-consider managing as LWC
<b>How:</b> 1. Size, naturalness, solitude, supplemental values 2. Appendix for documenting inventory-GPS, photos, map, detailed description, etc..	<b>Land Use Planning Process:</b> 1. Making a plan 2. Scoping 3. Analysis 4. Formulating Alternatives 5. Consequences 6. Final decision

## 2015 WY Travel- & Tourism- Generated Impacts

### Tourism

- Visitors in Wyoming **spent \$3.3 billion in 2015.**
- Wyoming tourism supported nearly **32,000 full and part-time jobs, or 12% of Wyoming's workforce.**
- Overnight visitation grew in 2015 to 10.5 million visitors, a **4.2% increase** from 2014. <sup>[1]</sup>
- Visitor spending **generated \$170 million in local and state tax revenues.** <sup>[2]</sup>

### Outdoor Industry

- In 2012, generated 4.5 billion in consumer spending, 50,000 jobs, 1.4 billion in wages and salaries, 300 million in state and local tax revenue. <sup>[3]</sup>
  - Governor Mead to create a task force to promote outdoor recreation in Wyoming

[1] Source: SMARI, 2015 Overnight Visitor Profile Research

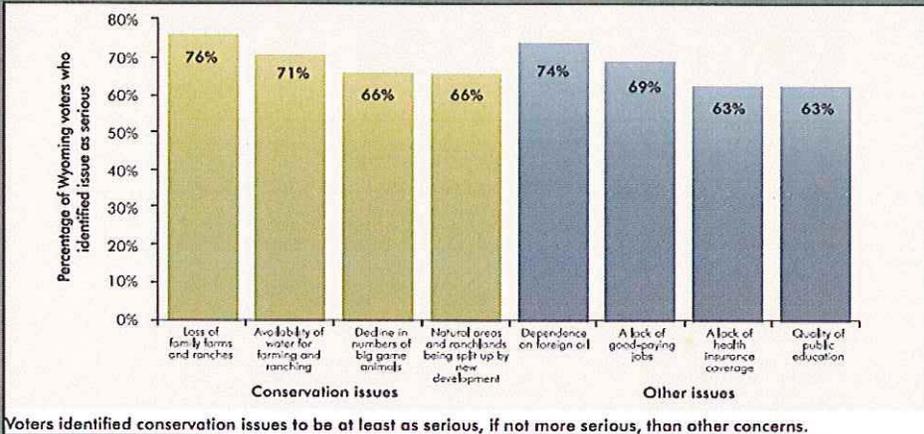
[2] Source: Dean Runyan Associates, Travel Impact Report, April 2016

[3] Source: Outdoor Industry Report for Wyoming Economy, 2012

# Public Opinion on Conservation in Wyoming

Results from 2004 and 2007 Statewide Wyoming Opinion Polls<sup>3</sup>

Conservation Project	Extremely/Very Important	
	2004 Poll	2007 Poll
Protecting water quality of rivers, lakes, and streams	77%	70%
Preserving family farms and ranches	66%	67%
Protecting fish and wildlife habitat	66%	66%
Protecting open spaces and scenic vistas	53%	73%



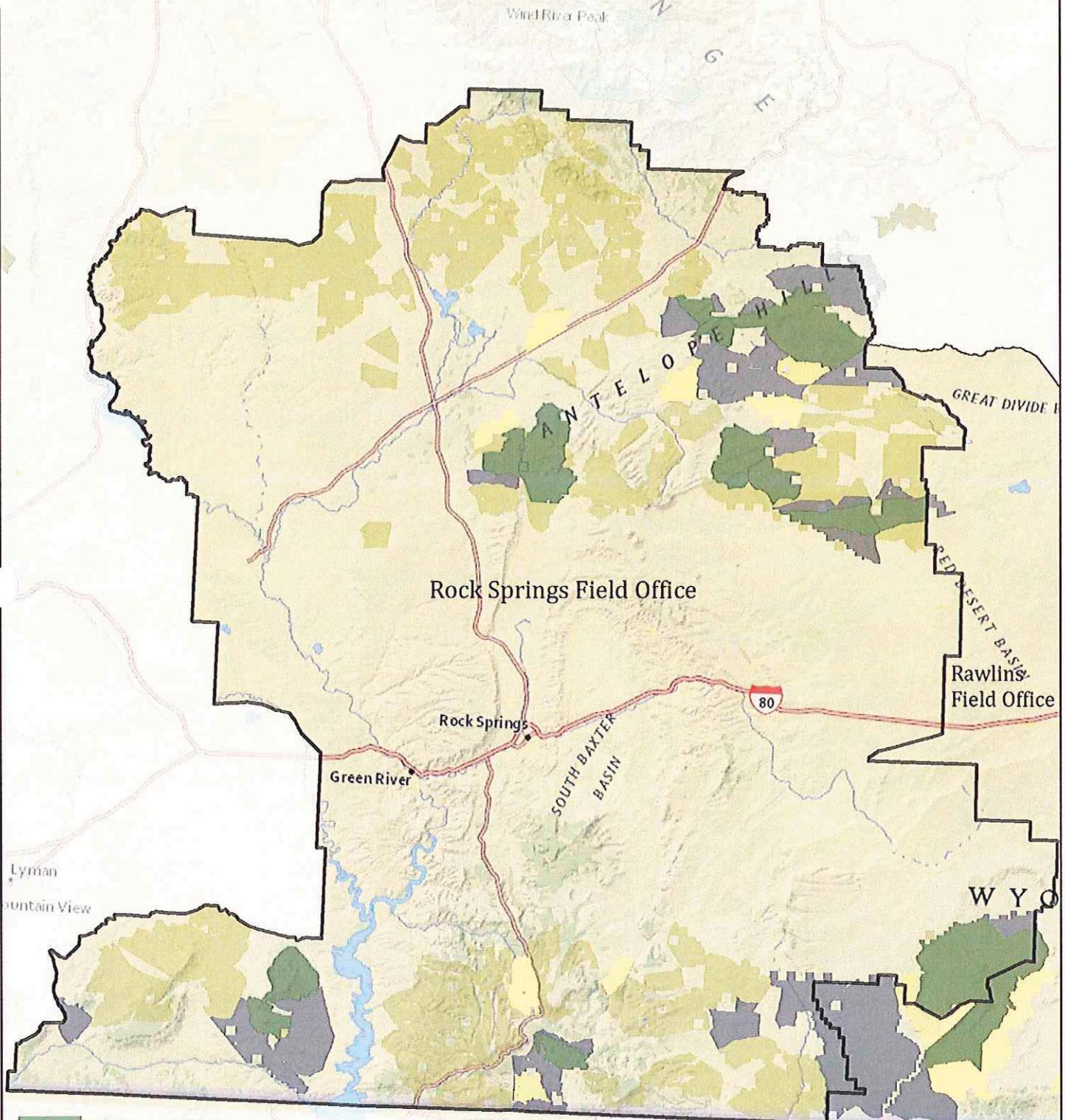
Voters identified conservation issues to be at least as serious, if not more serious, than other concerns.

[3] Source: Poll conducted by the Ruckelshaus Institute at the University of Wyoming

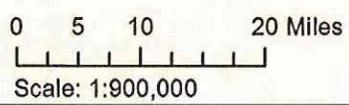
[4] 2014 Public Opinion on Natural Resources Conservation in Wyoming, Ruckelshaus Institute of UW

# Overview of Lands with Wilderness Characteristics

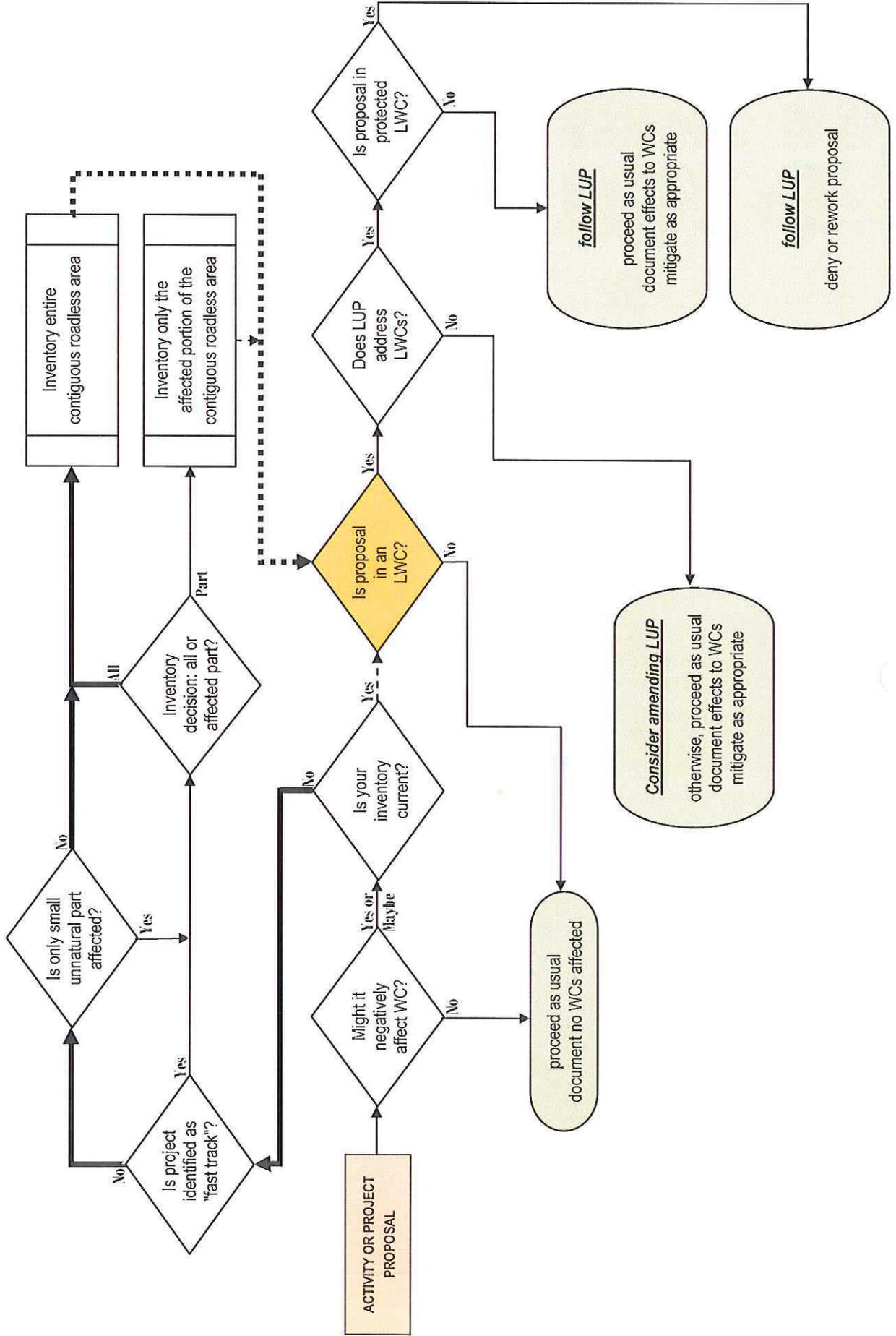
## Rock Springs Field Office



-  Wilderness Study Areas
-  BLM LWC
-  Citizen-identified LWC
-  Unverified/Roadless Areas >5000 ac.



# Flowchart for Proposed Projects & Lands with Wilderness Characteristics



## BOARD OF COUNTY COMMISSIONERS

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- REID O. WEST, COMMISSIONER

80 WEST FLAMING GORGE WAY, SUITE 109 -  
GREEN RIVER, WY 82935

PH: (307) 872-3890 - FAX - (307) 872-3992

November 1, 2016

Kimberlee Foster  
280 US-191  
Rock Springs, WY 82901

Regarding: Releasing Preliminary Management Alternatives for the Rock Springs RMP

Dear Ms. Foster:

We are writing to express our desire for the BLM to release preliminary management alternatives for the Rock Springs Resource Management Plan. Since original scoping in 2011, the public has been given *no* chance for input on this plan, *nor does the public understand the direction and approach* the BLM is currently taking on the management of this landscape.

The National Environmental Policy Act requires that Federal agencies take a *hard look* at drafting and evaluating a reasonable range of alternatives. We understand that this work requires a considerable amount of time, leading to a significant gap between scoping and the publication of a Draft EIS. However, this gap results in questions about the status of the plan. Providing preliminary information about the alternatives being analyzed would alleviate public uncertainty and tension about the status of the plan and allow citizens an opportunity to become more invested in the management of the Rock Springs planning area.

BLM offices in other states have provided preliminary management alternatives for public review and comment. For example, the Tucson field office in Arizona released preliminary management alternatives for the San Pedro National Conservation Area's land-use plan. This also occurred at the Las Cruces District Office in New Mexico, when they released preliminary alternatives and gathered information from several meetings with the public to modify the range of alternatives that would be considered in two resource management plans. Ed Roberson, BLM, Las Cruces District Office Manager said in a press release, "We look forward to discussing these preliminary alternatives and receiving input from the public. Our hope is that the range of management options covered in the preliminary alternatives, fit within the public's vision for the future management of public lands." We ask that the Rock Springs BLM take a similar action and thereby fulfill its duties to the public.

In summary, it has been five years since the public was involved in this plan, and it will be another year until the Draft RMP is released. Releasing preliminary alternatives will improve this



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issue and allow the BLM to achieve meaningful engagement with the public. This process is about developing a vision with the community concerning BLM's long-term management of the Rock Springs planning area and the BLM establishing sound governance with the public's input. We urge you to release preliminary alternatives and allow us to provide input on the management of this beloved landscape.

Sincerely,

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Wally J. Johnson, Chairman

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John K. Kolb, Member

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Don Van Matre, Member

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Randal M. Wendling, Member

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Reid O. West, Member



## BOARD OF COUNTY COMMISSIONERS

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November 1, 2016

Jo Foster  
BLM Outdoor Recreational Planner  
280 US-191  
Rock Springs, WY 82901

Regarding: Field tour to a citizen-proposed LWC- Sweetwater County Board of County Commissioners Letter of Support.

Dear Ms. Foster:

We would like the BLM to host a field tour in the coming weeks that is open to the public and includes, but is not limited to, interested stakeholders and elected officials of Sweetwater County. We request this field tour to become better educated about the Rock Springs Field office's Lands with Wilderness Characteristic (LWC) inventories.

In 2011, the BLM released an Instruction Memorandum (IM) that directs offices to "conduct and maintain inventories regarding the presence or absence of wilderness characteristics, and to consider identified lands with wilderness characteristics in land use plans and when analyzing projects under [NEPA]." The IM reiterates BLM's commitment to continuing inventory for wilderness characteristics. In 2012, two manuals-6310 and 6320- followed this IM, which provided specific guidance on "Conducting Wilderness Characteristics Inventory on BLM Lands" and "Considering Lands with Wilderness Characteristics in the BLM Land Use Planning Process." These manuals acknowledge that wilderness is a resource that is part of BLM's multiple use mission, requires the BLM to keep a current inventory of wilderness characteristics, and directs the agency to consider protection of these values in land use planning decisions.

Given that the manuals were released after scoping in 2011 and that the inventories on the Rock Springs website are brief and provide little information to the public, we feel it imperative to meet to discuss what the new manuals mean for LWC inventories, how your office interprets the manuals, and the status of LWC inventorying in the Rock Springs Planning Area.

A tour is needed to clarify and interpret wording in the new manuals. More specifically, nearly all of the citizen-proposed LWC inventories have been denied, and there appears to be different interpretations between the field office and citizens on what "natural" means under manual 6310. Manual 6310 also specifies that 'roadless' refer to the absence of roads that have been improved or maintained by mechanical means, yet many unmaintained two track roads have led to the



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disqualification of citizen proposed LWCs. Moreover, manual 6320 under appendix B asserts “the BLM fully explain the basis for each conclusion, including any critical differences between BLM and citizen information”, yet the field office’s response to citizen proposals have been brief and lack sufficient detail or explanation. Attached are two examples of a citizen proposed LWC inventories and your office’s response to these inventories. We feel this is a perfect place for a field tour, and we would like to visit this area because the proposal was recently compiled and is easy to drive to from Rock Springs.

In summary, we would like to become more aware of the LWC inventorying process in the Rock Springs Planning Area. Manuals 6310 and 6320 which direct the BLM to conduct these inventories are important and when accurately compiled, provide for better decision-making at the planning level. Furthermore, a field tour is an effective strategy for preventing conflict by increasing our understanding of LWCs and will promote trust among stakeholders, the public, and the BLM.

Thank you for considering our request.

Sincerely,

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Wally J. Johnson, Chairman

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John K. Kolb, Member

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Don Van Matre, Member

---

Randal M. Wendling, Member

---

Reid O. West, Member



# BOARD OF COUNTY COMMISSIONERS

## MEETING REQUEST FORM

<b>Meeting Date Requested:</b> November 1, 2016	<b>Presenters Name &amp; Title:</b> Linda Acker - Executive Director Mike Bauer - Outpatient Manager
<b>Department or Organization:</b> Southwest Counseling Service	<b>Contact Phone and E-mail:</b> 307-352-6680 lacker@swcounseling.org
<b>Exact Wording for Agenda:</b> Letter of Support by County Commissioners to Southwest Counseling Service for Gatekeeping in Sweetwater County in relationship to Title 25.	<b>Preference of Placement on Agenda &amp; Amount of Time Requested for Presentation:</b> 10 minutes is requested for the presentation time
<b>Will there be Handouts? (If yes, include with meeting request form)</b> No handouts, but a signed letter is requested.	<b>Will handouts require SIGNATURES:</b> The letter of support is requested to be signed.
<b>Additional Information:</b>	
The letter of support is a request to complete an application for funding to develop and implement gatekeeping in relationship to Title 25.	

• **INSTRUCTIONS**

- All requests to be added to the agenda will need to be submitted in writing on the "Meeting Request Form" by Wednesday at 12:00 p.m. prior to the scheduled meeting and returned in person or electronically to Clerk Sally Shoemaker at: [shoemakers@sweet.wy.us](mailto:shoemakers@sweet.wy.us)
- All handouts are also due by Wednesday at 12:00 p.m. prior to the scheduled meeting date. Handouts may be submitted to Clerk Sally Shoemaker either in person or electronically. ***\*\*If your handout is not accompanied with the request to be added to the agenda, your request will be dismissed and you may reschedule for the next meeting provided the handout(s) are received.\*\****
- Any documents requiring **Board Action** or **signature** are considered agenda items and need to be requested in the same manner.

## BOARD OF COUNTY COMMISSIONERS

# SWEETWATER C·O·U·N·T·Y

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80 WEST FLAMING GORGE WAY, SUITE 109 –  
GREEN RIVER, WY 82935

PH: (307) 872-3890 - FAX - (307) 872-3992

November 1, 2016

Carol Day, M.P.A  
Interim Administrator  
Behavioral Health Division  
6101 Yellowstone Rd, Suite 220  
Cheyenne, WY 82002

Re: Letter of Support for Gatekeeping Application for SCS to be designated as the Gatekeeper for the Title 25 process.

Ms. Carol Day,

This letter is in reference to the support of Southwest Counseling Service to continue to develop and implement gatekeeping activities in Sweetwater County. Sweetwater County Commissioners are in support of SCS being designated as the official Gatekeeper in Sweetwater County for the Title 25 process.

The Sweetwater County Commission is supportive of Southwest Counseling Service (SCS) and the work that they provide for our community. SCS is the community based agency that provides mental health and substance abuse services for the residents of Sweetwater County and the West Region. SCS works well with other community agencies and providers to ensure quality care.

If you have any questions, please contact the liaison Reid West at 307-705-1442.

Sincerely,

Wally J. Johnson, Chairman  
Sweetwater County Board of County Commission



# BOARD OF COUNTY COMMISSIONERS

## MEETING REQUEST FORM

<b>Meeting Date Requested:</b> November 1, 2016	<b>Presenters Name &amp; Title:</b> Ryan Bjerke, Partner
<b>Department or Organization:</b> Chapman and Cutler LLP, Bond Counsel	<b>Contact Phone and E-mail:</b> 801-536-1426 bjerke@chapman.com
<b>Exact Wording for Agenda:</b> Request Adoption of Bond Resolution to Refund Certain Tax-Exempt Bonds and Approval of Related Documents	<b>Preference of Placement on Agenda &amp; Amount of Time Requested for Presentation:</b> Action Item; 15 minutes
<b>Will there be Handouts? (If yes, include with meeting request form)</b> Yes	<b>Will handouts require SIGNATURES:</b> Yes
<b>Additional Information:</b>	
At its October 18, 2016 meeting, the Board of County Commissioners adopted the Inducement Resolution relating to the refunding of the County's Solid Waste Disposal Refunding Revenue Bonds (FMC Corporation Project) Series 2005. At its November 1, 2016 meeting, the Board is kindly requested to adopt the Bond Resolution and approve the related documents so the County's Solid Waste Disposal Refunding Revenue Bonds (FMC Corporation Project) Series 2016 may be issued on November 30, 2016. Similar to prior County and FMC tax-exempt bond financings, the Series 2016 Bonds will not be a debt of the County, but solely a debt of FMC.	

### • INSTRUCTIONS

- All requests to be added to the agenda will need to be submitted in writing on the "Meeting Request Form" by Wednesday at 12:00 p.m. prior to the scheduled meeting and returned in person or electronically to Clerk Sally Shoemaker at: [shoemakers@sweet.wy.us](mailto:shoemakers@sweet.wy.us)
- All handouts are also due by Wednesday at 12:00 p.m. prior to the scheduled meeting date. Handouts may be submitted to Clerk Sally Shoemaker either in person or electronically. ***\*\*If your handout is not accompanied with the request to be added to the agenda, your request will be dismissed and you may reschedule for the next meeting provided the handout(s) are received.\*\****
- Any documents requiring **Board Action** or **signature** are considered agenda items and need to be requested in the same manner.

## Sally Shoemaker

---

**From:** Todd Freier <freier@chapman.com>  
**Sent:** Wednesday, October 26, 2016 11:09 AM  
**To:** Sally Shoemaker; Dale Davis - County Clerk  
**Cc:** James Schermetzler; Dan Erramouspe - County Attorney; Jacquelyn Morrison - County Attorneys; William Libit  
**Subject:** FMC Agenda Item: BOCC November 1, 2016 Meeting  
**Attachments:** FMC Nov. 1 Agenda Request.pdf; Bond Resolution 4073613.01.05.doc; Loan Agreement 4071801.01.10.docx; Indenture 4071799.01.08.docx; Tax Agreement 4078518.01.08.docx; FMC-BAML - Bond Purchase Agreement 4836-9143-0714 v.3.doc; Preliminary Official Statement - FMC - BAML 2016 4836-4404-1018 v.4.doc; Specimen Bond 4086202.01.01.docx; Letter of Instructions 4083264.01.04.doc; Issuer Certificate 4083627.01.02.doc; Form 8038 4085974.01.02.pdf

Ms. Shoemaker and Mr. Davis:

Good morning. In connection with FMC Corporation's request to refund certain outstanding tax-exempt bonds issued by Sweetwater County and to place this item on the Sweetwater Board of County Commissioners' November 1 meeting agenda, please find the following documents:

- Board of County Commissioners Meeting Request Form
- Bond Resolution No. 16-11-CC-01, including proceedings
- Loan Agreement
- Indenture of Trust
- Tax Exemption Certificate and Agreement
- Bond Purchase Agreement
- Preliminary Official Statement
- Specimen Bond
- Letter of Instructions to 2005 Trustee
- Certificate of Sweetwater County, Wyoming
- IRS Form 8038

Dale, I will reach out to you shortly to discuss providing you (and the BOCC) with execution copies of the above documents. Please note that once the signature pages to the above documents are signed and received by me, I will hold them in escrow pending Mr. Schermetzler's authorization to release them on the closing date of this transaction, scheduled for November 30, and with respect to the Bond Purchase Agreement, on the pricing date of the Series 2016 Bonds, scheduled for November 17.

Please let me know if you have any questions regarding this email or the attached, or if you need anything further. I kindly request that you confirm receipt of this email.

Again, thank you for your help with this matter, it is appreciated.

Best regards,  
Todd.

Todd E. Freier | Senior Counsel  
Chapman and Cutler LLP  
111 West Monroe Street | Chicago, IL 60603  
Direct: 312.845.3810  
Fax: 312.516.1810  
freier@chapman.com

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The Board of County Commissioners of Sweetwater County, Wyoming, met in regular session at 8:30 A.M. on November 1, 2016 at the regular meeting place of said Board in the County Courthouse in Green River, Wyoming. The meeting was called to order and there were present, Wally Johnson, Chairman, in the chair, and the following named Commissioners:

John Kolb  
Don Van Matre  
Randy Wendling  
Reid West

Absent: None.

\* \* \*

Commissioner \_\_\_\_\_ introduced and caused to be read a resolution entitled, "RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF \$90,000,000 SOLID WASTE DISPOSAL REFUNDING REVENUE BONDS (FMC CORPORATION PROJECT) SERIES 2016 OF SWEETWATER COUNTY, WYOMING, TO REFUND REFUNDING REVENUE BONDS PREVIOUSLY ISSUED TO REFUND BONDS ISSUED TO FINANCE COSTS OF CERTAIN SOLID WASTE DISPOSAL FACILITIES FOR FMC CORPORATION; AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE OF TRUST FROM SAID COUNTY TO THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., AS TRUSTEE, WITH RESPECT TO SAID BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT BETWEEN SAID COMPANY AND SAID COUNTY PROVIDING FOR THE REPAYMENT OF THE LOAN OF THE PROCEEDS OF SAID BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT AMONG SAID COUNTY, SAID COMPANY AND MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED, AS THE UNDERWRITER OF SAID BONDS; AND RELATED MATTERS," and moved for its adoption; seconded by Commissioner \_\_\_\_\_. After due consideration of said resolution by the Board, the Chairman put the question on the motion and upon the roll being called the following named Commissioners voted:

AYE: Wally Johnson  
John Kolb  
Don Van Matre  
Randy Wendling  
Reid West

NAY: None.

Whereupon, the Chairman declared said resolution duly adopted and signed his approval thereto.

\* \* \*

*(Signature page follows.)*

There being no further business, on motion duly made, seconded and carried, the meeting duly adjourned.

SWEETWATER COUNTY, WYOMING

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Chairman

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County Clerk

## RESOLUTION No. 16-11-CC-01

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF \$90,000,000 SOLID WASTE DISPOSAL REFUNDING REVENUE BONDS (FMC CORPORATION PROJECT) SERIES 2016 OF SWEETWATER COUNTY, WYOMING, TO REFUND REFUNDING REVENUE BONDS PREVIOUSLY ISSUED TO REFUND BONDS ISSUED TO FINANCE COSTS OF CERTAIN SOLID WASTE DISPOSAL FACILITIES FOR FMC CORPORATION; AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE OF TRUST FROM SAID COUNTY TO THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., AS TRUSTEE, WITH RESPECT TO SAID BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT BETWEEN SAID COMPANY AND SAID COUNTY PROVIDING FOR THE REPAYMENT OF THE LOAN OF THE PROCEEDS OF SAID BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT AMONG SAID COUNTY, SAID COMPANY AND MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED, AS THE UNDERWRITER OF SAID BONDS; AND RELATED MATTERS.

WHEREAS, Sweetwater County, Wyoming (the "*County*"), is authorized pursuant to the provisions of Sections 15-1-701 to 15-1-710, inclusive, Wyoming Statutes, 1977, as amended (the "*Act*"), to issue revenue bonds to defray the cost of acquiring or improving any land, building, pollution control facility, including solid waste disposal facilities, or other improvement and all necessary and appurtenant real and personal properties, whether or not in existence, suitable for manufacturing, industrial, commercial or business enterprises, and to refund the same; and

WHEREAS, pursuant to and in accordance with the provisions of the Act, the County has heretofore issued its \$90,000,000 Solid Waste Disposal Refunding Revenue Bonds (FMC Corporation Project) Series 2005 (the "*Prior Bonds*") in order to refund certain bonds previously issued by the County to finance the costs of acquiring, improving, constructing and installing certain facilities for the disposal of solid wastes (the "*Project*") at the trona mining and soda ash manufacturing facilities previously owned by FMC Corporation, a Delaware corporation (the "*Company*") and now owned by Tronox US Holdings Inc. and operated by Tronox Alkali

Wyoming Corporation, a subsidiary of Tronox US Holdings Inc., each a Delaware corporation (together, the “*Owner/Operator*”), located in the County; and

WHEREAS, the Company completed the acquisition, construction and installation of the Project prior to the sale of the Project to the Owner/Operator; and

WHEREAS, the County has determined that it is in the public interest to issue its \$90,000,000 Solid Waste Disposal Refunding Revenue Bonds (FMC Corporation Project) Series 2016 (the “*Bonds*”), pursuant to and in accordance with the provisions of the Act, in order to refund the Prior Bonds; and

WHEREAS, this Board of County Commissioners deems it necessary and desirable to authorize the issuance and sale of the Bonds; and

WHEREAS, the proceeds of the Bonds will be loaned to the Company for the purpose described above pursuant to a Loan Agreement, to be dated as of November 1, 2016 (the “*Loan Agreement*”), by and between the Company and the County, whereby the Company will covenant and agree (i) to make payments sufficient to provide for the payment of the principal of and interest and premium, if any, on the Bonds, as when the same become due and payable, and (ii) to make such other payments and satisfy such other obligations as may be required by the Act or the Loan Agreement; and

WHEREAS, the Bonds will be issued under and pursuant to, and are to be secured by, an Indenture of Trust, to be dated as of November 1, 2016 (the “*Indenture*”), by and between the County and The Bank of New York Mellon Trust Company, N.A., as Trustee (the “*Trustee*”), by which the County will, among other things, pledge to the Trustee as security for the Bonds all of its rights and interests in the Loan Agreement except for certain reserved rights; and

WHEREAS, it is proposed that the Bonds will be sold by the County to Merrill Lynch, Pierce, Fenner & Smith Incorporated (the “*Underwriter*”), pursuant to a Bond Purchase

Agreement (the "*Bond Purchase Agreement*") among the County, the Company and the Underwriter; and

WHEREAS, it is necessary for the County, the Trustee and the Company to enter into a Tax Exemption Certificate and Agreement (the "*Tax Agreement*"), to be dated the date of the issuance and delivery of the Bonds, in order to implement certain procedures with respect to the tax-exempt status of interest on the Bonds; and

WHEREAS, it will be necessary for the Underwriter to distribute a Preliminary Official Statement (the "*Preliminary Official Statement*") and a final Official Statement (the "*Official Statement*") in connection with the offering and sale of the Bonds; and

WHEREAS, it is necessary that certain other instruments be executed and certain other actions be taken in connection therewith; and

WHEREAS, the County has caused to be prepared and presented to this meeting proposed forms of the Indenture, the Loan Agreement, the Bond Purchase Agreement, the Tax Agreement, the Preliminary Official Statement and the Bonds:

NOW, THEREFORE, Be It Resolved by the Board of County Commissioners of Sweetwater County, Wyoming, as follows:

*Section 1.* That pursuant to the provisions of the Act, and particularly pursuant to the provisions of Section 15-1-710(b)(ii) thereof, it is hereby found, determined and declared as follows:

(a) It is deemed desirable and in the best interests of the County for the purpose of reducing, preventing, abating and eliminating pollution in the County in order to facilitate and promote the protection of the natural environment of the County that the County issue the Bonds to refund the Prior Bonds which were issued for the purpose of providing funds to refund bonds issued to finance the costs of acquiring, improving, constructing and installing the Project, it having been and being hereby determined that the Project will assist in reducing, preventing, abating or eliminating pollution in the County and will facilitate and promote the protection of the natural environment of the County.

(b) The amount necessary to pay the principal and interest on the Bonds is set forth in the Loan Agreement as a formula.

(c) The payments to be received by the County pursuant to the Loan Agreement, and assigned to the Trustee under the Indenture, are designed to be sufficient to pay the principal of and premium, if any, and interest on the Bonds proposed to be issued by the County.

(d) It is not necessary to establish a reserve fund for the retirement of any of the Bonds or the maintenance of the Project or to determine the estimated cost of maintaining the Project in good repair and keeping it properly insured since the Owner/Operator is responsible for such costs, and the Project and any revenues therefrom are not pledged as security for the Bonds and furthermore as under the terms of the Loan Agreement the Company is obligated to make payments fully sufficient to pay the principal of, premium, if any, and interest on the Bonds.

(e) It is not necessary for the Loan Agreement to require that the Company pay any charge or fee in lieu of ad valorem taxes, because the Project will not be exempt from ad valorem taxes, with the Owner/Operator being responsible for ad valorem taxes and, furthermore, the Project and any revenues therefrom are not pledged as security for the Bonds.

(f) The Loan Agreement requires that the proceeds of the Bonds be used to refund the Prior Bonds and further requires the Company to pay the County amounts sufficient: (i) to pay, when due, the principal of, premium, if any, and interest on the Bonds, and to pay any other expenses incurred by the County in connection therewith, and (ii) to build up and maintain any reserves deemed by this Board to be necessary and advisable in connection therewith, it being determined that no such payments are necessary and advisable; it being further determined that it is not necessary to include provisions in the Loan Agreement relating to payment of taxes on the Project or maintenance and insurance of the Project since the Owner/Operator is responsible for such items and the Project and any revenues therefrom are not pledged as security for the Bonds.

*Section 2.* That, in order to refund the Prior Bonds, the Bonds be and the same are hereby authorized and ordered to be issued at an interest rate not to exceed six percent (6%) per annum, with a maturity date not later than December 1, 2035, which interest rate and maturity date shall be determined on or prior to the issuance and delivery of the Bonds and shall be approved by the Chairman of the Board of County Commissioners (the "*Chairman*") (his execution of the Bond Purchase Agreement to constitute conclusive evidence of such approval), and in the aggregate principal amount of \$90,000,000 pursuant to the Indenture, such Bonds to

be in substantially the form submitted to this meeting, to be dated the date of issuance and delivery thereof, to be executed in the manner, to be in such denominations and tenor, in fully registered form, payable at the places, may be subject to redemption (including optional redemption at a redemption price or redemption prices not in excess of 102% of the principal amount redeemed plus accrued interest, if any, to the redemption date) and containing substantially the terms and provisions set forth therein and in the Indenture, and the forms, terms and provisions of the Bonds and the Indenture are hereby approved, and the Chairman and the County Clerk of the County (the "*County Clerk*") are hereby authorized and directed to execute, attest, seal and deliver the Indenture, with such changes therein as shall be approved by the Chairman (his execution thereof to constitute conclusive evidence of such approval), and the Chairman and the County Clerk are hereby authorized and directed to execute, attest, seal and deliver the Bonds as provided in the Indenture, with such changes therein as shall be approved by the Chairman (his execution thereof to constitute conclusive evidence of such approval), including the use of facsimile signatures on the Bonds, which Bonds shall not constitute nor give rise to a pecuniary liability of the County or a charge against the general credit or taxing powers. In accordance with Section 15-1-703(b) of the Act, it is hereby deemed that the foregoing form, terms and provisions of the Bonds are in the best interest of the County. If any of the officers who shall have signed or sealed any of the Bonds shall cease to be such officers of the County before the Bonds so signed and sealed shall have been actually authenticated by the Trustee or delivered by the County, such Bonds nevertheless may be authenticated, issued and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds had not ceased to be such officer or officers of the County, and also any such Bonds may be signed and sealed on behalf of the County by those persons who, at the actual date of the

execution of such Bonds, shall be the proper officers of the County, although at the nominal date of such Bonds any such person shall not have been such officer of the County.

*Section 3.* That the County lend the proceeds of the Bonds to the Company to refund the Prior Bonds pursuant to the Loan Agreement in substantially the form submitted to this meeting and containing substantially the terms and provision set forth therein, and the form, terms and provisions of the Loan Agreement are hereby approved, and the Chairman and the County Clerk are hereby authorized and directed to execute, attest, seal and deliver the Loan Agreement, with such changes therein as shall be approved by the Chairman (his execution thereof to constitute conclusive evidence of such approval).

*Section 4.* That the sale of the Bonds to the Underwriter at a purchase price of 100% of the principal amount thereof, there being no accrued interest, with the Underwriter's fee to be paid by the Company, pursuant to the Bond Purchase Agreement, in substantially the form submitted to this meeting and containing substantially the terms and provisions set forth therein, is hereby authorized and approved, and the form, terms and provisions of the Bond Purchase Agreement are hereby approved, and the Chairman is hereby authorized and directed to execute and deliver the Bond Purchase Agreement, with such changes therein as shall be approved by the Chairman (his execution thereof to constitute conclusive evidence of such approval).

*Section 5.* That the form, terms and provisions of the Tax Agreement, in substantially the form submitted to this meeting and containing substantially the terms and provisions set forth therein, are hereby authorized and approved and the Chairman is hereby authorized and directed to execute and deliver the Tax Agreement, with such changes therein as shall be approved by the Chairman (his execution thereof to constitute conclusive evidence of such approval).

*Section 6.* That the use by the Underwriter of the Preliminary Official Statement, in substantially the form presented at this meeting, is hereby ratified and approved, and the use by

the Underwriter of the final Official Statement, in substantially the form of the Preliminary Official Statement, is hereby authorized and approved, with such changes therein as shall be approved by the Chairman; *provided*, that this authorization does not extend to the information contained in or incorporated by reference in Appendix A to said Preliminary Official Statement or in Appendix A to said Official Statement, but nothing herein shall be construed as prohibiting the Underwriter from including such information in each said Appendix A pursuant to authorization from the Company.

*Section 7.* That the Chairman and the County Clerk are each hereby authorized and directed to execute, attest, seal and deliver any and all documents, including without limitation an Information Return for Private Activity Bond Issues (Form 8038) to be filed with the Internal Revenue Service, Uniform Commercial Code Financing Statements and escrow agreements related to the defeasance of the Prior Bonds if deemed desirable by the Company, and do any things deemed necessary or advisable to effect the issuance and delivery of the Bonds and the execution and delivery of the Loan Agreement, the Indenture, the Bond Purchase Agreement, the Tax Agreement and the Official Statement and to carry out the intent and purpose of this Resolution, including the preambles hereto.

*Section 8.* That the determinations of the County with respect to the Bonds of the matters set forth in Section 16-5-502, Wyoming Statutes, 1977, as amended, shall be as set forth herein and in the Indenture.

*Section 9.* The appointment and designation of The Bank of New York Mellon Trust Company, N.A., as Trustee, with respect to the Bonds as provided in the Indenture, is hereby approved.

*Section 10.* That the forms of Indenture, the Loan Agreement, the Tax Agreement, the Bond Purchase Agreement and the Preliminary Official Statement authorized by this Resolution are on file in the office of the County Clerk for public inspection.

*Section 11.* That this Resolution and the entire proceedings had in its adoption shall forthwith be published in the *Rock Springs Daily Rocket-Miner*, a newspaper published in Rock Springs, Wyoming, and of general circulation in Sweetwater County, Wyoming.

*Section 12.* That the provisions of this Resolution are hereby declared to be separable and if any section, phrase or provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions.

*Section 13.* That all resolutions or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

*Section 14.* Immediately after its adoption, this Resolution shall be signed by the Chairman and the County Clerk, shall be recorded in a book kept for that purpose and shall take immediate effect.

Passed and approved November 1, 2016.

---

Chairman

(SEAL)

Attest:

---

County Clerk

STATE OF WYOMING            )  
  )  
COUNTY OF SWEETWATER    )

I, Dale Davis, being first duly sworn, do hereby depose and certify that I am the duly qualified and acting County Clerk of Sweetwater County, Wyoming; that as such I have in my possession, or have access to, the complete corporate records of Sweetwater County, Wyoming and of its Board of County Commissioners; that I have carefully compared the transcript hereto attached with the aforesaid corporate records; and that said transcript hereto attached is a true, correct and complete copy of all of the corporate records showing the action taken by the Board of County Commissioners of Sweetwater County, Wyoming on November 1, 2016, in connection with the proposed issuance of solid waste disposal refunding revenue bonds for FMC Corporation.

WITNESS my hand and the corporate seal of Sweetwater County, Wyoming hereto affixed, this 1st day of November, 2016.

\_\_\_\_\_

County Clerk

[SEAL]

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LOAN AGREEMENT

between

SWEETWATER COUNTY, WYOMING

and

FMC CORPORATION

---

\$90,000,000

Sweetwater County, Wyoming  
Solid Waste Disposal Refunding Revenue Bonds  
(FMC Corporation Project) Series 2016

Dated as of November 1, 2016

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## LOAN AGREEMENT

This LOAN AGREEMENT (the "*Agreement*" or "*Loan Agreement*"), dated as of November 1, 2016, is between Sweetwater County, Wyoming, a political subdivision duly organized and existing under the Constitution and laws of the State of Wyoming (the "*Issuer*") and FMC CORPORATION, a corporation duly organized and validly existing under the laws of the State of Delaware (the "*Borrower*"). Capitalized terms used in the following recitals are used as defined in Article I of this Loan Agreement.

### WITNESSETH:

WHEREAS, pursuant to the provisions of Sections 15-1-701 to 15-1-710, inclusive, Wyoming Statutes, 1977, as amended (the "*Act*"), the Issuer has the authority to issue revenue bonds to defray the cost of acquiring or improving any land, building, pollution control facility, including solid waste disposal facilities, or other improvements and all necessary and appurtenant real and personal properties, whether or not in existence, suitable for manufacturing, industrial, commercial or business enterprises, and to refund the same; and

WHEREAS, pursuant to and in accordance with the provisions of the Act, the Issuer has heretofore issued its \$90,000,000 aggregate principal amount Solid Waste Disposal Refunding Revenue Bonds (FMC Corporation Project) Series 2005 (the "*Prior Bonds*"), which refunded its \$45,000,000 aggregate principal amount Solid Waste Disposal Revenue Bonds (FMC Corporation Project) Series 1994A and its \$45,000,000 aggregate principal amount Solid Waste Disposal Revenue Bonds (FMC Corporation Project) Series 1994B (together, the "*Series 1994 Bonds*"). The proceeds of the Series 1994 Bonds were used to pay the cost of the acquisition, construction, reconstruction and installation of certain solid waste disposal facilities (the "*Project*") for FMC Corporation (the "*Borrower*") at the trona mining and soda ash manufacturing facilities located near Green River, Wyoming (the "*Plant*") previously owned by the Borrower and operated by FMC Wyoming Corporation. The Plant was sold to Tronox US Holdings Inc. in April 2015 and is now operated by Tronox Alkali Wyoming Corporation, a subsidiary of Tronox US Holdings Inc.; and

WHEREAS, pursuant to and in accordance with the provisions of the Act, and at the request of the Borrower, the Issuer has agreed to issue its Solid Waste Disposal Refunding Revenue Bonds (FMC Corporation Project) Series 2016 in the aggregate principal amount of \$90,000,000 (the "*Bonds*") in order to provide funds to be lent to the Borrower hereunder to refund the Prior Bonds; and

WHEREAS, the execution and delivery of this Agreement have been in all respects duly and validly authorized by action of the Issuer's governing body and the Borrower's board of directors; and

WHEREAS, pursuant to the Indenture, the Bonds will be issued and the Issuer will assign to the Trustee its right to receive payments, and certain other rights, under this Loan Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual representations and agreements hereinafter contained, the Issuer and the Borrower agree as follows:

## ARTICLE I

### DEFINITIONS

*Section 1.1. Definition of Terms.* Unless the context otherwise requires, the terms used in this Loan Agreement shall have the meanings specified in Section 1.1 of the Indenture of Trust dated as of November 1, 2016 between the Issuer and The Bank of New York Mellon Trust Company, N.A., as trustee, as originally executed or as it may from time to time be supplemented or amended as provided therein (the “*Indenture*”).

*Section 1.2. Number and Gender.* The singular form of any word used herein, including the terms defined in Section 1.1 of the Indenture, shall include the plural, and vice versa. The use herein of a word of any gender shall include all genders.

*Section 1.3. Articles, Sections, Etc.* Unless otherwise specified, references to Articles, Sections and other subdivisions of this Loan Agreement are to the designated Articles, Sections and other subdivisions of this Loan Agreement as amended from time to time. The words “hereof,” “herein,” “hereunder” and words of similar import refer to this Loan Agreement as a whole. The headings or titles of the several articles and sections, and the table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of the provisions hereof.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES OF THE ISSUER AND THE BORROWER

*Section 2.1. Representations and Warranties of the Issuer.* The Issuer hereby represents and agrees that:

(a) (i) it is a duly organized and existing political subdivision of the State; (ii) it has duly accomplished all conditions necessary to be accomplished by it prior to the issuance and delivery of the Bonds and the execution and delivery of the Loan Documents to which it is a party; (iii) it is not in violation of or in conflict with any provisions of the laws of the State which would impair its ability to carry out its obligations contained in the Loan Documents to which it is a party; and (iv) it will do all things in its power in order to maintain its existence or assure the assumption of its obligations under the Loan Documents to which it is a party by any successor public body.

(b) Under the provisions of the Act and the proceedings of the Issuer, the Issuer is duly authorized and has the power and authority to enter into, execute and

deliver the Loan Documents to which it is a party, to undertake the transactions contemplated by the Loan Documents to which it is a party and to carry out its obligations hereunder and thereunder.

(c) It is the Issuer's understanding, based upon certain representations of the Borrower, that the issuance and sale of the Bonds and the loan of the proceeds of the Bonds to the Borrower (which proceeds[, along with certain other moneys,] will be applied for the benefit of the Borrower) is to provide a portion of the moneys required to refund on a current basis all of the outstanding Prior Bonds, the proceeds of which were used to refinance the costs of the Project.

(d) By duly adopted resolution, the Issuer has duly authorized the execution and delivery of the Loan Documents to which it is a party, including the issuance and sale of the Bonds.

(e) The Bonds will be issued under and pursuant to the Indenture and will mature, bear interest and have the other terms and provisions set forth or provided for in the Indenture. The Issuer covenants that it has not and will not pledge or assign its interest in this Loan Agreement or the revenues and income derived pursuant to this Loan Agreement, excepting Reserved Rights, other than to the Trustee under the Indenture to secure the Bonds.

(f) To the best knowledge of the Issuer, the execution and delivery of and performance by the Issuer of the Loan Documents to which the Issuer is a party, including the Purchase Contract, under the circumstances contemplated thereby and hereby, do not and will not conflict with, or constitute a breach of or default under any ordinance, resolution, indenture, deed of trust, mortgage, agreement or other instrument to which the Issuer is a party, or conflict with, violate or result in a breach of, any existing law or public administrative rule or regulation, judgment, court order or consent decree presently applicable to the Issuer (except for such consents and approvals as have heretofore been obtained).

(g) The Issuer hereby finds and determines that it has complied with all requirements of the Act.

(h) The Issuer has not assigned or pledged and will not assign or pledge its right, title or interest in or to this Loan Agreement, other than to secure the Bonds and as otherwise provided in the Indenture.

(i) Neither that certain Indenture of Trust nor Loan Agreement, each dated as of December 1, 2005, in connection with the Prior Bonds has been amended or supplemented.

*Section 2.2. Representations and Warranties of the Borrower.* The Borrower represents and warrants to the Issuer that, as of the date of execution of this Loan Agreement:

(a) The Borrower has been duly incorporated and is validly existing as a corporation under the laws of the State of Delaware, is authorized to do business in, and is in good standing under the laws of, the State, with full power and authority, by proper corporate action, to execute and deliver the Loan Documents to which it is a party, and to perform its obligations thereunder.

(b) The Borrower has duly authorized, executed and delivered the Loan Documents to which it is a party, and such Loan Documents constitute valid and legally binding obligations of the Borrower, enforceable in accordance with their respective terms, subject, as to enforcement, to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights and to general equity principles. The execution, delivery and performance by the Borrower of the Loan Documents to which it is a party, and the consummation of the transactions contemplated hereby and thereby did not, do not and will not violate in any material respect any provision of law or regulation applicable to the Borrower, or of the Articles of Incorporation, as amended, or Bylaws of the Borrower, or of any writ or decree of any court or governmental instrumentality, or of any material mortgage, indenture, contract, agreement or other undertaking to which the Borrower is a party or which purports to be binding upon the Borrower or upon any of its assets.

(c) The statements, information, descriptions, representations and certifications contained in the Project Certificate and in the Tax Agreement are true, correct and complete and are based upon the best information available to the Borrower.

(d) Neither that certain Indenture of Trust nor Loan Agreement, each dated as of December 1, 2005, in connection with the Prior Bonds has been amended or supplemented.

### ARTICLE III

#### ISSUANCE OF THE BONDS; APPLICATION OF PROCEEDS OF BONDS

*Section 3.1. Agreement to Issue Bonds.* To provide funds to refund the Prior Bonds, the Issuer agrees that it will issue under the Indenture, sell and cause to be delivered to the purchasers thereof, the Bonds. The Issuer will thereupon direct the Trustee to apply the proceeds received from the sale of the Bonds as provided herein and in the Indenture.

*Section 3.2. Application of Bond Proceeds.* The Issuer will direct the Trustee pursuant to the Indenture to apply the proceeds of the Bonds as specified in Section 3.2 thereof, to the payment in full of the outstanding amount of the Prior Bonds. The Borrower hereby authorizes and approves the application of the Bond proceeds as provided in Section 3.2 of the Indenture.

*Section 3.3. Investment of Moneys in Funds.* Any moneys in any fund or account held by the Trustee shall, at the specific written request of an Authorized Representative of the Borrower, be invested or reinvested by the Trustee as provided in the Indenture. Pursuant to the terms of the Indenture, such investments shall be held by the Trustee and shall be deemed at all times a part of the fund or account from which such investments were made, and the interest accruing thereon, and any profit or loss realized therefrom, shall be credited or charged to such fund or account.

*Section 3.4. No Liability of Issuer or Trustee.* Nothing contained herein or in any documents and agreements contemplated hereby or in any other Loan Document shall impose upon the Trustee or the Issuer any obligation to ensure the proper application of the disbursements by the Borrower or any other recipient thereof. The Trustee and the Issuer shall be relieved of any liability with respect to making such disbursements in accordance with the foregoing.

## ARTICLE IV

### LOAN OF PROCEEDS; REPAYMENT PROVISION

*Section 4.1. Loan of Bond Proceeds; Issuance of Bonds.* The Issuer covenants and agrees, upon the terms and conditions in this Loan Agreement, to make a loan to the Borrower from the proceeds of the Bonds for the purpose of refunding the outstanding principal amount of the Prior Bonds. The Borrower shall, at its own expense, pay to the Trustee for the Prior Bonds on the date of delivery of the Bonds, all amounts in excess of the proceeds of the Bonds necessary to accomplish that refunding and pay costs of the Issuer and the Trustee (including reasonable legal fees and expenses) in connection with the refunding, without any right of reimbursement from the Issuer. The Issuer further covenants and agrees that it shall take all actions within its authority to keep this Loan Agreement in effect in accordance with its terms. Pursuant to said covenants and agreements, the Issuer will issue the Bonds upon the terms and conditions contained in this Loan Agreement and the Indenture and will cause the Bond proceeds to be applied as provided in Article III of the Indenture.

*Section 4.2. Loan Payments and Payment of Other Amounts.* (a) As and for repayment of the Loan made to the Borrower by the Issuer pursuant to Section 4.1 of this Loan Agreement, the Borrower shall pay to the Trustee, for the account of the Issuer, an amount equal to the aggregate principal amount of and the premium, if any, on the Bonds from time to time Outstanding and, as interest on its obligation to pay such amount, an amount equal to interest on the Bonds, such amounts to be paid in installments due on the dates, in the amounts and in the manner provided in the Indenture for the payment of the principal of and premium, if any, and interest on the Bonds, whether at maturity, upon redemption, acceleration or otherwise. For purposes of the Act, the Borrower is making payments on the Bonds on behalf of the user of the Project.

(b) In the event the Borrower shall fail to make any payment required by Section 4.2(a) hereof with respect to the principal of and premium, if any, and interest on any Bond, the payment so in default shall continue as an obligation of the Borrower until the amount in default

shall have been fully paid, and the Borrower will pay interest on any overdue amount with respect to principal of such Bond and, to the extent permitted by law, on any overdue amount with respect to premium, if any, and interest on such Bond, at the interest rate then borne by such Bond until paid, in accordance with Sections 2.2 and 2.3 of the Indenture.

(c) The Borrower further covenants that it will make any payments required to be made pursuant to Sections 2.4, 4.6, 4.8 and 4.9 of the Indenture at the applicable Purchase Price thereof by 2:45 p.m. (New York City time) on the Purchase Date in federal or other immediately available funds; *provided, however*, the obligation to make such payments shall have been deemed satisfied to the extent that such Purchase Price shall have been paid from remarketing proceeds or from a draw under a Letter of Credit pursuant to Section 4.7(D) of the Indenture.

(d) In addition to the Loan Payments, the Borrower shall also pay, within 30 days after receipt of a bill therefor, all of the Administrative Fees and Expenses directly to each entity entitled to payment; *provided* that the Authorized Representative of the Borrower shall have approved such expenses in writing prior to their occurrence. The Borrower shall also pay all other reasonable fees and expenses incurred in connection with the issuance of the Bonds, including, but not limited to, all costs associated with any discontinuance of the book-entry system described in Section 2.11 of the Indenture.

(e) The Borrower agrees to pay any amounts required to be deposited in the Rebate Fund to comply with the provisions of the Tax Agreement and to pay the fees, charges and expenses of any rebate analyst.

*Section 4.3. Unconditional Obligation.* The obligations of the Borrower to make the Loan Payments and the other payments required by Section 4.2 hereof and to perform and observe the other agreements on its part contained herein shall be absolute and unconditional, irrespective of any defense or any rights of set-off, recoupment or counterclaim it might otherwise have against the Issuer, and during the term of this Loan Agreement, the Borrower shall pay all payments required to be made on account of this Loan Agreement as prescribed in Section 4.2 and all other payments required hereunder, free of any deductions and without abatement, diminution or set-off. Until such time as the principal of, premium, if any, and interest on, the Bonds shall have been fully paid, or provision for the payment thereof shall have been made as required by the Indenture, the Borrower (i) will not suspend or discontinue any payments provided for in Section 4.2; (ii) will perform and observe all of its other covenants contained in this Loan Agreement; and (iii) except as provided in Article VII hereof, will not terminate this Loan Agreement for any cause, including, without limitation, the occurrence of any act or circumstances that may constitute failure of consideration, destruction of or damage to all or a portion of those facilities or equipment comprising the Project, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State or any political subdivision of either of these, or any failure of the Issuer or the Trustee to perform and observe any covenant, whether express or implied, or any duty, liability or obligation arising out of or connected with this Loan Agreement or the Indenture, except to the extent permitted by this Loan Agreement.

*Section 4.4. Assignment of Issuer's Rights.* As security for the payment of the Bonds, the Issuer will assign to the Trustee the Issuer's rights under this Loan Agreement and the right to receive Loan Payments hereunder (except the Issuer's Reserved Rights). The Issuer hereby directs the Borrower to make the Loan Payments required hereunder directly to the Trustee for deposit as contemplated by the Indenture. The Issuer hereby directs the Borrower to make the Purchase Price Payments required hereunder directly to the Trustee or the Tender Agent as contemplated by the Indenture. The Borrower hereby consents to such assignment and agrees to make payments directly to the Trustee or the Tender Agent, as the case may be, without defense or set-off by reason of any dispute between the Borrower and the Issuer or the Trustee.

*Section 4.5. Amounts Remaining in Funds.* It is agreed by the parties hereto that after payment in full of (i) the Bonds, or after provision for such payment shall have been made as provided in the Indenture, (ii) the fees, charges and expenses of the Issuer, the Trustee, the Tender Agent and any Paying Agents in accordance with the Indenture, (iii) all other amounts required to be paid under this Loan Agreement and the Indenture, and (iv) if applicable, payment to any Credit Provider of any amounts owed to the Credit Provider under the Reimbursement Agreement with respect to a Letter of Credit, any amounts remaining in any fund held by the Trustee under the Indenture (excepting the Rebate Fund) shall be paid as provided in Section 10.1 of the Indenture. Notwithstanding any other provision of this Loan Agreement or the Indenture, under no circumstances shall proceeds of a draw on a Letter of Credit be paid to the Issuer, the Borrower or an affiliate of the Borrower.

## ARTICLE V

### COVENANTS AND AGREEMENTS

*Section 5.1. Borrower to Maintain its Existence; Conditions Under Which Exceptions Permitted.* The Borrower agrees that during the term of this Loan Agreement it will maintain its corporate existence, will not dissolve or otherwise dispose of all or substantially all of its assets, and will not consolidate with or merge into another corporation or permit one or more corporations to consolidate with or merge into it unless the Borrower is the surviving, resulting or transferee corporation, as the case may be, provided, that the Borrower may, without violating the agreements contained in this Section 5.1, consolidate with or merge into another domestic corporation (i.e., a corporation incorporated and existing under the laws of the United States of America or any state, district or territory thereof) or permit one or more other domestic corporations to consolidate with or merge into it, or sell or otherwise transfer to another domestic corporation all or substantially all of its assets as an entirety and thereafter dissolve, provided, in the event the Borrower is not the surviving, resulting or transferee corporation, as the case may be, that the surviving, resulting or transferee corporation (i) is a domestic corporation as aforesaid, (ii) is qualified to do business in the State, and (iii) assumes in writing all of the obligations of the Borrower under this Loan Agreement and the Tax Agreement.

*Section 5.2. Taxes and Other Charges.* The Borrower agrees to pay and discharge or cause to be paid and discharged all taxes, payments in lieu of taxes, assessments and governmental charges or levies imposed upon it or in respect of any of its property and assets. Notwithstanding the foregoing, the Borrower may, at its expense, in good faith contest any such

taxes, assessments and other charges and, in the event of any such contest, may permit such taxes, assessments and other charges so contested to remain unpaid during the period of such contest and any appeal therefrom; *provided further* that during such period enforcement of such contested item is effectively stayed, unless by nonpayment of any such items the lien of the Indenture as to the amounts payable under this Loan Agreement will be materially endangered, in which event the Borrower agrees to promptly pay and cause to be satisfied and discharged all such unpaid items. The Issuer agrees to reasonably cooperate with the Borrower in any such contest.

*Section 5.3. Tax Matters.* (a) The Borrower shall at all times do and perform all acts and things necessary or desirable in order to assure that interest paid on the Bonds shall, for the purposes of Federal income taxation, be excludable from the gross income of the recipients thereof and exempt from such taxation. The Borrower shall direct, in writing, all investments of the gross proceeds of the Bonds.

(b) The Borrower acknowledges that in the event of an examination by the Internal Revenue Service to determine compliance of the Bonds with the provisions of the Code as they relate to tax-exempt obligations, the Issuer is likely to be treated as the “taxpayer” in such examination and the Borrower agrees that it will respond, and will direct the Issuer to respond, in a commercially reasonable manner to any inquiries from the Internal Revenue Service in connection with such an examination. The Issuer covenants that it will promptly notify the Borrower of any inquiry or examination of the Internal Revenue Service relating to the Bonds, and will cooperate with the Borrower, at the Borrower’s expense, in connection with such examination. The Borrower understands and agrees that the interests of the Issuer and the Borrower in such examination may be subject to public disclosure under applicable State law.

*Section 5.4. Continuing Disclosure.* Pursuant to the federal Securities and Exchange Commission Rule 15c2-12 promulgated under the Securities Exchange Act of 1934, as amended, the Borrower hereby covenants and agrees to comply, or to cause compliance with, when and if applicable, the continuing disclosure requirements promulgated thereunder, as such rule may from time to time hereafter be amended or supplemented. In order to comply with such continuing disclosure requirements, the Borrower hereby covenants and agrees to comply, or to cause compliance with, the Continuing Disclosure Undertaking. Notwithstanding any other provision of this Loan Agreement, failure of the Borrower to comply with this Section 5.4 or the Continuing Disclosure Undertaking shall not be considered a Loan Default Event.

*Section 5.5. Assignment by Borrower.* The rights and obligations of the Borrower under this Loan Agreement may be assigned by the Borrower to any person in whole or in part, subject, however, to each of the following conditions:

(a) No assignment other than pursuant to Section 5.1 hereof shall relieve the Borrower from primary liability for any of its obligations hereunder, and in the event of any assignment not pursuant to Section 5.1 hereof the Borrower shall continue to remain primarily liable for the payments specified in Section 4.2 hereof, and for performance and observance of the other agreements on its part herein provided to be performed and observed by it.

(b) Any assignment from the Borrower other than pursuant to Section 5.1 hereof shall retain for the Borrower such rights and interests as will permit it to perform its obligations under this Loan Agreement, and any assignee from the Borrower shall assume in writing the obligations of the Borrower hereunder to the extent of the interest assigned.

(c) Within the earlier of (1) 30 days after delivery thereof, (2) the next Bond Payment Date or (3) the next Purchase Date, the Borrower shall furnish or cause to be furnished to the Issuer, the Credit Provider, if any, and the Trustee a true and complete copy of each such assignment together with an instrument of assumption.

(d) The Borrower shall furnish to the Issuer, the Credit Provider, if any, and the Trustee a Favorable Opinion of Tax Counsel with respect to the assignment, addressed to the Issuer and the Trustee prior to the effective date of any assignment pursuant to this Section.

*Section 5.6. Cooperation in Filings and Other Matters.* (a) The Borrower covenants that it will, at its expense, take all steps as are reasonably necessary to provide that all financing statements, continuation statements, notices and other instruments required by applicable law shall be recorded or filed or re-recorded or re-filed in such manner and in such places required by law in order fully to preserve and protect the rights of the Trustee in the granting by the Issuer of certain rights of the Issuer, pursuant to the Indenture and under this Loan Agreement.

(b) The Borrower and the Issuer shall execute and deliver all instruments and shall furnish all information and evidence deemed necessary by the Borrower or advisable by its counsel and the Borrower shall file and re-file and record and re-record or cause to be filed and re-filed and recorded and re-recorded all instruments required to be filed and re-filed and recorded or re-recorded pursuant to the opinion of its Counsel or Counsel employed by the Issuer [or the Trustee] to perfect all security interests created pursuant to the terms of this Loan Agreement and the Indenture and shall continue or cause to be continued the liens of such instruments for so long as the Bonds shall be Outstanding, except as otherwise required by this Agreement. The Issuer shall have no responsibility for such filings or refilings whatsoever, other than executing and delivering the documents requested by the Borrower. [The Trustee shall have no responsibility for the filing or refiling of records or instruments required to perfect the security interests created by this Loan Agreement or the Indenture.] [Subject to review and approval.]

*Section 5.7. Further Assurances and Corrective Instruments.* Subject to the provisions of the Indenture, the Issuer and the Borrower each agrees that it will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements and amendments hereto and such further instruments as may reasonably be required for carrying out the intention or facilitating the performance of this Loan Agreement. All such supplements, amendments and further instruments shall require the approval of the Issuer.

*Section 5.8. Letter of Credit.* (a) The Borrower may, at its option, provide for the delivery to the Trustee of a Letter of Credit or an Alternate Letter of Credit on (1) any

Conversion Date, (2) any Business Day during a Term Interest Rate Period on which the Bonds are otherwise subject to optional redemption, or (3) any Business Day during a Variable Interest Rate Period. A Letter of Credit shall be an irrevocable letter of credit or other irrevocable credit facility (including, if applicable, a confirming letter of credit), issued by a Credit Provider, the administrative terms of which shall be consistent with the provisions of the Indenture and shall be acceptable to the Trustee and shall otherwise comply with the requirements of the Indenture; *provided*, that the expiration date of such Letter of Credit shall be a date not earlier than one year from its date of issuance or, if a Term Interest Rate will be in effect, the first date on which the Bonds are subject to optional redemption, subject to earlier termination upon payment of the Bonds in full or provision for such payment in accordance with Article X of the Indenture. On or prior to the date of the delivery of a Letter of Credit to the Trustee, the Borrower shall cause to be furnished to the Trustee (i) a Favorable Opinion of Tax Counsel addressed to the Trustee with respect to the delivery of such Letter of Credit, and (ii) an opinion of counsel to the Credit Provider issuing such Letter of Credit to the effect that such Letter of Credit is enforceable in accordance with its terms (except to the extent that the enforceability thereof may be limited by bankruptcy, reorganization or similar laws limiting the enforceability of creditors' rights generally and except that no opinion need be expressed as to the availability of any discretionary equitable remedies).

(b) The Borrower shall provide to the Trustee (with a copy to the Issuer and the Remarketing Agent) a notice at least 15 days prior to the effective date of any Letter of Credit or Alternate Letter of Credit (and in no event later than 35 days prior to the expiration of any existing Letter of Credit, if required by the terms of the Indenture) identifying the Letter of Credit or Alternate Letter of Credit, if any, and the rating which will apply to the Bonds after the effective date.

*Section 5.9. Compliance with Indenture.* The Borrower recognizes that the Indenture contains provisions that, among other things, relate to matters affecting the administration and investment of certain funds. The Borrower has reviewed the Indenture and hereby assents to all provisions of the Indenture and agrees to satisfy and discharge its duties and obligations thereunder. The Borrower shall take such action as may be reasonably necessary in order to enable the Issuer and the Trustee to comply with all requirements and to fulfill all covenants of the Indenture to the extent that compliance with such requirements and fulfillment of such covenants are dependent upon any observance or performance required of the Borrower by the Indenture or this Loan Agreement.

*Section 5.10. Remarketing Agent.* At any time the Bonds are in a Daily Interest Rate Period, Weekly Interest Rate Period, Index Interest Rate Period or a Term Interest Rate Period of less than one year, the Borrower will retain a Remarketing Agent meeting the requirements set forth in the Indenture to perform the duties assigned to the Remarketing Agent therein.

## ARTICLE VI

### LOAN DEFAULT EVENTS AND REMEDIES

*Section 6.1. Loan Default Events.* Any one of the following which occurs and continues shall constitute a Loan Default Event:

(a) Failure of the Borrower to make any Loan Payment required by Section 4.2(a) hereof when due and with respect to interest on any Bond when the same has become due and payable and the continuation of such failure to pay such amount of interest on any Bond for a period of five days after such payment has become due and payable; or

(b) Failure of the Borrower to make any Purchase Price Payment required by Section 4.2(c) hereof when due; or

(c) Except as provided in Section 6.6 of this Loan Agreement, failure of the Borrower to observe and perform any covenant, condition or agreement on its part required to be observed or performed by this Loan Agreement (other than (i) agreements contained in Section 5.4 hereof, or (ii) as provided in clause (a) or (b) above), which continues for a period of 90 days after written notice delivered by the Issuer or the Trustee to the Borrower and the Credit Provider, if any, which notice shall specify such failure and request that it be remedied, unless the Trustee shall agree in writing to an extension of such time; *provided, however*, that if the failure stated in the notice cannot be corrected within such period, such failure shall not constitute a "Loan Default Event" so long as the Borrower institutes corrective action within such period and such action is being diligently pursued; or

(d) The dissolution or liquidation of the Borrower or the filing by the Borrower of a voluntary petition in bankruptcy, or failure by the Borrower promptly to cause to be lifted any execution, garnishment or attachment of such consequence as will impair the Borrower's ability to carry on its obligations hereunder, or the entry of any order or decree granting relief in any involuntary case commenced against the Borrower under any present or future federal bankruptcy act or any similar federal or state law, or a petition for such an order or decree shall be filed in any court and such petition shall not be discharged or denied within 90 days after the filing thereof, or if the Borrower shall admit in writing its inability to pay its debts generally as they become due, or a receiver, trustee or liquidator of the Borrower shall be appointed in any proceeding brought against the Borrower and shall not be discharged within 90 days after such appointment or if the Borrower shall consent to or acquiesce in such appointment, or assignment by the Borrower for the benefit of its creditors, or the entry by the Borrower into an agreement of composition with its creditors, or a bankruptcy, insolvency or similar proceeding shall be otherwise initiated by or against the Borrower under any applicable bankruptcy, reorganization or analogous law as now or hereafter in effect and if initiated against the Borrower shall remain undismissed (subject to no further appeal) for a period of 90 days; *provided*, the term "dissolution or liquidation of the Borrower," as used in this

subsection, shall not be construed to include the cessation of the existence of the Borrower resulting either from a merger or consolidation of the Borrower into or with another entity or a dissolution or liquidation of the Borrower following a transfer of all or substantially all of its assets as an entirety or under the conditions permitting such actions contained in Section 5.1 hereof; or

(e) The existence of an “Event of Default” (as defined therein) under the Indenture; or

(f) The existence of an “Event of Default” (as defined therein) under a LIBOR Index Rate Agreement, if any.

*Section 6.2. Remedies on Default.* Subject to Section 6.1 hereof, whenever any Loan Default Event shall have occurred and shall be continuing,

(a) The Trustee, if the Trustee has actual notice of a default under the Indenture and this Loan Agreement (provided that the Trustee shall be deemed to have actual notice of a payment default) and has been properly directed to declare the Bonds due and payable under Section 7.1 of the Indenture, by written notice to the Issuer, the Borrower and the Credit Provider, if any, shall declare the unpaid balance of the loan payable under Section 4.2(a) of this Loan Agreement to be due and payable immediately, *provided* that concurrently with or prior to such notice the unpaid principal amount of the Bonds shall have been declared to be due and payable under the Indenture. Upon any such declaration such amount shall become and shall be immediately due and payable as determined in accordance with Section 7.1 of the Indenture.

(b) The Issuer or the Trustee may take whatever action at law or in equity as may be necessary or desirable to collect the payments and other amounts then due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Loan Agreement.

(c) If applicable, and if properly directed by the terms of the Letter of Credit, the Trustee shall immediately draw upon any Letter of Credit, if permitted by its terms and required by the terms of the Indenture, and apply the amount so drawn in accordance with the Indenture and may exercise any remedy available to it thereunder.

In case the Trustee, the Credit Provider, if any, or the Issuer shall have proceeded to enforce its rights under this Loan Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee, the Credit Provider, if any, or the Issuer, then, and in every such case, the Borrower, the Trustee, the Credit Provider, if any, and the Issuer shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Borrower, the Trustee, the Credit Provider, if any, and the Issuer shall continue as though no such action had been taken.

The Borrower covenants that, in case a Loan Default Event shall occur with respect to the payment of any Loan Payment payable under Section 4.2(a) hereof, then, upon demand of the

Trustee, the Borrower will pay to the Trustee the whole amount that then shall have become due and payable under Section 4.2(a), with interest on the amount then overdue at the rate then borne by the Bonds on the day prior to the occurrence of such default.

In case the Borrower shall fail forthwith to pay such amounts upon such demand, the Trustee shall be entitled and empowered to institute any action or proceeding at law or in equity for the collection of the sums so due and unpaid, and may prosecute any such action or proceeding to judgment or final decree, and may enforce any such judgment or final decree against the Borrower and collect in the manner provided by law the moneys adjudged or decreed to be payable.

In case proceedings shall be pending for the bankruptcy or for the reorganization of the Borrower under the federal bankruptcy laws or any other applicable law, or in case a receiver or trustee shall have been appointed for the property of the Borrower or in the case of any other similar judicial proceedings relative to the Borrower, or the creditors or property of the Borrower, then the Trustee shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount owing and unpaid pursuant to this Loan Agreement and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee allowed in such judicial proceedings relative to the Borrower, its creditors or its property, and to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute such amounts as provided in the Indenture after the deduction of its reasonable charges and expenses to the extent permitted by the Indenture. Any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized to make such payments to the Trustee, and to pay to the Trustee and the Issuer any amount due each of them for their respective reasonable compensation and expenses, including reasonable expenses and fees of counsel incurred by each of them up to the date of such distribution.

In the event the Trustee incurs expenses or renders services in any proceedings which result from a Loan Default Event under Section 6.1(d) hereof, or from any default which, with the passage of time, would become a Loan Default Event, the expenses so incurred and compensation for services so rendered are intended to constitute expenses of administration under the United States Bankruptcy Code or equivalent law.

*Section 6.3. Agreement to Pay Attorneys' Fees and Expenses.* In the event the Borrower should default under any of the provisions of this Loan Agreement and the Issuer or the Trustee should employ attorneys or incur other expenses for the collection of the payments due under this Loan Agreement or the enforcement of performance or observance of any obligation or agreement on the part of the Borrower herein contained, the Borrower agrees to pay promptly to the Issuer or the Trustee the reasonable fees and expenses of such attorneys and such other reasonable out-of-pocket expenses so incurred by the Issuer or the Trustee, whether incurred at trial, on appeal, in bankruptcy proceedings, or otherwise. The obligations of the Borrower under this section shall survive the termination of this Loan Agreement, the payment in full or defeasance of the Bonds, and the resignation or removal of the Trustee.

*Section 6.4. No Remedy Exclusive.* No remedy herein conferred upon or reserved to the Issuer or the Trustee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be expressly required herein or by applicable law. Such rights and remedies as are given the Issuer hereunder shall also extend to the Trustee as the assignee of the Issuer.

*Section 6.5. No Additional Waiver Implied by One Waiver.* In the event any agreement or covenant contained in this Loan Agreement should be breached by the Borrower and thereafter waived by the Issuer, the Credit Provider, if any, or the Trustee, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

*Section 6.6. Force Majeure.* The provisions of Section 6.1(c) hereof are subject to the following limitations: if by reason of acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States or the State, or any department, agency, political subdivision, court or official of any of the State or any other state which asserts regulatory jurisdiction over the Borrower; orders of any kind of civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes; volcanoes; fires; hurricanes; tornadoes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery; partial or entire failure of utilities; or any cause or event not reasonably within the control of the Borrower, the Borrower is unable in whole or in part to carry out any one or more of its agreements or obligations contained herein, other than its obligations under Section 4.2 hereof, the Borrower shall not be deemed in default by reason of not carrying out said agreement or agreements or performing said obligation or obligations during the continuance of such inability. The Borrower shall make reasonable effort to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its agreements, *provided* that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the Borrower, and the Borrower shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of the Borrower unfavorable to the Borrower.

## ARTICLE VII

### PREPAYMENT

*Section 7.1. Redemption of Bonds with Prepayment Moneys.* By virtue of the assignment of the rights of the Issuer under this Loan Agreement to the Trustee as is provided in Section 4.4 hereof, the Borrower agrees to and shall pay directly to the Trustee any amount permitted or required to be paid by it under this Article VII. The Indenture provides that the

Trustee shall use the moneys so paid to it by the Borrower to redeem the Bonds on the date set for such redemption pursuant to Section 7.5 hereof or to reimburse any Credit Provider for any draw under the Letter of Credit therefor. The Issuer shall call Bonds for redemption as required by Article IV of the Indenture or as requested by the Borrower pursuant to the Indenture or this Loan Agreement.

*Section 7.2. Options to Prepay Installments.* The Borrower shall have the option to prepay the Loan Payments payable under Section 4.2(a) hereof by paying to the Trustee, for deposit in the Bond Fund, the amount set forth in Section 7.4 hereof and to cause all or any part of the Bonds to be redeemed at the times and at the prices set forth in Section 4.1 of the Indenture for optional redemptions.

*Section 7.3. Mandatory Prepayment.* If a mandatory redemption of the Bonds is required by Section 4.1(A) of the Indenture, the Borrower shall have and hereby accepts the obligation to prepay the Loan Payments by paying to the Trustee, for deposit in the Bond Fund, the amount set forth in Section 7.4 hereof, to be used to redeem all or a part of the Outstanding Bonds.

*Section 7.4. Amount of Prepayment.* In the case of a redemption of the Outstanding Bonds in full, the amount to be paid shall be a sum sufficient, together with other funds and the yield on any securities deposited with the Trustee and available for such purpose, to pay (1) the principal of all Bonds Outstanding on the redemption date specified in the notice of redemption, plus interest accrued and to accrue to the payment or redemption date of the Bonds, plus premium, if any, pursuant to the Indenture, (2) all reasonable and necessary fees and expenses of the Issuer (including, without limitation, reasonable legal fees and expenses), the Trustee and any Paying Agent accrued and to accrue through final payment of the Bonds and (3) all other liabilities of the Borrower accrued and to accrue under this Loan Agreement. In the case of redemption of the Outstanding Bonds in part, the amount payable shall be a sum sufficient, together with other funds deposited with the Trustee and available for such purpose, to pay the principal amount of and premium, if any, and accrued interest on the Bonds to be redeemed, as provided in the Indenture, and to pay expenses of redemption of such Bonds.

*Section 7.5. Notice of Prepayment.* To exercise an option granted in or to perform an obligation required by this Article VII, the Borrower shall give written notice at least five business days prior to the last day by which the Trustee is permitted to give notice of redemption pursuant to Section 4.3 of the Indenture, to the Issuer, the Credit Provider, if any, the Remarketing Agent and the Trustee specifying the amount to be prepaid and the date upon which any prepayment will be made. If the Borrower fails to give such notice of a prepayment in connection with a mandatory redemption under this Loan Agreement, such notice may be given by the Issuer, by the Trustee or by any Holder or Holders of 10% or more in aggregate principal amount of the Bonds Outstanding. The Issuer and the Trustee, at the written request of the Borrower or any such Holder, shall forthwith take all steps necessary under the applicable provisions of the Indenture (except that the Issuer shall not be required to make payment of any money required for such redemption) to effect redemption of all or part of the Bonds then Outstanding, as the case may be, on the earliest practicable date thereafter on which such redemption may be made under applicable provisions of the Indenture. The Issuer hereby

appoints the Borrower to give all notices and make all requests to the Trustee with respect to the application of funds paid by the Borrower as prepayments, including notices of optional redemption of the Bonds in conformity with Article IV of the Indenture.

## ARTICLE VIII

### NON-LIABILITY OF ISSUER; EXPENSES; INDEMNIFICATION

*Section 8.1. Expenses and Fees.* All fees and expenses in connection with the preparation, execution, delivery, recording and filing of the bond resolution adopted by the County Board of Commissioners authorizing the issuance of the Bonds, this Loan Agreement and the other Loan Documents and in connection with the preparation, issuance and delivery of the Bonds, the Issuer's fees, the fees and expenses of bond counsel, the fees and expenses of the Trustee, the fees and expenses of Trustee's counsel and the fees and expenses of counsel to the Underwriter shall be paid directly by the Borrower. The Borrower shall also pay throughout the term of the Bonds the Issuer's fees and expenses and the Trustee's annual and special fees and expenses under the Indenture, this Loan Agreement and the other Loan Documents, including, but not limited to, reasonable attorney's fees.

*Section 8.2. Indemnification.* The Borrower releases the Issuer (including any person at any time serving as an officer of the Issuer) and the Trustee from, agrees that the Issuer (including any person at any time serving as an officer of the Issuer) and the Trustee shall not be liable for, and agrees to indemnify and hold the Issuer (including any person at any time serving as an officer of the Issuer) and the Trustee harmless from any liability for any loss or damage to property or any injury to, or death of, any person that may be occasioned by any cause whatsoever pertaining to the Project, including any attorneys' fees or expenses; *provided, however,* that such indemnification shall not be effective for damages that result from willful misconduct on the part of the Issuer or the Trustee. The Borrower further agrees to indemnify and hold the Issuer (including any person at any time serving as an officer of the Issuer) harmless to the fullest extent permitted by law from any losses, costs, charges, expenses (including attorneys' fees and expenses), judgments and liabilities incurred by it or them, as the case may be, in connection with any action, suit or proceeding instituted or threatened in connection with the transactions contemplated by this Agreement or in administering this Agreement or the Indenture; *provided, however,* that such indemnification shall not extend with respect to the Issuer to damages that result from gross negligence or willful misconduct on the part of the Issuer or to any such losses, costs, charges, expenses, judgments or liabilities arising out of or based upon any untrue statement contained under the heading "THE ISSUER" or under the heading "ABSENCE OF MATERIAL LITIGATION—The Issuer" (but only insofar as it relates to litigation pending or threatened against the Issuer) in the official statement or preliminary official statement (as both may be amended from time to time) utilized in connection with the offering for sale of the Bonds. The Borrower further covenants and agrees to protect, exonerate, defend, indemnify and save the Trustee (whether in its capacity as Trustee, Bond Registrar, Paying Agent or Tender Agent) and its officers, directors, employees and agents (collectively, the "*Indemnitees*") harmless from and against any and all liabilities, losses, damages, fines, suits, actions, demands, penalties, costs and expenses, including out-of-pocket, incidental expenses, legal fees and expenses, the allocated costs and expenses of in-house counsel and legal staff and

the costs and expenses of defending or preparing to defend against any claim ("*Losses*") that may be imposed on, incurred by, or assessed against, the Indemnitees or any of them for following any instruction or other direction upon which the Trustee is authorized to rely pursuant to the terms of this Loan Agreement or the Indenture. In addition to and not in limitation of the immediately preceding sentence, the Borrower also covenants and agrees to indemnify and hold the Indemnitees and each of them harmless from and against any and all Losses that may be imposed on, incurred by, or asserted against the Indemnitees or any of them in connection with or arising out of the Trustee's performance, as applicable, under this Loan Agreement or the Indenture, *provided* that such party has not acted with negligence or engaged in willful misconduct. If any such claim is asserted, the Issuer, any individual indemnified herein or the Trustee, as the case may be, will give prompt notice to the Borrower and the Borrower will assume the defense thereof, with full power to litigate, compromise or settle the same in its sole discretion, it being understood that neither the Trustee, the Issuer nor any indemnified individual will settle or consent to the settlement of the same without the written consent of the Borrower. The obligation of the parties under this Section 8.2 shall survive the termination of this Agreement and the resignation or removal of the Trustee for any reason.

The Borrower agrees to pay to, or on behalf of, the Issuer and the Trustee such reasonable costs and expenses, including legal fees, as may be incurred by the Issuer or the Trustee in performing its covenants under this Agreement and under the Indenture to the extent not paid from the proceeds of any Bonds, *provided* that upon the assumption by the Borrower of the defense of any asserted claim as aforesaid, the Borrower will not be liable to any indemnified party hereunder for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof, other than reasonable costs of investigation.

## ARTICLE IX

### MISCELLANEOUS

*Section 9.1. Notices.* All notices, certificates or other communications shall be deemed sufficiently given if mailed by first-class mail, postage prepaid, addressed to the Issuer, the Borrower, the Trustee as the case may be, as follows:

To the Issuer: Sweetwater County, Wyoming  
P.O. Box 730  
80 West Flaming Gorge Way  
Green River, Wyoming 82935  
Attention: County Clerk

To the Borrower: FMC Corporation  
FMC Tower at Cira Centre South  
2929 Walnut Street  
Philadelphia, Pennsylvania 19104  
Attention: Treasurer

To the Trustee: The Bank of New York Mellon Trust Company, N.A.  
500 Ross Street, 12th Floor  
Pittsburg, Pennsylvania 15262  
Attention: Global Corporate Trust — Public Finance

To the Underwriter: Merrill Lynch, Pierce, Fenner & Smith Incorporated  
Bank of America Tower  
One Bryant Park  
New York, New York 10036  
Attention: Timothy Harte, Vice President

A duplicate copy of each notice, certificate or other communication given hereunder by either the Issuer or the Borrower to the other shall also be given to the Trustee and any Credit Provider, if applicable. Notices to the Trustee are effective only when actually received by the Trustee. The Issuer, the Borrower, the Trustee, the Remarketing Agent and any Credit Provider, if applicable, may, by notice given hereunder, designate any different addresses to which subsequent notices, certificates or other communications shall be sent. In accepting notices delivered by Electronic Means, the Trustee shall be entitled to the protections provided in Section 8.4 of the Indenture.

*Section 9.2. Severability.* If any provision of this Loan Agreement shall be held or deemed to be, or shall in fact be, illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative, or unenforceable to any extent whatever.

*Section 9.3. Execution of Counterparts.* This Loan Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

*Section 9.4. Amendments, Changes and Modifications.* Except as otherwise provided in this Loan Agreement or the Indenture, this Loan Agreement may not be effectively amended, changed, modified, altered or terminated except by the written agreement of the Issuer and the Borrower and with the written consent of the Credit Provider, if applicable, and of the Trustee, if required, in accordance with Section 9.5 of the Indenture.

*Section 9.5. Governing Law.* This Loan Agreement shall be governed by and construed in accordance with the laws of the State (without regard to the State's conflicts of laws principles).

*Section 9.6. Authorized Representative.* No recourse shall be had for the payment of the principal of, premium, if any, and interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement contained in the Indenture, this Loan Agreement or the Purchase Contract against any past, present or future commissioner, council member, officer, employee or agent of the Issuer, or any commissioner, council member, officer, employee or agent of any successor entity, as such, either directly or through the Issuer or any successor entity, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such commissioner, council

member, officer, employee or agent as such is hereby expressly waived and released as a condition of and consideration for the execution of the Indenture and this Loan Agreement and the issuance of the Bonds.

*Section 9.7. Term of the Loan Agreement.* This Loan Agreement shall be in full force and effect from the date hereof and shall continue in effect as long as any of the Bonds are Outstanding or the Trustee holds any moneys under the Indenture, whichever is later.

*Section 9.8. Assignment of Loan Documents.* The Borrower acknowledges that with the exception of the Issuer's Reserved Rights, the Loan Documents shall be assigned by the Issuer to the Trustee as security for the Bonds pursuant to the terms of the Indenture.

The Borrower assents to such assignment and hereby agrees that, as to the Trustee, its obligation to make payments under the Loan Documents shall be absolute, and shall not be subject to any defense or any right of set-off, counterclaim or recoupment arising out of any breach by the Issuer of any duty or obligation to the Borrower, whether hereunder or otherwise, or out of indebtedness or liability at any time owing to the Borrower by the Issuer.

*Section 9.9. Binding Effect.* This Loan Agreement shall inure to the benefit of and shall be binding upon the Issuer, the Borrower and their respective successors and assigns; subject, however, to the limitations contained in Sections 5.1 and 5.5 hereof.

*Section 9.10. Further Assurances and Corrective Instruments.* The Issuer and the Borrower agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Project or for carrying out the intention of or facilitating the performance of this Loan Agreement in the manner provided in Article IX of the Indenture.

*Section 9.11. Complete Agreement.* The parties agree that the terms and conditions of this Loan Agreement supersede those of all previous agreements between the parties, and that this Loan Agreement, together with the documents referred to in this Loan Agreement, contains the entire agreement between the parties hereto. The Trustee and the Remarketing Agent shall be deemed to be third party beneficiaries of this Loan Agreement.

*Section 9.12. Business Days.* If any payment is to be made hereunder or any action is to be taken hereunder on any date that is not a Business Day, such payment or action otherwise required to be made or taken on such date shall be made or taken on the immediately succeeding Business Day with the same force and effect as if made or taken on such scheduled date.

*Section 9.13. Waiver of Personal Liability.* (a) No recourse under or upon any obligation, covenant or agreement created by this Loan Agreement, or for any claim based thereon or otherwise in respect thereof, shall be had against any incorporator, stockholder, director, officer or employee, as such, past, present or future, of the Borrower or of any predecessor or successor corporation, either directly or through the Borrower, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly understood that this Loan Agreement is solely a corporate obligation, and that no such personal liability whatever shall attach to, or is or shall be incurred by, the incorporators,

stockholders, directors, officers or employees, as such, of the Borrower or any predecessor or successor corporation, or any of them, under or by reason of the obligations, covenants or agreements contained in this Loan Agreement or implied therefrom; and that any and all such personal liability, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every such incorporator, stockholder, director, officer or employee, as such, under or by reason of the obligations, covenants or agreements contained in this Loan Agreement, or implied therefrom, are hereby expressly waived and released as a condition of, and as a consideration for, the execution of this Loan Agreement; and

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

*Section 9.14. Special and Limited Obligations.* This Agreement shall inure to the benefit of and shall be binding upon the Issuer, the Borrower and their respective successors and assigns, subject to the limitation that notwithstanding any other terms or provisions of this Agreement or the Loan Documents, any obligation of the Issuer created or arising out of this Agreement or the Loan Documents shall be a special and limited obligation of the Issuer, payable solely out of the security pledged to the payment thereto in the Indenture.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK. SIGNATURES FOLLOW.]

IN WITNESS WHEREOF, SWEETWATER COUNTY, WYOMING has caused this Loan Agreement to be executed in its name and attested by its duly authorized officials, and FMC CORPORATION has caused this Loan Agreement to be executed in its name by its duly authorized officer, all as of the date first above written.

SWEETWATER COUNTY, WYOMING

By: \_\_\_\_\_  
Chairman  
Board of County Commissioners

ATTEST:

\_\_\_\_\_  
County Clerk

FMC CORPORATION

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

## **EXHIBIT A**

### **DESCRIPTION OF THE PROJECT**

The Project consists of facilities for the disposal of tailings from the Plant, all as more fully described in the Project Certificate.

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INDENTURE OF TRUST

between

SWEETWATER COUNTY, WYOMING

and

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

Relating to

\$90,000,000  
Sweetwater County, Wyoming  
Solid Waste Disposal Refunding Revenue Bonds  
(FMC Corporation Project) Series 2016

Dated as of November 1, 2016

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EXHIBIT A — Form of Bond

EXHIBIT B — Form of Investor Letter

## INDENTURE OF TRUST

THIS INDENTURE OF TRUST (the "*Indenture*"), dated as of November 1, 2016, is between SWEETWATER COUNTY, WYOMING, a political subdivision duly organized and existing under the Constitution and laws of the State of Wyoming (the "*Issuer*"), and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association, being qualified to accept and administer the trusts hereby created, as Trustee (the "*Trustee*");

### WITNESSETH:

WHEREAS, the Issuer is empowered by the provisions of Sections 15-1-701 to 15-1-710, inclusive, Wyoming Statutes, 1977, as amended (the "*Act*"), to issue revenue bonds to defray the cost of acquiring or improving any land, building, pollution control facility, including solid waste disposal facilities, or other improvements and all necessary and appurtenant real and personal properties, whether or not in existence, suitable for manufacturing, industrial, commercial or business enterprises, and to refund the same; and

WHEREAS, pursuant to and in accordance with the provisions of the Act, the Issuer has heretofore issued its \$90,000,000 aggregate principal amount Solid Waste Disposal Refunding Revenue Bonds (FMC Corporation Project) Series 2005 (the "*Prior Bonds*"), which refunded its \$45,000,000 aggregate principal amount Solid Waste Disposal Revenue Bonds (FMC Corporation Project) Series 1994A and its \$45,000,000 aggregate principal amount Solid Waste Disposal Revenue Bonds (FMC Corporation Project) Series 1994B (together, the "*Series 1994 Bonds*"). The proceeds of the Series 1994 Bonds were used to pay the costs of the acquisition, construction, reconstruction and installation of certain solid waste disposal facilities (the "*Project*") for FMC Corporation (the "*Borrower*") at the trona mining and soda ash manufacturing facilities located near Green River, Wyoming (the "*Plant*") previously owned by the Borrower and operated by FMC Wyoming Corporation. The Plant was sold to Tronox US Holdings Inc. in April 2015 and is now operated by Tronox Alkali Wyoming Corporation, a subsidiary of Tronox US Holdings Inc.; and

WHEREAS, the Issuer is entering into a Loan Agreement, of even date herewith (the "*Loan Agreement*"), with the Borrower, in which the Issuer has agreed to use the proceeds of its \$90,000,000 aggregate principal amount Solid Waste Disposal Refunding Revenue Bonds (FMC Corporation Project) Series 2016 (the "*Bonds*") for the purpose of refunding the Prior Bonds, and pursuant to which the Borrower has agreed to make loan repayment installments in an amount sufficient to pay the principal of, and premium, if any, and interest on, the Bonds when due; and

WHEREAS, in furtherance of the Act the Issuer has determined that the Bonds in the aggregate principal amount of \$90,000,000 should be issued, sold and delivered pursuant to the Act to provide proceeds for the refunding of the Prior Bonds; and

WHEREAS, the Issuer has contracted for the sale and delivery of the Bonds to be issued in the aggregate principal amount of \$90,000,000 as herein provided; and

WHEREAS, in order to provide for the authentication and delivery of the Bonds, to establish and declare the terms and conditions upon which the Bonds are to be issued and secured and to secure the payment of the principal or Purchase Price thereof and interest thereon, the Issuer has authorized the execution and delivery of this Indenture; and

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

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that in order to secure the payment of the principal or Purchase Price of, and the premium, if any, and interest on, all Bonds at any time issued and Outstanding under this Indenture, according to their tenor, and thereafter to secure any amounts due to any Credit Provider pursuant to any Reimbursement Agreement with respect to any Letter of Credit, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Bonds are to be issued and received, and in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Bonds by the Holders (as defined herein) thereof, and for other valuable consideration, the receipt of which is hereby acknowledged, the Issuer does hereby irrevocably grant, convey, transfer, assign and pledge unto the Trustee all right, title and interest of the Issuer in, to and under the Loan Agreement (except as provided in Section 5.1(B) hereof), including the Revenues and any amounts held in the Bond Fund, and does hereby covenant and agree with the Trustee, for the equal and proportionate benefit of the respective Holders from time to time of the Bonds, and the Credit Provider, if any, as follows:

## ARTICLE I

### DEFINITIONS; CONTENT OF CERTIFICATES AND OPINIONS; RULES OF INTERPRETATION

*Section 1.1. Definitions.* Unless the context otherwise requires, the terms defined in this Article shall, for all purposes of this Indenture and of any indenture supplemental hereto and of any certificate, opinion or other document herein mentioned, have the meanings herein specified, to be equally applicable to both the singular and plural forms of any of the terms herein defined.

“*Accountant*” means any firm of independent certified public accountants selected by the Borrower.

“*Act*” has the meaning assigned thereto in the recitals.

“*Additional Payments*” means the payments required to be made by the Borrower pursuant to Section 4.2(d) of the Loan Agreement.

*“Adjusted LIBOR Index”* shall mean, for any day during a LIBOR Index Interest Rate Period, the rate per annum determined by the Calculation Agent by dividing (x) the LIBOR Index by (y) a number equal to 1.00 minus the LIBOR Reserve Percentage; provided, however, that (i) during the Initial LIBOR Index Interest Rate Period and any other LIBOR Index Interest Rate Period in which the Applicable Factor is 70%, the number in this clause (y) shall not be less than .52; and (ii) during any other LIBOR Index Interest Rate Period in which the Applicable Factor is other than 70%, the number in this clause (y) shall not be less than such other number as may be designated in writing by the Borrower with a Favorable Opinion of Tax Counsel.

*“Administrative Fees and Expenses”* means the compensation, fees and expenses paid to or incurred by the Trustee, the Tender Agent, the Bond Registrar, the Remarketing Agent and/or any Paying Agent under the Loan Agreement or this Indenture, which include but are not limited to printing of Bonds, accomplishing transfers or new registration of Bonds, or other charges and other disbursements including those of their respective officers, directors, members, attorneys, agents and employees incurred in and about the administration and execution of the Loan Agreement and this Indenture.

*“Affiliate”* means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by or is under common control with, the Person specified.

*“Alternate Letter of Credit”* means an alternate irrevocable letter of credit, including, if applicable, a confirming letter of credit, or similar credit facility issued by a commercial bank, savings institution or other financial institution, the terms of which shall in all material respects be the same as those of the Letter of Credit then in effect, delivered to the Trustee pursuant to Section 5.8 of the Loan Agreement, and any extensions, amendments or supplements thereto.

*“Alternate Rate”* (i) during a LIBOR Index Interest Rate Period, means a rate per annum equal to the sum of the Federal Funds Rate plus 1%; and (ii) at all other times, means an interest rate equal to 110% of the SIFMA Municipal Index, but in neither event a rate in excess of the Maximum Rate.

*“Applicable Factor”* means 70%, or with a Favorable Opinion of Tax Counsel, such other percentage as may be designated in writing by the Market Agent as the Applicable Factor for a LIBOR Index Interest Rate Period pursuant to Section 2.3(E)(2).

*“Authorized Denomination”* means (i) during any Variable Interest Rate Period or any Term Interest Rate Period of less than one year, \$100,000 or any multiple of \$5,000 in excess thereof, and (ii) at any other time, \$5,000 or any multiple thereof.

*“Authorized Representative”* means (i) with respect to the Issuer, such person at the time and from time to time designated to act on behalf of the Issuer, by written certificate furnished to the Borrower and the Trustee, containing the specimen signature of such person, signed on behalf of the Issuer by the Chairman of the Sweetwater County Board of County Commissioners or County Clerk of the Issuer (such certificate may designate an alternate or alternates); (ii) with respect to the Borrower, the person or persons at the time designated to act on behalf of the

Borrower by a written certificate signed by the Borrower, furnished to the Trustee, the Credit Provider, if any, and the Issuer, containing the specimen signature of each such person and signed on behalf of the Borrower by its President, any Vice President, its secretary, any Assistant Secretary, its Treasurer or any Assistant Treasurer, which certificate may designate an alternate or alternates; and (iii) with respect to the Credit Provider, if any, the person or persons at the time designated to act on behalf of the Credit Provider by a written certificate signed by the Credit Provider, furnished to the Trustee, the Borrower and the Issuer, containing the specimen signature of each such person.

*"Available Moneys"* means (1) moneys derived from drawings under a Letter of Credit, (2) moneys provided by the Borrower held by the Trustee in funds and accounts established under this Indenture (except the Rebate Fund or the account described in Section 4.7(G) hereof) and subject to the lien of the Indenture for a period of at least 123 consecutive days and not commingled with any moneys so held for less than said period and during and prior to which period no petition in bankruptcy was filed by or against, and no receivership, insolvency, assignment for the benefit of creditors or other similar proceeding has been commenced by or against the Borrower or the Issuer, (3) investment income derived from the investment of moneys described in clause (2) so long as (A) investments of such moneys are in Investment Securities rated by each Rating Agency in any of the two highest long-term rating categories without regard to modifiers or, if applicable, in the highest short-term rating category without regard to modifiers and (B) with respect to such investment earnings there has been delivered to the Trustee an opinion of nationally recognized bankruptcy counsel to the effect that the use of such amounts for such purpose would not constitute a voidable preference under Section 547 of the Bankruptcy Code should the Borrower or the Issuer become the debtor in a case under the Bankruptcy Code, (4) proceeds of any refunding bonds issued to refund the Bonds or (5) any other moneys so long as there has been delivered to the Trustee an opinion of nationally recognized bankruptcy counsel to the effect that the use of such amounts for such purpose would not constitute a voidable preference under Section 547 of the Bankruptcy Code should the Borrower or the Issuer become the debtor in a case under the Bankruptcy Code.

*"Bank Bonds"* has the meaning ascribed thereto in Section 4.7(C)(2)(a) hereof.

*"Bank Tender Date"* means the date designated by the Borrower by notice to the Trustee pursuant to Section 2.3(E)(2).

*"Bankruptcy Code"* means Title 11 of the United States Code, as amended, and any successor statute or statutes having substantively the same function.

*"Beneficial Owners"* means those individuals, partnerships, corporations or other entities for whom the Direct Participants have caused DTC to hold Book-Entry Bonds.

*"Bond Fund"* means the fund by that name established pursuant to Section 5.1 hereof.

*"Bondholder"* whenever used with respect to a Bond, means the person in whose name such Bond is registered.

“*Bond Payment Date*” means any date upon which any amounts payable with respect to the Bonds shall become due, whether on an Interest Payment Date, upon redemption, acceleration, maturity or otherwise.

“*Bond Registrar*” means the entity or entities performing the duties of the bond registrar pursuant to Section 2.8 hereof.

“*Bonds*” means the Issuer’s Solid Waste Disposal Refunding Revenue Bonds (FMC Corporation Project) Series 2016, issued pursuant to this Indenture in the aggregate principal amount of \$90,000,000.

“*Book-Entry Bonds*” means the Bonds registered in the name of the nominee of DTC, or any successor securities depository for such Bonds, as the registered owner thereof pursuant to the terms and provisions of Section 2.11 hereof.

“*Borrower*” means FMC Corporation, a corporation duly organized and validly existing under the laws of the State of Delaware, is authorized to do business in, and is in good standing under the laws of, the State, or any entity which is the surviving, resulting or transferee entity in any merger, consolidation or transfer of assets permitted under Section 5.1 of the Loan Agreement and also means, unless the context otherwise requires, an assignee of the Loan Agreement as permitted by Section 5.5 of the Loan Agreement.

“*Borrower Bonds*” has the meaning ascribed thereto in Section 4.7(C)(2)(b) hereof.

“*Business Day*” means any day other than (i) a Saturday or Sunday, (ii) a day on which commercial banks in New York, New York, or the city or cities in which the designated office of the Purchaser, the Corporate Trust Office of the Trustee or the Tender Agent, the office of the Remarketing Agent designated pursuant to Section 8.12 or, if applicable, the office of the Credit Provider at which demands for payment under the Letter of Credit are to be presented are authorized or required by law to close, (iii) a day on which the New York Stock Exchange is closed, or (iv) if a Letter of Credit is in effect, any day not a business day for purposes of the Letter of Credit or the Reimbursement Agreement.

“*Calculation Agent*” (i) means the entity designated by the Borrower to the Trustee 15 days prior to the start of each LIBOR Index Interest Rate Period and (ii) during an Index Interest Rate Period, means the entity selected by the Borrower.

“*Certificate,*” “*Statement,*” “*Request,*” “*Requisition*” or “*Order*” of the Issuer, the Credit Provider or the Borrower means, respectively, a written certificate, statement, request, requisition or order signed in the name of the Issuer by an Authorized Representative of the Issuer, in the name of the Borrower by an Authorized Representative of the Borrower, or in the name of the Credit Provider by an Authorized Representative of the Credit Provider, as applicable. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single

instrument. If and to the extent required by Section 1.2 hereof, each such instrument shall include the statements provided for in Section 1.2 hereof.

“*Code*” means the Internal Revenue Code of 1986, as amended and the rulings and regulations (including temporary and proposed regulations) promulgated thereunder.

“*Computation Date*” means two Business Days prior to each LIBOR Index Reset Date.

“*Continuing Disclosure Undertaking*” means any Continuing Disclosure Undertaking entered into by the Borrower relating to the Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

“*Conversion Date*” means each date on which the Interest Rate Period for the Bonds is converted from one type of Interest Rate Period to another type of Interest Rate Period, from a Term Interest Rate Period to another Term Interest Rate Period or from a LIBOR Index Interest Rate Period to another LIBOR Index Interest Rate Period.

“*Corporate Trust Office*” means, (i) with respect to the Trustee, the corporate trust office of the Trustee in Pittsburgh, Pennsylvania, or such other office designated by the Trustee from time to time by notice to the Issuer, the Borrower, the Credit Provider, if any, and the Remarketing Agent, and (ii) with respect to the Tender Agent, if other than the Trustee, such office designated by the Tender Agent to the Borrower, the Trustee, the Remarketing Agent and the Credit Provider, if any, as its Corporate Trust Office.

“*Counsel*” means the attorney or firm of attorneys representing a particular party.

“*Credit Provider*” means any commercial bank, savings association or other financial institution issuing a Letter of Credit complying with Section 5.8 of the Loan Agreement and party to a Reimbursement Agreement.

“*Daily Interest Rate*” means a variable interest rate on all or a portion of the Bonds established daily in accordance with Section 2.3(B) hereof.

“*Daily Interest Rate Period*” means each period of time during which Daily Interest Rates are in effect.

“*Default Rate*” means the lesser of (i) the Prime Rate plus 2% and (ii) the Maximum Rate.

“*Determination of Taxability*” means a determination that the interest income on any Bond does not qualify for the exclusion from gross income of the owner thereof (“*exempt interest*”) under Section 103 of the Code, other than by virtue of the provisions of the Code relating to alternative minimum tax or other than that such owner is a substantial user of the Project or a related person, which determination shall be deemed to have been made upon the occurrence of the first to occur of the following:

(a) the date on which the Borrower determines that the interest income on any Bond does not qualify as exempt interest if such determination is supported by an Opinion of Tax Counsel satisfactory to the Trustee; or

(b) the date on which the Borrower shall receive notice from the Trustee or the Issuer in writing that the Trustee or the Issuer has been advised by the Beneficial Owner or the Owner, as the case may be, of any Bond that, as a result of any authorized federal administrative action or by final decree, judgment or order of any federal court or authorized federal administrative body, it has been determined that, as a result of a failure by the Borrower or Tronox to observe any agreement or representation in the Loan Agreement or the Tronox Certificate, respectively, the interest payable on the Bonds does not qualify as exempt interest. Any such determination will not be considered final for this purpose unless the Beneficial Owner or the Owner, as the case may be, involved in the proceeding or action resulting in the determination (i) gives the Borrower, the Trustee and the Issuer prompt written notice of the commencement thereof and (ii) if the Borrower agrees to pay all expenses in connection therewith and to indemnify such Beneficial Owner or Owner, as the case may be, against all liabilities in connection therewith, offers the Borrower an opportunity to contest the determination, either directly or in the name of the Beneficial Owner or the Owner, as the case may be, and until conclusion of any appellate review, if sought.

The terms "*substantial user*" and "*related person*" shall have the meanings given such terms in Section 147(a) of the Code.

"*Direct Participants*" means those broker-dealers, banks and other financial institutions from time to time for which DTC holds the Bonds as securities depository.

"*DTC*" means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the New York Banking Law, or any successor securities depository for the Bonds.

"*Electronic Means*" means telegram, telex, telecopy, electronic mail or other telecommunications or electronic telecommunications device capable of creating a written notice that is operative as between the parties and acceptable for use by them.

"*Event of Default*" means any of the events specified in Section 7.1 hereof.

"*Favorable Opinion of Tax Counsel*" means an Opinion of Tax Counsel addressed to the Trustee to the effect that the action proposed to be taken is permitted under the Act and by this Indenture and will not adversely affect any exclusion from gross income for federal income tax purposes of interest on the Bonds.

"*Federal Funds Rate*" means, for any day, the rate per annum (rounded upward, if necessary, to the nearest 1/100th of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the

Business Day next succeeding such day, *provided* that (i) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the preceding Business Day as so published on the next succeeding Business Day, and (ii) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate quoted to the Purchaser on such day on such transactions as determined by the Purchaser. Each determination of the Federal Funds Rate by the Purchaser shall be conclusive and binding on the Issuer and the Borrower except in the case of manifest error.

*“Government Obligations”* means:

(1) direct obligations of (including obligations issued or held in book-entry form on the books of) the Department of Treasury of the United States of America, obligations unconditionally guaranteed as to principal and interest by the United States of America, and evidences of ownership interests in such direct or unconditionally guaranteed obligations;

(2) any bonds or other obligations of the United States of America or of any agency, instrumentality thereof which: (A) are not callable at the option of the obligor prior to maturity or as to which irrevocable notice has been given by the obligor to call such bonds or obligations on the date specified in the notice; (B) are rated in the highest rating category of each Rating Agency; and (C) are fully secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or obligations described in clause (1) above, which fund may be applied only to the payment of interest when due, principal of and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable notice, as appropriate; and

(3) any other bonds, notes or obligations of the United States of America or any agency or instrumentality thereof which, if deposited with the Trustee for the purpose described in Section 10.3(B), will result in a rating on the Bonds which are deemed to have been paid pursuant to Section 10.1 that is in the highest rating category of each Rating Agency that is then maintaining a rating on such Bonds.

*“Holder”* whenever used herein with respect to a Bond, means the person in whose name such Bond is registered.

*“Indemnified Parties”* means “indemnified parties” as defined in Section 8.2 of the Loan Agreement.

*“Indenture”* means this Indenture, as originally executed or as it may from time to time be supplemented, modified or amended by any Supplemental Indenture.

*“Index Interest Rate”* means a variable interest rate on all or a portion of the Bonds established in accordance with Section 2.3(D) hereof.

*“Index Interest Rate Period”* means each period of time during which Index Interest Rates are in effect.

*“Initial Term Interest Rate”* means the interest rate borne by the Bonds during the Initial Term Interest Rate Period.

*“Initial Term Interest Rate Period”* means that Term Interest Rate Period beginning on the date of issuance of the Bonds and ending on November 30, 2035 during which the Bonds will bear interest at a rate of \_\_\_\_% per annum.

*“Interest Account”* means the account by that name in the Bond Fund established pursuant to Section 5.2 hereof.

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

*“Interest Payment Date”* means, (i) during a Variable Interest Rate Period, the first Business Day of each calendar month next succeeding the end of the Interest Period to which such Interest Payment Date relates, (ii) during a Term Interest Rate Period of more than six calendar months, the first day of the calendar month that is six months after the commencement of such Term Interest Rate Period, and the first day of each sixth calendar month thereafter until the end of such Term Interest Rate Period, with the first Interest Payment Date to occur on June 1, 2017, (iii) each Conversion Date, and (iv) the Principal Payment Date.

*“Interest Period”* means the period from and including any Interest Payment Date to and including the day immediately preceding the next following Interest Payment Date, except that the first Interest Period shall be the period from and including the Issuance Date to and including the day immediately preceding the first Interest Payment Date for the Bonds.

*“Interest Rate Period”* means a Daily Interest Rate Period, a Weekly Interest Rate Period, a LIBOR Index Interest Rate Period, an Index Interest Rate Period or a Term Interest Rate Period.

*“Investment Securities”* means any of the following securities selected by the Borrower in writing to the Trustee, to the extent not prohibited by applicable law:

(A) Government Obligations;

(B) a receipt, certificate or any other evidence of an ownership interest in Government Obligations, or in specified portions thereof (which may consist of specified portions of interest thereon);

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

- Export-Import Bank;
- Farm Credit System Financial Assistance Corporation;
- Farmers Home Administration;
- General Services Administration;
- U.S. Maritime Administration;
- Small Business Administration;
- Government National Mortgage Association;
- U.S. Department of Housing & Urban Development; and
- Federal Housing Administration;

(D) senior debt obligations rated on the date of purchase “AAA” by S&P and “Aaa” by Moody’s issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation or senior debt obligations of other government sponsored agencies;

(E) interest bearing accounts, bank deposit products, demand deposits, including interest bearing money market accounts, time deposits or certificates of deposit which are fully secured by obligations of the type described in clause (A), (B), (C) or (D) above or which are issued by banks or trust companies, including, but not limited to the Trustee and any of its affiliates, organized under the laws of the United States of America or any state thereof, which have combined capital and surplus of at least Twenty-Five Million Dollars (\$25,000,000);

(F) commercial paper or finance company paper which is rated on the date of purchase “A-1” or “A-1+” by S&P or “P-1” by Moody’s;

(G) investments in a money market fund rated on the date of investment “A” or better by S&P or “P-2” or better by Moody’s, including, without limitation, any mutual fund for which the Trustee or an affiliate of the Trustee serves as investment manager, administrator, shareholder servicing agent, and/or custodian or subcustodian, notwithstanding that (i) the Trustee or an affiliate of the Trustee receives fees from such funds for services rendered, (ii) the Trustee charges and collects fees for services rendered pursuant to this Indenture, which fees are separate from the fees received from such funds, and (iii) services performed for such funds and pursuant to this Indenture may at times duplicate those provided to such funds by the Trustee or its affiliates;

(H) any obligations issued or guaranteed by any state of the United States of America or the District of Columbia, or any political subdivision of any such state or District, rated "A" or better on the date of such purchase by S&P or Moody's;

(I) bankers acceptances drawn on and accepted by commercial banks;

(J) repurchase agreements, including repurchase agreements of the Trustee or any of its affiliates, fully secured by any one or more of the foregoing Investment Securities; and

(K) to the extent permitted by law, other forms of investments (including investment agreements).

The Trustee shall have no obligation to determine whether a security is prohibited by applicable law or permitted by law for the purposes of this definition, and shall be protected in acting upon the investment instructions of the Borrower.

"*Investor Letter*" means a letter in substantially the form of *Exhibit B* attached hereto and delivered pursuant to Section 2.6 hereof.

"*Issuance Date*" means November 30, 2016.

"*Issuer*" means Sweetwater County, Wyoming and its successors, and any political subdivision resulting from or surviving any consolidation or merger to which it or its successors may be a party.

"*Letter of Credit*" means (i) any irrevocable letter of credit meeting the requirements of Section 5.8 of the Loan Agreement, including any extensions, amendments or supplements thereto naming the Trustee as beneficiary and delivered to the Trustee pursuant to the terms of the Loan Agreement on (a) any Conversion Date, (b) any Business Day during a Term Interest Rate Period on which the Bonds are otherwise subject to optional redemption; or (c) any Business Day during a Daily Interest Rate Period or a Weekly Interest Rate Period; and (ii) in the event of delivery of an Alternate Letter of Credit, such Alternate Letter of Credit.

"*Letter of Credit Account*" means the account by that name in the Bond Fund established pursuant to Section 5.3 hereof.

"*LIBOR Applicable Margin*" is described and subject to adjustment as set forth below.

During any LIBOR Index Interest Rate Period the LIBOR Applicable Margin shall equal the number of basis points confirmed by the Market Agent on or before the first day of such LIBOR Index Interest Rate Period in accordance with Section 2.3(E)(2) (which may include a schedule for the LIBOR Applicable Margin designating rating categories (each, a "Level") based upon the Ratings as described below).

“*Rating*” means the credit rating assigned to the senior unsecured long-term debt of the Borrower by S&P and Moody’s. (1) In the event the Ratings differ by one Level, then the LIBOR Applicable Margin shall be based on the Level of the higher of the two Ratings. If the Ratings differ by more than one Level, then the LIBOR Applicable Margin shall be based on the Level which is one Level lower than the Level corresponding to the higher Rating. References in this definition of LIBOR Applicable Margin are to rating categories as then determined by the Rating Agencies, and in the event of the adoption of any new or changed rating system or a “global” rating scale by any such Rating Agency, the rating categories shall be adjusted accordingly to a new rating which most closely approximates the ratings categories as set forth herein.

“*LIBOR Index*” means, for any Computation Date, the rate per annum determined by the Calculation Agent as the rate which appears on the US0001M (or on such other substitute Bloomberg page that displays rates at which US dollar deposits are offered by leading banks in the London interbank deposit market), or the rate which is quoted by another source selected by the Purchaser which has been approved by ICE Benchmark Administration as an authorized information vendor for the purpose of displaying rates at which US dollar deposits are offered by leading banks in the London interbank deposit market, at approximately 11:00 a.m., London time, on the Computation Date, as the one month London interbank offered rate for U.S. Dollars commencing on such LIBOR Index Reset Date.

“*LIBOR Index Interest Period*” means while the Bonds bear interest at the LIBOR Index Rate, the period from (and including) the LIBOR Index Rate Conversion Date to (but not including) the first Business Day of the following month, and thereafter shall mean the period from (and including) the first Business Day of each month to (but not including) the first Business Day of the next succeeding month (or, if sooner, to and including the last day of the LIBOR Index Interest Rate Period).

“*LIBOR Index Interest Rate Bonds*” means Bonds that bear interest at a LIBOR Index Rate.

“*LIBOR Index Interest Rate Period*” means each period from and including a LIBOR Index Rate Conversion Date to but excluding the earliest of (i) the immediately succeeding Bank Tender Date, (ii) the immediately succeeding Conversion Date and (iii) the Principal Payment Date. If a LIBOR Index Interest Rate Period would otherwise end on a day which is not a Business Day, such LIBOR Index Interest Rate Period shall end on the next succeeding Business Day unless that day falls in another calendar month, in which case the LIBOR Index Interest Rate Period shall end on the next preceding Business Day.

“*LIBOR Index Rate*” means a per annum rate of interest equal to the product of (i) the sum of the Adjusted LIBOR Index *plus* the LIBOR Applicable Margin *multiplied by* (ii) the Applicable Factor. The LIBOR Index Rate shall be rounded upward to the third decimal place.

“*LIBOR Index Rate Agreement*” means, during any LIBOR Index Interest Rate Period, any agreement between the Borrower and the Purchaser which may be designated as the LIBOR Index Rate Agreement.

*“LIBOR Index Rate Conversion Date”* means (a) the date on which the Bonds begin to bear interest at the LIBOR Index Rate or (b) if the Bonds have previously borne interest at the LIBOR Index Rate during a LIBOR Index Interest Rate Period then ending, the Bank Tender Date occurring at the end of the then ending LIBOR Index Interest Rate Period.

*“LIBOR Index Reset Date”* means the first Business Day of each month.

*“LIBOR Reserve Percentage”* means the maximum effective percentage in effect on such day as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the reserve requirements (including, without limitation, supplemental, marginal and emergency reserve requirements) with respect to eurocurrency funding.

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

*“Loan Agreement”* means that certain Loan Agreement by and between the Issuer and the Borrower, dated as of November 1, 2016, as originally executed and as it may from time to time be supplemented, modified or amended in accordance with the terms thereof and of this Indenture.

*“Loan Default Event”* means any one or more of the events specified in Section 6.1 of the Loan Agreement.

*“Loan Documents”* means this Indenture, the Loan Agreement, the Continuing Disclosure Undertaking, the Purchase Contract, the LIBOR Index Rate Agreement, if any, and the Remarketing Agreement, if any.

*“Loan Payments”* means the loan repayments required to be made by the Borrower pursuant to Section 4.2(a) of the Loan Agreement.

*“London Business Day”* means any Business Day on which commercial banks are open for business for LIBOR transactions in London, England.

*“Market Agent”* means a third-party financial advisory firm, investment banking firm, commercial bank or any other financial institution with experience in pricing information for tax-exempt municipal securities, as selected by the Borrower to serve as market agent in connection with a conversion to a LIBOR Index Interest Rate Period.

*“Maximum Rate”* means, on any day, the least of (i) the maximum interest rate permitted by law, (ii) 14% per annum, and (iii) while a Letter of Credit is in effect that specifies an Interest Coverage Rate, the Interest Coverage Rate specified in such Letter of Credit.

*“Moody’s”* means Moody’s Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the Borrower.

*"Non-Public Information"* means information in a Rule G-34 Document that is intended to remain confidential in order to maintain internal security or confidentiality of personal information, including but not limited to fees assessed by liquidity providers, staff names and contact information and information that could be used in a fraudulent manner, such as liquidity facility bank routing or account numbers.

*"Opinion of Counsel"* means a written opinion of counsel (who may be an employee of or counsel for the Borrower, the Issuer or the Trustee) selected by the Borrower.

*"Opinion of Tax Counsel"* means an Opinion of Counsel by counsel of nationally recognized standing in matters relating to the exclusion of interest from gross income on obligations issued by or on behalf of states and their political subdivisions.

*"Outstanding,"* when used as of any particular time with reference to Bonds, means (subject to the provisions of Section 11.10 hereof) all Bonds theretofore, or thereupon being, authenticated and delivered by the Trustee under this Indenture except (1) Bonds theretofore canceled by the Trustee or surrendered to the Trustee for cancellation; (2) Bonds with respect to which liability of the Issuer shall have been discharged in accordance with Section 10.2 hereof, including Bonds (or portions of Bonds) referred to in Section 11.10 hereof; and (3) Bonds for the transfer or exchange of or in lieu of or in substitution for which other Bonds shall have been authenticated and delivered by the Trustee pursuant to this Indenture.

*"Owner"* whenever used with respect to a Bond, means the person in whose name such Bond is registered.

*"Paying Agent"* means the Paying Agent described in Section 8.7 hereof.

*"Person"* means an individual, corporation, firm, association, limited liability company, partnership, trust, or other legal entity or group of entities, including a governmental entity or any agency or political subdivision thereof.

*"Plant"* means the trona mining and soda ash manufacturing facilities of the Borrower located near Green River, Wyoming, previously owned by the Borrower and operated by FMC Wyoming Corporation. The Plant was sold to Tronox US Holdings Inc. in April 2015 and is now operated by Tronox Alkali Wyoming Corporation, a subsidiary of Tronox US Holdings Inc.

*"Prime Rate"* means the interest rate established from time to time by [\_\_\_\_], as [\_\_\_\_]'s prime rate, whether or not such rate is publicly announced; the Prime Rate may not be the lowest interest rate charged by [\_\_\_\_] for commercial or other extensions of credit. Each change in the Prime Rate shall be effective immediately from and after such change. Notwithstanding the foregoing, this definition of *"Prime Rate"* may be changed upon conversion of the Interest Rate Period for the Bonds to a LIBOR Index Interest Rate Period with the consent of the Borrower and the Purchaser.

*"Principal Account"* means the account by that name in the Bond Fund established pursuant to Section 5.2 hereof.

*“Principal Payment Date”* means December 1, 2035.

*“Prior Bonds”* means the Issuer’s \$90,000,000 aggregate principal amount Solid Waste Disposal Refunding Revenue Bonds (FMC Corporation Project) Series 2005, which are being refunded with proceeds of the Bonds.

*“Prior Indenture”* means the Indenture of Trust, dated as of December 1, 2005, from the Issuer to The Bank of New York (now The Bank of New York Mellon Trust Company, N.A., as successor) as trustee, pursuant to which the Prior Bonds are issued.

*“Project”* means the facilities financed from the proceeds of the Series 1994 Bonds and described in Exhibit A to the Loan Agreement, as Exhibit A may be modified in accordance with Article V of the Loan Agreement.

*“Project Certificate”* means the Borrower’s and Tronox’s certificate or certificates, including the Tronox Certificate, delivered on the Issuance Date, with respect to certain facts which are within the knowledge of the Borrower or Tronox, as the case may be, to enable bond counsel to determine whether interest on the Bonds is includible in the gross income of the Owners thereof under applicable provisions of the Code.

*“Purchase Contract”* means the Bond Purchase Agreement dated November [17], 2016, among the Issuer, the Borrower and the Underwriter.

*“Purchase Date”* means the date on which any Bond is required to be purchased pursuant to Section 2.4, 4.6, 4.8 or 4.9 hereof.

*“Purchase Price”* means that amount equal to 100% of the principal amount of any Bond purchased pursuant to Section 2.4, 4.6, 4.8 or 4.9 hereof, plus accrued and unpaid interest thereon to but not including the Purchase Date.

*“Purchase Price Payments”* means the purchase price payments required to be made by the Borrower pursuant to Section 4.2(c) of the Loan Agreement.

*“Purchaser”* means, during any LIBOR Index Interest Rate Period, the Holder of the Bonds, provided that there is a single Holder of all of the Bonds and provided further that the Bonds are not Book-Entry Bonds. If there is more than one Holder of the Bonds during any LIBOR Index Interest Rate Period, *“Purchaser”* means Holders owning a majority of the aggregate principal amount of the Bonds then Outstanding. If the Bonds are then Book-Entry Bonds, *“Purchaser”* means the Beneficial Owner of the Bonds, provided that there is a single Beneficial Owner of all of the Bonds. If there is more than one Beneficial Owner of the Bonds during any LIBOR Index Interest Rate Period, *“Purchaser”* means Beneficial Owners who are the beneficial owners of a majority of the aggregate principal amount of the Bonds then Outstanding.

*“Rating Agency”* means Moody’s, if Moody’s is then rating the Bonds, and S&P, if S&P is then rating the Bonds, or any other nationally recognized securities rating agency selected by the Borrower.

*“Rebate Amount”* and *“Rebate Expert”* shall have the meanings assigned to them in the Tax Agreement.

*“Rebate Fund”* means the fund by that name created pursuant to Section 5.6 hereof.

*“Record Date”* means (i) the Business Day immediately preceding the applicable Interest Payment Date during a Variable Interest Rate Period or a Term Interest Rate Period of six months or less and (ii) the day, whether a Business Day, that is the fifteenth day of the month prior to an Interest Payment Date during any Term Interest Rate Period of more than six months.

*“Redemption Account”* means the account by that name established in the Bond Fund pursuant to Section 5.2 hereof.

*“Reimbursement Agreement”* means any reimbursement or letter of credit agreement pursuant to which a Letter of Credit is issued, together with any other documents executed pursuant thereto or in connection therewith or with the related Letter of Credit, as any of the same may be amended, supplemented, restated or replaced from time to time, or any other similar agreements entered into in connection with a Letter of Credit or the issuance of any Alternate Letter of Credit.

*“Remarketing Agent”* means the entity selected by the Borrower in accordance with Section 8.13 and its successors in such office under this Indenture.

*“Remarketing Agreement”* means any agreement or instrument between the Borrower and the Remarketing Agent named therein, as and when executed and delivered, pursuant to which a Remarketing Agent shall perform its services.

*“Reserved Rights”* means all of the rights of the Issuer under the Loan Agreement (i) to receive Additional Payments in accordance with Section 4.2(d) of the Loan Agreement; (ii) to be held harmless and indemnified in accordance with Section 8.2 of the Loan Agreement; (iii) to be reimbursed for fees and expenses upon enforcement of the Loan Agreement in accordance with Section 6.3 of the Loan Agreement; (iv) to receive notices in accordance with Section 9.1 of the Loan Agreement; and (v) to give and withhold consent to amendments, changes, modifications and alterations of the Loan Agreement under Section 9.4 of the Loan Agreement, and, in each case, its right to enforce such rights.

*“Revenues”* means all amounts received by the Issuer or the Trustee for the account of the Issuer pursuant or with respect to the Loan Agreement or the Letter of Credit (if applicable) including, without limiting the generality of the foregoing, Loan Payments (including both timely and delinquent payments and any late charges paid from whatever source), prepayments, condemnation proceeds, and all interest, profits or other income derived from the investment of amounts in any fund or account established pursuant to this Indenture, but not including

Administrative Fees and Expenses and other payments to the Issuer, the Trustee or other parties pursuant to Sections 4.2(d), 6.3, 8.1 and 8.2 of the Loan Agreement, any moneys paid for deposit into the Rebate Fund pursuant to Section 4.2(e) of the Loan Agreement, Purchase Price Payments pursuant to Section 4.2(c) of the Loan Agreement, or payments received under the Letter of Credit pursuant to Section 4.7(D) hereof.

“*Right to Retain*” means the right of a holder of the Bonds to elect to continue to hold the Bonds upon the conversion of the Bonds from one LIBOR Index Interest Rate Period (including the Initial LIBOR Index Interest Rate Period) to another LIBOR Index Interest Rate Period pursuant to Section 2.3(D)(4) hereof.

“*Rule G-34 Documents*” means: (i) any letter of credit agreement, reimbursement agreement, loan agreement or standby bond purchase agreement with respect to the Bonds; (ii) any indenture or any other document that establishes an obligation to provide liquidity for the Bonds as well as provisions with respect to such liquidity, including, without limitation, the circumstances under which a liquidity facility may terminate, the notice period for Bondholder tenders and the term out period for Bank Bonds; and (iii) any amendments, extensions, renewals, replacements or terminations thereof.

“*S&P*” means S&P Global Ratings, a division of Standard & Poor’s Financial Services LLC, its successors and their assigns, or, if such entity shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the Borrower.

“*Securities Depository*” means The Depository Trust Company, or, in accordance with then-current guidelines of the Securities and Exchange Commission, such other securities depository, or no such depository, as the Borrower may indicate in a certificate of the Borrower delivered to the Trustee.

“*Series 1994 Bonds*” means, collectively, the Series 1994A Bonds and the Series 1994B Bonds.

“*Series 1994A Bonds*” means the Issuer’s \$45,000,000 aggregate principal amount Solid Waste Disposal Revenue Bonds (FMC Corporation Project) Series 1994A.

“*Series 1994B Bonds*” means the Issuer’s \$45,000,000 aggregate principal amount Solid Waste Disposal Revenue Bonds (FMC Corporation Project) Series 1994B.

“*SIFMA Municipal Index*” means, with respect to any date on which an Index Interest Rate is set or any other relevant date of determination, The Securities Industry and Financial Markets Association Municipal Swap Index as published on such date or, if not published on such date, then as published as of the most recent date for which such index was published or such other weekly, high-grade index comprised of seven-day, tax-exempt variable rate demand notes produced by Municipal Market Data, Inc., or its successor, or as otherwise designated by The Securities Industry and Financial Markets Association; *provided, however*, that, if such index is no longer produced by Municipal Market Data, Inc. or its successor, then “*SIFMA*

*Municipal Index*” shall mean such other reasonably comparable index selected by the Remarketing Agent, in consultation with the Borrower, for tax-exempt state and local government bonds meeting the then-current Securities Industry and Financial Markets Association criteria.

“*State*” means the State of Wyoming.

“*Supplemental Indenture*” means any indenture hereafter duly authorized and entered into between the Issuer and the Trustee, supplementing, modifying or amending this Indenture; but only if and to the extent that such Supplemental Indenture is specifically authorized hereunder.

“*Taxable Rate*” means a per annum rate of interest equal to the sum of the Adjusted LIBOR Index plus the LIBOR Applicable Margin.

“*Tax Agreement*” means the Tax Exemption Certificate and Agreement, among the Borrower, the Trustee and the Issuer, dated the Issuance Date.

“*Tax-exempt*” means, with respect to interest on any obligations of a state or local government, including the Bonds, that such interest is excluded from gross income of the Holders or Beneficial Owners thereof for federal income tax purposes (other than in the case of a Holder or Beneficial Owner of any Bonds who is a substantial user of the Project financed with the proceeds of such Bonds or a related person within the meaning of Section 147(a) of the Code) whether or not such interest is includable as an item of tax preference or otherwise includable directly or indirectly for purposes of calculating tax liabilities, including any alternative minimum tax or environmental tax, under the Code.

“*Tender Agent*” means initially the Trustee and thereafter any successor tender agent appointed pursuant to Section 8.16 hereof.

“*Tender Notice*” has the meaning ascribed thereto in Section 2.4(A) hereof.

“*Term Interest Rate*” means an interest rate on all or a portion of the Bonds established in accordance with Section 2.3(C) hereof.

“*Term Interest Rate Period*” means each fixed period of time during which a Term Interest Rate is in effect, including the Initial Term Interest Rate Period.

“*Tronox*” means together, Tronox US Holdings Inc. (a corporation duly organized and validly existing under the laws of the State of Delaware, authorized to do business in, and in good standing under the laws of, the State and the current owner of the Project at the Plant) and Tronox Alkali Wyoming Corporation (a subsidiary of Tronox US Holdings Inc. and a corporation duly organized and validly existing under the laws of the State of Delaware, authorized to do business in, and in good standing under the laws of, the State and the current operator of the Plant), or any entity which is the surviving, resulting or transferee entity in any merger, consolidation or transfer of assets.

*“Tronox Certificate”* means that certain certificate, dated the Issuance Date and delivered by Tronox, with respect to certain facts which are within the knowledge of Tronox to enable bond counsel to determine whether interest on the Bonds is includible in the gross income of the Owners thereof under applicable provisions of the Code.

*“Trustee”* means The Bank of New York Mellon Trust Company, N.A., a national banking association organized and existing under and by virtue of the laws of the United States of America, or its successor as Trustee hereunder as provided in Section 8.1.

*“Underwriter”* means Merrill Lynch, Pierce, Fenner & Smith Incorporated, the initial purchaser of the Bonds.

*“Variable Interest Rate”* means the Daily Interest Rate, the Weekly Interest Rate, the Index Interest Rate and the LIBOR Index Rate.

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

*“Weekly Interest Rate”* means a variable interest rate on all or a portion of the Bonds established weekly in accordance with Section 2.3(B) hereof.

*“Weekly Interest Rate Period”* means each period during which Weekly Interest Rates are in effect.

*Section 1.2. Content of Certificates and Opinions.* Every certificate or opinion provided for in this Indenture with respect to compliance with any provision hereof shall include (1) a statement that the Person making or giving such certificate or opinion has read such provision and the definitions herein relating thereto; (2) a brief statement of the nature and scope of the examination or investigation upon which the certificate or opinion is based; (3) a statement that, in the opinion of such Person, such Person has made or caused to be made such examination or investigation as is necessary to enable such Person to express an informed opinion with respect to the subject matter referred to in the instrument to which such Person’s signature is affixed; (4) a statement of the assumptions upon which such certificate or opinion is based, and that such assumptions are reasonable; and (5) a statement of whether, in the opinion of such Person, such provision has been complied with.

Any such certificate or opinion made or given by an officer of the Issuer or an officer or duly authorized representative of the Borrower may be based, insofar as it relates to legal, accounting or business matters of either of them, upon a certificate or opinion of or representation by counsel, an Accountant or a management consultant, unless such officer knows, or in the case of the Borrower, in the exercise of reasonable care should have known, that the certificate, opinion or representation with respect to the matters upon which such certificate or statement may be based, as aforesaid, is erroneous. Any such certificate or opinion made or given by counsel, an Accountant or a management consultant may be based, insofar as it relates to factual matters (with respect to which information is in the possession of the Issuer or the Borrower, as the case may be) upon a certificate or opinion of or representation by an officer of

the Issuer or the Borrower, unless such counsel, Accountant or management consultant knows, or in the exercise of reasonable care should have known, that the certificate or opinion or representation with respect to the matters upon which such Person's certificate or opinion or representation may be based, as aforesaid, is erroneous. The same officer of the Issuer or the Borrower, or the same counsel or Accountant or management consultant, as the case may be, need not certify to or opine upon all of the matters required to be certified to or opined upon under any provision of this Indenture, but different officers, counsel, Accountants or management consultants may certify to or opine upon different matters, respectively. All reasonable costs and expenses of the Issuer incurred in connection with any such required certifications, including, but not limited to, reasonable costs and expenses of counsel, shall be borne by the Borrower, and the Issuer shall have no liability therefor.

*Section 1.3. Interpretation.* (A) Unless the context otherwise indicates, words expressed in the singular shall include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and shall be deemed to mean and include the neuter, masculine or feminine gender, as appropriate.

(B) Headings of articles and Sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.

(C) All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Indenture; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof.

## ARTICLE II

### THE BONDS

*Section 2.1. Authorization of Bonds.* There shall be issued under and secured by this Indenture \$90,000,000 aggregate principal amount of Bonds to be designated "Sweetwater County, Wyoming Solid Waste Disposal Refunding Revenue Bonds (FMC Corporation Project) Series 2016" (the "Bonds"). This Indenture constitutes a continuing agreement with the Holders from time to time of the Bonds to secure the full payment of the principal (or redemption price) of and interest on all such Bonds subject to the covenants, provisions and conditions herein contained.

The Bonds, together with premium, if any, and interest thereon, shall be special, limited obligations of the Issuer secured by the Loan Agreement and payable solely from the Revenues (except to the extent paid out of moneys attributable to the Bond proceeds or the income from the temporary investment thereof), as more specifically provided in Section 5.1 hereof, and shall be a valid claim of the respective owners thereof only against the Bond Fund and other moneys held by the Trustee pursuant to the terms hereof and the Revenues, which Revenues shall be used for no other purpose than to pay the principal of, and premium, if any, and interest on, the Bonds, except as may be otherwise expressly authorized in this Indenture. The Bonds do not represent a

debt or pledge of the faith and credit of the Issuer. No moneys of the Issuer raised by taxation shall be obligated or pledged for the payment of the Bonds or other obligations of the Issuer pursuant to the Act.

*Section 2.2. Bonds.* The Bonds shall be dated the Issuance Date and shall mature (subject to prior redemption at the prices and dates and upon the terms and conditions hereinafter set forth) on the Principal Payment Date. The Bonds shall bear interest on the unpaid principal amount thereof as set forth in Section 2.3 hereof; *provided, however*, that in no event shall the rate of interest on any Bond exceed at any time the Maximum Rate. If an Event of Default shall have occurred and be continuing, then all Bonds bearing interest at a Daily Interest Rate or a Weekly Interest Rate shall bear interest at the Alternate Rate from the date of such Event of Default, and all Bonds bearing interest at a LIBOR Index Rate shall bear interest at the Default Rate from the date of such Event of Default. Each Bond will bear interest from the Interest Payment Date to which interest has been paid next preceding the date of authentication thereof, unless authenticated on an Interest Payment Date to which interest has been paid, in which event it will bear interest from such Interest Payment Date, or unless no interest has been paid on such Bond, in which event it will bear interest from the Issuance Date.

The Bonds shall be issued as fully registered Bonds in Authorized Denominations. The Bonds shall be issued in substantially the form set forth in *Exhibit A* to this Indenture with such variations, insertions or omissions as are appropriate and not inconsistent therewith and shall conform generally to the rules and regulations of any governmental authority or usage or requirement of law with respect thereto. The Bonds shall be numbered and lettered from one upward preceded by the letter "R" prefixed to the number and may bear such additional letters, numbers, legends or designations as the Bond Registrar determines are desirable.

The Bonds shall be subject to redemption and mandatory tender for purchase as provided in Sections 4.1, 4.6 and 4.8 hereof.

On the Issuance Date there will be *no* Letter of Credit securing any of the Bonds.

*Section 2.3. Interest Rates.* (A) The Bonds shall bear interest from and including the Issuance Date until payment of the principal or redemption price thereof shall have been made or provided for in accordance with the provisions hereof, whether at maturity, upon redemption or otherwise or until the Bonds have been accelerated pursuant hereto. Interest on the Bonds with respect to each Interest Period shall be paid on the immediately succeeding Interest Payment Date, as provided below, *provided* that if any Interest Payment Date is not a Business Day, such interest shall be mailed or wired pursuant to this Section 2.3 on the next succeeding Business Day, with the same effect as if made on the day such payment was due. During a Daily Interest Rate Period, Weekly Interest Rate Period, Index Interest Rate Period or a Term Interest Rate Period of six calendar months or less, interest on the Bonds shall be computed upon the basis of a 365-day year or 366-day year, as applicable, for the number of days actually elapsed. During any Term Interest Rate Period of more than six calendar months, interest on the Bonds shall be computed upon the basis of a 360-day year, consisting of twelve 30-day months. Interest on Bonds accruing interest at the LIBOR Index Rate shall be computed on the basis of a 360-day

year for the actual number of days elapsed, except when the Bonds bear interest at the Alternate Rate as described in Section 2.3(E)(1)(iii) hereof.

The first Interest Rate Period for the Bonds shall be the Initial Term Interest Rate Period. Commencing on the Issuance Date, the Bonds shall bear interest at the Initial Term Interest Rate. The interest rate on the Bonds may thereafter be adjusted to a Daily Interest Rate, a Weekly Interest Rate, an Index Interest Rate, another Term Interest Rate or a LIBOR Index Rate.

Payment of the interest on the Bonds shall be made to the Person appearing on the bond registration books of the Bond Registrar as the Bondholder thereof on the Record Date, such interest to be paid by the Paying Agent to such Bondholder (i) by check mailed on the Interest Payment Date to such Bondholder's address as it appears on the registration books, or at such other address as has been furnished to the Bond Registrar as provided below in writing by such Bondholder not later than the Record Date, (ii) for any Bondholder holding Bonds accruing interest at the Daily Interest Rate, the Weekly Interest Rate, the Index Interest Rate or the LIBOR Index Rate, by wire transfer in immediately available funds at an account maintained in the United States at such wire address as such Bondholder shall specify in its written request (any such written request shall remain in effect until rescinded in writing by such Bondholder), or (iii) during a Term Interest Rate Period, upon written request at least three Business Days prior to the applicable Record Date of a Bondholder of Bonds aggregating not less than \$1,000,000 in principal amount, by wire transfer in immediately available funds at an account maintained in the United States at such wire address as such Bondholder shall specify in its written request (any such written request shall remain in effect until rescinded in writing by such Bondholder); except, in each case, that, if and to the extent that there shall be a default in the payment of the interest due on such Interest Payment Date, such defaulted interest shall be paid to the Bondholder in whose name any such Bonds are registered at the close of business on the fifth Business Day next preceding the date of payment of such defaulted interest. Both the principal of and premium, if any, on the Bonds shall be payable upon surrender thereof in lawful money of the United States of America at the Corporate Trust Office of the Trustee.

In the manner hereinafter provided, the term of the Bonds (or any portion thereof pursuant to Section 2.3(G) hereof) will be divided into consecutive Interest Rate Periods, during each of which such Bonds shall bear interest at a Daily Interest Rate, Weekly Interest Rate, LIBOR Index Interest Rate, Index Interest Rate or Term Interest Rate.

(B) (1) *Determination of Daily Interest Rate and Weekly Interest Rate.* During each Daily Interest Rate Period, the Bonds shall bear interest at the Daily Interest Rate, which shall be determined by the Remarketing Agent not later than 10:00 a.m. (New York City time) on each Business Day during such Daily Interest Rate Period to take effect on such Business Day. During each Weekly Interest Rate Period, the Bonds shall bear interest at the Weekly Interest Rate, which shall be determined by the Remarketing Agent not later than 4:00 p.m. (New York City time) on Wednesday of each week (or by 4:00 p.m. (New York City time) on the next succeeding Business Day if such Wednesday is not a Business Day) during such Weekly Interest Rate Period for the week commencing on the next succeeding Thursday (unless such Weekly Interest Rate is determined on the next succeeding Business Day if Wednesday is not a Business Day, in which case it shall be effective on the day of such determination); *provided, however,*

that if the then current Interest Rate Period is a not a Weekly Interest Rate Period, the first Weekly Interest Rate shall be determined not later than the Business Day next preceding the effective date of such Weekly Interest Rate Period. The Daily Interest Rate or the Weekly Interest Rate, as applicable, shall be the rate determined by the Remarketing Agent (on the basis of examination of obligations comparable to the applicable Bonds known by the Remarketing Agent to have been priced or traded under then prevailing market conditions) to be the minimum interest rate which, if borne by such Bonds, would enable the Remarketing Agent to sell such Bonds on the effective date of such Daily Interest Rate or Weekly Interest Rate, at a price equal to the principal amount thereof plus accrued interest; *provided, however*, that if for any reason such Daily Interest Rate or Weekly Interest Rate cannot be determined, (a) the Daily Interest Rate for such Business Day and the Business Day thereafter shall remain at the then-existing Daily Interest Rate, and thereafter (or, if the first Daily Interest Rate is not determined for a Daily Interest Rate Period), the Daily Interest Rate for such Bonds shall be the applicable Alternate Rate and (b) the Weekly Interest Rate for the next succeeding week shall remain at the then-existing Weekly Interest Rate, and thereafter (or if for any reason the first Weekly Interest Rate is not determined for a Weekly Interest Rate Period) the Weekly Interest Rate for such Bonds shall be the applicable Alternate Rate. Notwithstanding the foregoing, during any period of time all Bonds are owned by the Borrower or an affiliate of the Borrower, the Daily Interest Rate with respect to such Bonds during such period shall be equal to the SIFMA Municipal Index plus 10 basis points. Each Daily Interest Rate shall apply to the period commencing on each Business Day and ending on the day before the next succeeding Business Day. The first Weekly Interest Rate determined for each Weekly Interest Rate Period shall apply to the period commencing on the first day of such Weekly Interest Rate Period and ending on the next succeeding Wednesday. Thereafter, each Weekly Interest Rate shall apply to the period commencing on Thursday and ending on the next succeeding Wednesday, unless such Weekly Interest Rate Period shall end on a day other than Wednesday, in which event the last Weekly Interest Rate for such Weekly Interest Rate Period shall apply to the period commencing on the Thursday preceding the last day of such Weekly Interest Rate Period and ending on such last day.

(2) *Conversion to Daily Interest Rate Period or Weekly Interest Rate Period.* The Borrower, by written direction to the Trustee and the Remarketing Agent, and accompanied by a Favorable Opinion of Tax Counsel, may elect to convert the Interest Rate Period for Bonds (a) from a Weekly Interest Rate Period, a LIBOR Index Interest Rate Period, an Index Interest Rate Period or a Term Interest Rate Period to a Daily Interest Rate Period or (b) from a Daily Interest Rate Period, a LIBOR Index Interest Rate Period, an Index Interest Rate Period or a Term Interest Rate Period to a Weekly Interest Rate Period; *provided* that no Favorable Opinion of Tax Counsel shall be required in connection with a conversion from a Daily Interest Rate Period to a Weekly Interest Rate Period or vice versa. Such direction shall include the information set forth in Section 2.3(B)(3), shall state whether such Bonds will be secured by a Letter of Credit and if so, the name of the Credit Provider, and shall specify the Conversion Date, which shall be any day on which the Bonds are subject to optional redemption pursuant to Section 4.1 hereof, or the Business Day next succeeding the last day of the then-current Term Interest Rate Period, but not less than 20 days (with respect to a conversion from a Variable Interest Rate Period) or 35 days (with respect to a conversion from a Term Interest Rate Period) following the date of receipt by the Trustee of such written direction. Notwithstanding the

foregoing, if the Bonds are in an Index Interest Rate Period, a condition to conversion to a Daily Interest Rate Period or a Weekly Interest Rate Period is that all such Bonds are remarketed. If that or any other condition to conversion is not satisfied, the Bonds will not be subject to mandatory tender for purchase on the Conversion Date and will remain in the Index Interest Rate Period with the Index Interest Rate determined as if no conversion had been proposed. If any condition to conversion is not satisfied, the Bonds will be subject to mandatory tender for purchase on the proposed Conversion Date and the interest rate will remain, or be converted to, the Daily Interest Rate.

(3) *Notice of Conversion to Daily Interest Rate Period or Weekly Interest Rate Period.* The Trustee shall give notice by mail of a conversion of Bonds to a Daily Interest Rate Period or a Weekly Interest Rate Period to the Bondholders, the Credit Provider, if any, the Remarketing Agent and the Borrower not less than 15 days (30 days with respect to a conversion from a Term Interest Rate Period) prior to the Conversion Date to such Daily Interest Rate Period or Weekly Interest Rate Period. Such notice shall state (a) that the interest rate on such Bonds will be converted to a Daily Interest Rate or a Weekly Interest Rate, as applicable, (b) the effective date of such Daily Interest Rate Period or Weekly Interest Rate Period, as applicable, (c) that such Bonds will be purchased on such Conversion Date, pursuant to Section 4.6 hereof, (d) the procedures for the purchase described in (c) above, (e) the principal amount of the Bonds to be converted, including (if applicable) the CUSIP number or letter and numerical designator of such Bonds, and (f) if the change is from an Index Interest Rate Period, that the mandatory purchase on the Conversion Date and the conversion to a different Interest Rate Period is conditioned upon all such Bonds being remarketed on the Conversion Date.

(C) (1) *Determination of Term Interest Rate.* During each Term Interest Rate Period for the Bonds after the Initial Term Interest Rate Period, the Bonds (or any portion thereof) shall bear interest at the Term Interest Rate, which shall be determined by the Remarketing Agent not later than 4:00 p.m. (New York City time) on the Business Day preceding the first day of such Term Interest Rate Period. The Term Interest Rate shall be the rate determined by the Remarketing Agent (on the basis of examination of obligations comparable to such Bonds known by the Remarketing Agent to have been priced or traded under then prevailing market conditions) to be the minimum interest rate which, if borne by such Bonds, would enable the Remarketing Agent to sell such Bonds on the first day of such Term Interest Rate Period at a price equal to the principal amount thereof; *provided, however*, that if for any reason the Term Interest Rate cannot be determined for any Term Interest Rate Period, the interest rate on such Bonds shall convert to a Daily Interest Rate. Notwithstanding the foregoing, Bonds may be remarketed at a price other than par provided such Bonds are being remarketed for a Term Interest Rate Period to the maturity date, and the Remarketing Agent and the Trustee receive a Favorable Opinion of Tax Counsel.

(2) *Conversion to Term Interest Rate Period.* The Borrower, by written direction to the Trustee and the Remarketing Agent, may elect that the Interest Rate Period for the Bonds (or any portion thereof) shall be a Term Interest Rate Period or, if such Bonds then bear interest at a Term Interest Rate, the Borrower may elect that such Bonds bear interest for a Term Interest Rate Period of the same or a different duration. Such direction (a) shall specify the Conversion Date on which such Bonds shall be purchased pursuant to Section 4.6 hereof, which date shall be

(i) any day on which the Bonds are subject to optional redemption pursuant to Section 4.1 hereof or (ii) the Business Day next succeeding the last day of the then-current Term Interest Rate Period; not less than 35 days following the date of receipt by the Trustee of such written direction; (b) shall state whether a Letter of Credit shall secure such Bonds during the Term Interest Rate Period and, if so, state the name of the Credit Provider; (c) shall provide the information described in Section 2.3(C)(3) and (d) shall state that the Borrower will provide a Favorable Opinion of Tax Counsel prior to the proposed Conversion Date unless such Term Interest Rate Period follows a Term Interest Rate Period of a similar duration. No later than the second Business Day prior to the proposed Conversion Date or at any earlier time as the Remarketing Agent or the Trustee may request from the Borrower, the Borrower shall provide to the Trustee and the Remarketing Agent a Favorable Opinion of Tax Counsel (if required) and, by written direction to the Trustee and the Remarketing Agent, shall determine the duration of the Term Interest Rate Period (which may be (i) any period of (a) three calendar months, or (b) any multiple of three calendar months, except that the duration of any such period shall be adjusted to allow any subsequent Term Interest Rate Period to commence on a Business Day and terminate on a day that is immediately followed by a Business Day, or (ii) the period of time remaining to the Principal Payment Date). If, at least 35 days prior to the last day of any Term Interest Rate Period, the Borrower shall not have elected that the Bonds (or any portion thereof) bear interest at a Variable Interest Rate or a Term Interest Rate during the next succeeding Interest Rate Period, the next succeeding Interest Rate Period shall be a Term Interest Rate Period of the same duration as the Term Interest Rate Period currently in effect (except that the duration of such Term Interest Rate Period shall be adjusted to allow such Term Interest Rate Period to commence on a Business Day and terminate on a day that is immediately followed by a Business Day), or, if less, until the Principal Payment Date. If any condition to a conversion which the Borrower has directed as set forth in this Section 2.3(C)(2) is not satisfied, the Bonds will be subject to mandatory tender for purchase on the proposed Conversion Date and the interest rate will be converted to the Daily Interest Rate. Notwithstanding the foregoing, if the Bonds are in an Index Interest Rate Period, a condition to conversion to a Term Interest Rate Period is that all such Bonds are remarketed. If that or any other condition to conversion is not satisfied, the Bonds will not be subject to mandatory tender for purchase on the Conversion Date and will remain in the Index Interest Rate Period with the Index Interest Rate determined as if no conversion had been proposed.

(3) *Notice of Conversion to Term Interest Rate Period.* The Trustee shall give notice by mail of each Term Interest Rate Period for the Bonds to the Bondholders, the Credit Provider, if any, the Remarketing Agent and the Borrower not less than 15 days prior to the effective date of such Term Interest Rate Period or, if such Bonds are then in a Term Interest Rate Period, not less than 30 days prior to the effective date of such Term Interest Rate Period. Such notice shall state (a) that the interest rate on the Bonds will be converted to or continue to be a Term Interest Rate, (b) the Conversion Date to such Term Interest Rate Period, (c) that the Bonds will be purchased on such Conversion Date pursuant to Section 4.6 hereof, (d) the procedures for such purchase described in (c) above, (e) the principal amount and the Interest Rate Period of the Bonds to be converted, including (if applicable) the CUSIP numbers or letters and designation of such Bonds, and (f) if the Bonds are then in an Index Interest Rate Period, that the mandatory purchase on the Conversion Date and the conversion to the Term Interest Rate Period is conditioned upon all Bonds being remarketed on the Conversion Date.

(D) (1) *Determination of Index Interest Rate.* During each Index Interest Rate Period for the Bonds, the Bonds shall bear interest at the Index Interest Rate, which shall be determined by the Calculation Agent, not later than 4:00 p.m. (New York City time), on Wednesday of each week (or by 4:00 p.m. (New York City time) on the next succeeding Business Day if such Wednesday is not a Business Day), during such Index Interest Rate Period for the week commencing on the next succeeding Thursday (unless such Index Interest Rate is determined on the next succeeding Business Day if Wednesday is not a Business Day, in which case it shall be effective on the day of such determination); *provided, however,* that if the then current Interest Rate Period is a not an Index Interest Rate Period, the first Index Interest Rate shall be determined not later than the Business Day next preceding the effective date of such Index Interest Rate Period. The Calculation Agent shall calculate, and shall certify to the Remarketing Agent, the Trustee and the Borrower by Electronic Means, the Index Interest Rate applicable to the Bonds, which shall be the SIFMA Municipal Index, plus the number of basis points per annum determined by the Remarketing Agent pursuant to Section 2.3(D)(4) hereof. Such determination shall be conclusive and binding upon the Borrower, the Issuer, the Trustee, the Remarketing Agent and the Holders. While the Bonds bear interest at an Index Interest Rate, at least one Business Day prior to each Interest Payment Date for such Bonds, and provided that the Trustee has received notice of the effective interest rate from the Calculation Agent, the Trustee shall notify the Bondholders, via Electronic Means, of the effective interest rate of such Bonds during the corresponding Index Interest Rate Period. The first Index Interest Rate determined for each Index Interest Rate Period shall apply to the period commencing on the first day of such Index Interest Rate Period and ending on the next succeeding Wednesday. Thereafter, each Index Interest Rate shall apply to the period commencing on Thursday and ending on the next succeeding Wednesday, unless such Index Interest Rate Period shall end on a day other than Wednesday, in which event the last Index Interest Rate for such Index Interest Rate Period shall apply to the period commencing on the Thursday preceding the last day of such Index Interest Rate Period and ending on such last day.

(2) *Conversion to Index Interest Rate Period.* The Borrower, by written direction to the Trustee and the Remarketing Agent, and accompanied by a Favorable Opinion of Tax Counsel, may elect to convert the Interest Rate Period for the Bonds to an Index Interest Rate Period. Such direction shall include the information set forth in Section 2.3(D)(3), including the duration of the Index Interest Rate Period, and shall specify the Conversion Date, which shall be any day on which the Bonds are subject to optional redemption pursuant to Section 4.1 hereof, or the Business Day next succeeding the last day of the then-current Term Interest Rate Period, but in either case not less than 20 days (with respect to a conversion from a Variable Interest Rate Period) or 35 days (with respect to a conversion from a Term Interest Rate Period) following the date of receipt by the Trustee of such written direction. The Borrower shall appoint a Calculation Agent prior to the Conversion Date.

(3) *Notice of Conversion to Index Interest Rate Period.* The Trustee shall give notice by mail of a conversion of the Bonds to an Index Interest Rate Period to the Bondholders, the Credit Provider, if any, the Remarketing Agent and the Borrower not less than 15 days (30 days for a conversion from a Term Interest Rate Period) prior to the Conversion Date of such Index Interest Rate Period. Such notice shall state (a) that the interest rate on such Bonds will be converted to an Index Interest Rate Period, (b) the effective date of such Index Interest Rate

Period, (c) that such Bonds will be purchased on such Conversion Date, pursuant to Section 4.6 hereof, (d) the procedures for the purchase described in (c) above, and (e) the principal amount and the Interest Rate Period of the Bonds to be converted, including (if applicable) the CUSIP number or letter and numerical designator of such Bonds.

(4) *Determination of Spread to SIFMA Municipal Index for Purposes of Determining the Index Interest Rate.* For purposes of determining the Index Interest Rate pursuant to Section 2.3(D)(1) hereof, the Remarketing Agent shall, in connection with the conversion of the interest rate on the Bonds to an Index Interest Rate, determine the number of basis points which, when added to the SIFMA Municipal Index, will be the minimum interest rate which, if borne by the Bonds, would enable the Remarketing Agent to sell the Bonds on the first day of such Index Interest Rate Period at a price equal to the principal amount thereof, *provided* that such rate shall not exceed the Maximum Rate.

(E) (1) *Determination of LIBOR Index Rates.* (i) The Calculation Agent shall determine the LIBOR Index Rate no later than 1:00 p.m., New York City time on each Computation Date, and such rate shall become effective on the LIBOR Index Reset Date next succeeding the Computation Date and interest at such rate shall accrue each day during such LIBOR Index Interest Period, commencing on and including the first day of such Interest Period to but excluding the last day of such Interest Period. The LIBOR Index Rate shall be rounded upward to the third decimal place. Promptly following the determination of the LIBOR Index Rate, the Calculation Agent shall give notice thereof to the Borrower. All LIBOR Index Interest Rate Bonds shall bear interest accruing at the same LIBOR Index Rate.

(ii) If the LIBOR Index Rate is not determined by the Calculation Agent on the Computation Date or in the event that the Calculation Agent shall determine that any of the following described events has occurred and is continuing during the LIBOR Index Interest Rate Period, the Bonds will thereafter bear interest at the Alternate Rate:

(a) dollar deposits in the principal amount, and for periods equal to the LIBOR Index Interest Rate Period, of a LIBOR Index Rate are not available in the London inter-bank market; or

(b) maintenance of a LIBOR Index Rate would violate any applicable law, rule, regulation or directive, whether or not having the force of law.

(iii) Interest shall be calculated on the basis of a year consisting of 360 days for the actual number of days elapsed; provided that when the Bonds bear interest at the Alternate Rate, interest shall be calculated on the basis of a year consisting of 365 (or 366, as applicable) days for the actual number of days elapsed.

(iv) Notwithstanding the foregoing, upon the occurrence and during the continuance of any Event of Default during a LIBOR Index Interest Rate Period, the unpaid principal balance of the Bonds shall accrue interest at the Default Rate.

(2) *Conversion to LIBOR Index Interest Rate Period.* The Borrower, by written direction to the Trustee, and the Remarketing Agent and any Credit Provider, and (unless the conversion is to another LIBOR Index Interest Rate Period), accompanied by a Favorable Opinion of Tax Counsel, may elect to convert the Interest Rate Period for the Bonds to a LIBOR Index Interest Rate Period. Such direction of the Borrower shall specify the proposed Conversion Date for such conversion to a LIBOR Index Interest Rate Period, which shall be (i) a Business Day not earlier than the 20th day (35th day for a conversion from a Term Interest Rate Period) following receipt by the Trustee of such written direction, (ii) in the case of conversion from a Term Interest Rate Period, the day immediately following the last day of the then-current Term Interest Rate Period, or (iii) any day on which the Bonds are subject to optional redemption pursuant to Section 4.1 hereof. In addition, such direction shall confirm the appointment of a Calculation Agent and a Market Agent. Such direction shall also state the new Bank Tender Date, the new Applicable Factor and the LIBOR Applicable Margin. The LIBOR Applicable Margin and Applicable Factor shall be determined by the Market Agent such that the applicable LIBOR Index Rate shall be the interest rate per annum (based upon tax exempt obligations comparable, in the judgment of the Market Agent, to the Bonds and known to the Market Agent to have been priced or traded under then prevailing market conditions) to be the minimum interest rate at which a Person will agree to purchase the Bonds on the Conversion Date at a price (without regard to accrued interest) equal to the principal amount thereof. In addition, the Borrower shall provide a copy of such notice to the Calculation Agent contemporaneously with the Trustee. During each LIBOR Index Interest Rate Period commencing on the first day of such LIBOR Index Interest Rate Period so specified and ending on the day immediately preceding the effective date of the next succeeding Interest Rate Period, the interest rate borne by the Bonds shall be a LIBOR Index Rate.

(3) *Notice of Conversion to LIBOR Index Interest Rate Period.* The Trustee shall give notice by first-class mail of a conversion of the Bonds to a LIBOR Index Interest Rate Period to the Bondholders, not less than 15 days (30 days for a conversion from a Term Interest Rate) prior to the Conversion Date of such LIBOR Index Interest Rate Period. Such notice shall state (a) that the interest rate on such Bonds will be converted to a LIBOR Index Interest Rate Period, (b) the proposed Conversion Date, (c) that such Bonds will be subject to mandatory tender for purchase on such proposed Conversion Date and (d) setting forth the applicable purchase price and the place of delivery for purchase of the Bonds.

(4) *Certain Conversions between LIBOR Index Interest Rate Periods.* At the request of the Borrower, any Holder of the Bonds may exercise a Right to Retain upon the conversion of such Bonds from one LIBOR Index Interest Rate Period to another LIBOR Index Interest Rate Period by filing with the Trustee not less than 35 days prior to such Conversion Date (or such shorter period agreed to by the Trustee), a written notice identifying such Bonds and the principal amount it wishes to retain. In the event any such Holders exercise such Right to Retain, such Bonds will not be subject to mandatory tender on such Conversion Date pursuant to Section 4.6(A)(5) hereof.

(F) *Determination of Interest Rate Conclusive.* The determination of the interest rate on the Bonds by the Remarketing Agent, including the determination under Section 2.3(D)(4) hereof, and by the Calculation Agent of the SIFMA Municipal Index or of the LIBOR Index

Rate under Section 2.3(E), as well as the determinations made by the Market Agent under Section 2.3(E) hereof, shall be conclusive and binding upon the Holders of such Bonds, the Borrower, the Issuer, the Tender Agent, the Credit Provider, if any, and the Trustee. The Remarketing Agent and the Calculation Agent, as applicable, shall furnish the interest rates that it determines to parties and in the manner specified in Section 4.7(B).

(G) *Partial Conversions.*

(1) *General.* The Bonds may be converted in whole or in part to any Interest Rate Period subject to the terms of this Indenture. In the event such Bonds are in (or are to be converted to) more than one Interest Rate Period, the provisions herein relating to Bonds in a particular Interest Rate Period (or to be converted to a particular Interest Rate Period) shall apply only to such Bonds in (or to be converted to) such Interest Rate Period and, where necessary or appropriate, any reference in this Indenture to the Bonds shall be construed to mean the Bonds in (or to be converted to) such Interest Rate Period.

(2) *Selection.* In the event of any partial conversion of the Bonds to a new Interest Rate Period, the Bonds or portions thereof to be converted shall be selected by the Trustee from the Bonds in the Interest Rate Period as directed by the Borrower. The particular Bonds (or portions thereof) in the Interest Rate Period to be converted shall be selected randomly by the Trustee from all the Bonds in the Interest Rate Period from which Bonds are to be converted. The principal amount of Bonds to be converted shall be determined so that all of the Bonds shall be in Authorized Denominations. Bonds (or portions thereof) shall be selected randomly in any manner that the Trustee in its sole discretion shall deem appropriate and fair and such selection shall be conclusive and binding upon any affected Bondholder, the Borrower, the Remarketing Agent, the Issuer and the Credit Provider, if any, and the selection of the Bonds to be converted shall occur prior to the date notice of mandatory tender is sent by the Trustee to the Bondholders pursuant to Section 4.6 hereof.

(3) *Amendments.* The provisions of this Indenture may be amended to permit or facilitate partial conversions of the Bonds without Bondholder consent in accordance with Section 9.1(B)(2) hereof.

*Section 2.4. Demand Purchase of Bonds.* (A) During any Daily Interest Rate Period or Weekly Interest Rate Period, the Bonds or portions thereof in Authorized Denominations shall be purchased at the option of the Bondholder thereof, or, with respect to Book-Entry Bonds, at the option of the Direct Participant with an ownership interest in Book-Entry Bonds, on any Business Day, at a price of 100% of the principal amount thereof, plus accrued interest to the Purchase Date, upon (i) delivery to the Trustee and the Tender Agent, at their respective Corporate Trust Offices, of an irrevocable notice in writing (a "*Tender Notice*") by 11:00 a.m. (New York City time) on any Business Day in the case of Bonds in a Daily Interest Rate Period or by 3:00 p.m. (New York City time) on any Business Day in the case of Bonds in a Weekly Interest Rate Period, which states the name of the registered Bondholder of such Bonds or the Direct Participant for such Bonds and such Direct Participant's account number, as applicable, payment instructions with respect to the Purchase Price of such Bonds, the principal amount of

such Bonds or portions thereof in Authorized Denominations being tendered for purchase, the CUSIP number of such Bonds and the date on which the same are to be purchased (which date, in the case of Bonds bearing interest at a Daily Interest Rate, shall be any Business Day; in the case of Bonds in a Weekly Interest Rate Period, shall be a Business Day not prior to the seventh day next succeeding the date of the delivery of such Tender Notice to the Trustee and the Tender Agent, and (ii) (a) if the Bonds are not Book-Entry Bonds, delivery of such Bonds to the Tender Agent at its Corporate Trust Office, accompanied by an instrument of transfer thereof in form satisfactory to the Tender Agent, executed in blank by the Bondholder thereof with the signature guaranteed in accordance with the guidelines set forth by one of the nationally recognized medallion signature programs, at or prior to 2:30 p.m. (New York City time) on the Purchase Date specified in the Tender Notice, or (b) if the Bonds are Book-Entry Bonds, confirmation by DTC (obtained by the Direct Participant of the Book-Entry Bonds being tendered for purchase pursuant to this Section 2.4) that such Direct Participant has an ownership interest in such Book-Entry Bonds at least equal to the amount specified in such Tender Notice, and of the transfer on the registration books of DTC of the beneficial ownership interest in such Book-Entry Bonds to the account of the Trustee (or to the account of a Direct Participant acting on behalf of the Trustee).

(B) If moneys sufficient to pay the Purchase Price of the Bonds to be purchased pursuant to Section 2.4(A) hereof shall be held by the Trustee on the date such Bonds are to be purchased, any such Bonds to be so purchased which are not delivered by the Bondholders thereof to the Tender Agent or transferred on the registration books of DTC, as applicable, on the date specified for purchase thereof will be deemed to have been delivered for purchase, or transferred on the registration books of DTC, as applicable, on such date and to have been purchased. The former Holders of such Bonds, or Direct Participants with respect to Book-Entry Bonds, will thereafter have no rights with respect to such Bonds except to receive payment of the Purchase Price therefor upon surrender of such Bonds to the Tender Agent or the transfer, on the registration books of DTC, of the beneficial interest in such Book-Entry Bonds.

*Section 2.5. Execution of Bonds* The Bonds shall be executed in the name of the Issuer by the manual or facsimile signature of the Chairman of the Board of County Commissioners, and attested by the manual or facsimile signature of its County Clerk, and shall have impressed or imprinted thereon the official seal of the Issuer or a facsimile thereof. All authorized facsimile signatures shall have the same force and effect as if manually signed. In case any officer who shall have signed, sealed or attested any of the Bonds shall cease to be such officer of the Issuer before the Bonds so signed, sealed or attested shall have been authenticated and delivered by the Trustee, such Bonds may nevertheless be authenticated and delivered as herein provided as if the person who so signed, sealed or attested such Bonds had not ceased to be such officer. Any Bond may be signed, sealed or attested on behalf of the Issuer by any person who, at the date of such act, shall hold the proper office, notwithstanding that at the date of such Bond such person may not have held such office.

Only such of the Bonds as shall bear thereon a certificate of authentication substantially in the form set forth in *Exhibit A*, with the manual signature of the Trustee as authenticating agent, shall be valid or obligatory for any purpose or entitled to the benefits of this Indenture, and such certificate of the Trustee shall be conclusive evidence that the Bonds so authenticated

have been duly executed, authenticated and delivered hereunder and are entitled to the benefits of this Indenture.

*Section 2.6. Transfer of Bonds.* Subject to the limitations set forth below with respect to LIBOR Index Interest Rate Bonds, any Bond may, in accordance with its terms, be transferred, upon the books required to be kept pursuant to the provisions of Section 2.8 hereof, by the Person in whose name it is registered, in person or by its duly authorized attorney, upon surrender of such registered Bond for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form approved by the Trustee. Transfer of any Bond shall not be permitted by the Trustee after the Record Date prior to the next succeeding Interest Payment Date or after notice calling such Bond (or portion thereof) for redemption has been given and prior to such redemption, except that (1) in the case of any Bond to be redeemed in part, the portion thereof not to be redeemed may be transferred and (2) transfers are permitted in connection with a tender of Bonds pursuant to Section 2.4, 4.6 or 4.8 hereof. In connection with any transfer pursuant to a tender of Bonds under Section 2.4, 4.6 or 4.8 hereof, the Trustee shall deliver to the transferee a copy of the applicable notice of redemption.

Whenever any Bond or Bonds shall be surrendered for transfer, the Issuer shall execute and the Trustee shall authenticate and deliver a new Bond or Bonds for a like aggregate principal amount in Authorized Denominations. The Trustee shall require the Bondholder requesting such transfer to pay any tax or other governmental charge required to be paid with respect to such transfer. The costs of printing bonds and any services rendered or expenses incurred by the Issuer or the Trustee in connection with such transfer shall be paid by the Borrower. Whenever any Outstanding Bond shall be delivered to the Trustee for transfer, exchange or cancellation pursuant to this Indenture, upon payment of the principal amount represented thereby, or for replacement, such Bond shall be promptly cancelled and cremated or otherwise destroyed by the Trustee pursuant to its retention policy then in effect.

During any LIBOR Index Interest Rate Period, Bonds may be transferred to another purchaser with the consent of the Borrower, but only if such purchaser shall have delivered to the Borrower and the Trustee an Investor Letter in the form attached hereto as *Exhibit B* executed by a duly authorized officer of such purchaser.

Notwithstanding the foregoing, for so long as the Bonds are Book-Entry Bonds, transfers of beneficial ownership will be effected pursuant to rules and procedures established by the Securities Depository.

*Section 2.7. Exchange of Bonds.* Bonds may be exchanged at the Corporate Trust Office of the Trustee for a like aggregate principal amount of Bonds of other Authorized Denominations. The Trustee shall require the Bondholder requesting such exchange to pay any tax or other governmental charge required to be paid with respect to such exchange. The costs of printing bonds and any services rendered or expenses incurred by the Issuer or the Trustee in connection with such exchange shall be paid by the Borrower.

*Section 2.8. Bond Register.* The Trustee, as Bond Registrar, will keep or cause to be kept at its Corporate Trust Office sufficient books for the registration and transfer of the Bonds,

which shall at all times be open to inspection during regular business hours by the Issuer or the Borrower upon reasonable notice; and, upon presentation for such purpose, the Trustee, as Bond Registrar, shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on such books, Bonds as hereinbefore provided.

*Section 2.9. Temporary Bonds.* The Bonds may be issued in temporary form exchangeable for definitive Bonds when ready for delivery. Any temporary Bond may be printed, lithographed or typewritten, shall be in an Authorized Denomination, shall be in fully registered form without coupons and may contain such reference to any of the provisions of this Indenture as may be appropriate. Every temporary Bond shall be executed by the Issuer and be authenticated by the Trustee upon the same conditions and in substantially the same manner as the definitive Bonds. If the Issuer issues temporary Bonds it will execute and deliver definitive Bonds as promptly thereafter as practicable, and thereupon the temporary Bonds may be surrendered, for cancellation, in exchange therefor at the Corporate Trust Office of the Trustee and the Trustee shall authenticate and deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds in Authorized Denominations. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under this Indenture as definitive Bonds authenticated and delivered hereunder.

*Section 2.10. Bonds Mutilated, Lost, Destroyed or Stolen.* If any Bond shall become mutilated, the Issuer, at the expense of the Holder of said Bond, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of the Bond so mutilated. Every mutilated Bond so surrendered to the Trustee shall be canceled by it and upon request delivered to the Issuer. If any Bond shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence be satisfactory to it and indemnity satisfactory to it shall be given, the Issuer, at the expense of the Holder, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor in lieu of and in substitution for the Bond so lost, destroyed or stolen (or if any such Bond shall have matured or shall be about to mature, instead of issuing a substitute Bond, the Trustee may pay the same without surrender thereof). The Issuer may require payment by the Holder of a sum not exceeding the actual cost of preparing each new Bond issued under this Section and of the expenses which may be incurred by the Issuer and the Trustee in the premises. Any Bond issued under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the Issuer whether or not the Bond so alleged to be lost, destroyed or stolen be at any time enforceable by anyone, and shall be entitled to the benefits of this Indenture with all other Bonds secured by this Indenture.

*Section 2.11. Book-Entry Only System.*

(A) Except as otherwise provided in subsections (C), (D) and (I) of this Section 2.11 or as otherwise provided in a Supplemental Indenture, the Bonds initially authenticated and delivered hereunder shall be registered in the name of Cede & Co., as nominee of DTC, New York, New York, or such other nominee as DTC shall request. Payments of interest on, principal of, any premium on, and the Purchase Price of, the Bonds shall be made to the account of Cede & Co. on each payment date for principal or interest or Purchase Price on the Bonds at the

address indicated for Cede & Co. in the registration books maintained by the Bond Registrar by transfer of immediately available funds. DTC has represented to the Issuer that it will maintain a book-entry system in recording ownership interests of the Direct Participants and the ownership interests of Beneficial Owners will be recorded through book entries on the records of the Direct Participants.

(B) The Bonds shall be initially issued in the form of a single authenticated fully registered Bond. With respect to Bonds so registered in the name of Cede & Co., the Issuer, the Trustee and the Tender Agent shall have no responsibility or obligation to any Direct Participant (with the exception of the right of Direct Participants to demand purchase of Bonds pursuant to Section 2.4 hereof) or to any Beneficial Owner of such Bonds. Without limiting the immediately preceding sentence, the Issuer, the Trustee, the Paying Agent, the Bond Registrar and the Tender Agent shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any Direct Participant with respect to any beneficial ownership interest in the Bonds, (ii) the delivery to any Direct Participant, Beneficial Owner or other person, other than DTC, of any notice with respect to the Bonds, including any notice of redemption, (iii) the payment to any Direct Participant, Beneficial Owner or other person, other than DTC, of any amount with respect to the principal or redemption price or Purchase Price of, or interest on, the Bonds or (iv) any consent given or other action taken by DTC as Holder of the Bonds. The Issuer, the Trustee and the Tender Agent may treat DTC as, and deem DTC to be, the absolute Holder of each Bond for all purposes whatsoever (with the exception of the right of Direct Participants to demand purchase of Bonds pursuant to Section 2.4 hereof) including (but not limited to) (i) payment of the principal or redemption price or Purchase Price of, and interest on, each such Bond, (ii) giving notices of conversion or redemption and other matters with respect to such Bonds and (iii) registering transfers with respect to such Bonds. The Trustee shall pay the principal or Purchase Price or redemption price of, and interest on, all Bonds only to or upon the order of DTC, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer's obligations with respect to such principal or redemption price or Purchase Price, and interest, to the extent of the sum or sums so paid. Except as provided in (C) and (D) below, no person other than DTC shall receive a Bond evidencing the obligation of the Issuer to make payments of principal or redemption price or Purchase Price of, and interest on, the Bonds pursuant to this Indenture. Upon delivery by DTC to the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the transfer provisions hereof, the word "Cede & Co." in this Indenture shall refer to such new nominee of DTC.

(C) (1) DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving reasonable written notice to the Issuer or the Trustee (provided that whichever of such parties receives such notice shall promptly notify the other party if it is not clear from the notice received that such other party also was notified by DTC) and discharging its responsibilities with respect thereto under applicable law.

(2) The Issuer, at the written direction of the Borrower, shall terminate, upon provision of notice to the Trustee, the Remarketing Agent and the Tender Agent, the services of DTC with respect to the Bonds.

(D) Upon the termination of the services of DTC with respect to the Bonds pursuant to subsection (C) hereof and after which no substitute Securities Depository is appointed by the Issuer, at the written direction of the Borrower, the Bonds shall no longer be restricted to being registered in the registration books kept by the Trustee in the name of Cede & Co. as nominee of DTC. In such event, the Issuer shall issue and the Trustee shall authenticate, transfer and exchange Bond certificates as requested by DTC or Direct Participants, principal amount and maturity, in Authorized Denominations to the identifiable Beneficial Owners in replacement of such Beneficial Owners' beneficial interests in the Bonds.

(E) Notwithstanding any other provision of this Indenture to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to the principal or redemption price or Purchase Price of, and interest on, such Bond and all notices with respect to such Bond shall be made and given, respectively, to DTC as provided in the letter of representations of the Issuer, addressed to DTC.

(F) In connection with any notice or other communication to be provided to Bondholders pursuant to this Indenture by the Issuer, the Tender Agent or the Trustee with respect to any consent or other action to be taken by Bondholders, the Issuer, the Tender Agent or the Trustee, as the case may be, shall establish a record date for such consent or other action and give DTC notice of such record date not less than 15 calendar days in advance of such record date to the extent possible.

(G) Notwithstanding any provision herein to the contrary, the Issuer and the Trustee may agree to allow DTC, or its nominee, Cede & Co., to make a notation on any Bond redeemed in part to reflect, for informational purposes only, the principal amount and date of any such redemption.

(H) Notwithstanding any provision herein to the contrary, so long as the Bonds are subject to a system of book-entry only transfers pursuant to this Section, any requirement for the delivery of Bonds to the Tender Agent in connection with an optional or mandatory tender pursuant to Sections 2.4, 4.6 or 4.8 hereof shall be deemed satisfied upon the transfer, on the registration books of DTC, of the beneficial ownership interests in such Bonds tendered for purchase to the account of the Trustee, or a Direct Participant acting on behalf of the Trustee.

(I) Notwithstanding the foregoing, unless otherwise directed by the Borrower, Bonds in a LIBOR Index Interest Rate Period shall not be Book-Entry Bonds unless otherwise directed by the Purchaser.

*Section 2.12. Limitation of Liability.* Notwithstanding any other terms or provisions of the Bonds or this Indenture, the Bonds and this Indenture shall be special and limited obligations of the Issuer, payable solely from the Revenues other amounts pledged pursuant to the Indenture, and shall be a valid claim of the respective Holders of the Bonds only against the Revenues and such amounts, including the Loan Payments and payments to be made by the Borrower on the Loan Agreement, except as may be otherwise expressly authorized in this Indenture.

No recourse shall be had for the payment of the principal of or premium, if any, or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement in this Indenture contained, against any past, present or future commissioner, council member, officer, employee or agent of the Issuer or any commissioner, council member, officer, employee or agent of any successor corporation, as such, either directly or through the Issuer or any successor corporation, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise.

*Section 2.13. Special Agreement with Bondholders.* Notwithstanding any provision of this Indenture or of any Bond to the contrary, with the approval of the Borrower, the Trustee may enter into an agreement with any Holder of at least \$1,000,000 aggregate principal amount of Bonds providing for making all payments to that Holder for that Bond or any part thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner other than as provided in this Indenture and in the Bond, without presentation or surrender of the Bond, upon any conditions which shall be satisfactory to the Trustee and the Borrower; *provided*, that payment in any event shall be made to the person in whose name a Bond shall be registered on the books required to be kept by the Trustee pursuant to the provisions of Section 2.8, with respect to payment of principal and premium, on the date such principal and premium is due, and, with respect to the payment of interest, as of the applicable Record Date.

**ARTICLE III**

**ISSUANCE OF BONDS; APPLICATION OF PROCEEDS**

*Section 3.1. Issuance of the Bonds.* At any time after the execution and delivery of this Indenture, upon the execution of the Bonds by the Issuer and delivery thereof to the Trustee, as hereinabove provided, and without any further action on the part of the Issuer, the Trustee shall authenticate upon request of the Issuer, and deliver the Bonds in a total aggregate principal amount of \$90,000,000.

*Section 3.2. Application of Proceeds of Bonds.* Upon receipt of the proceeds from the sale of the Bonds by the Trustee on behalf of the Issuer in the amount of \$[90,000,000], the Trustee will apply such amount[, together with \$ \_\_\_\_\_ provided by the Borrower,] to refund the Prior Bonds.

**ARTICLE IV**

**REDEMPTION AND PURCHASE OF BONDS**

*Section 4.1. Terms of Redemption of Bonds.* The Bonds are subject to redemption if and to the extent the Borrower is entitled to make, or is required to make, a prepayment pursuant to Article VII of the Loan Agreement. All such prepayments shall be deposited in the Redemption Account, which Redemption Account the Trustee shall establish and maintain within the Bond Fund as further provided in Section 5.2 hereof. The Issuer shall not call the Bonds for optional

redemption, and the Trustee shall not give notice of any such redemption, unless the Borrower has so directed in writing. The Bonds shall be subject to redemption upon the following terms:

A. *Mandatory Redemption upon Invalidity or a Determination of Taxability.*

(i) If the Loan Agreement is determined to be invalid, then Bonds Outstanding on the date of the determination of invalidity shall be redeemed in whole at any time within 60 days thereafter, at a redemption price of 100% of the principal amount thereof, without premium, plus accrued interest, if any, to the date of redemption.

(ii) Except during the LIBOR Index Interest Rate Period, if a Determination of Taxability occurs, then Bonds Outstanding on the date of the occurrence of such Determination of Taxability shall be redeemed in whole (or in part if the Borrower delivers a Favorable Opinion of Tax Counsel addressed to the Trustee and the Issuer) at any time within 60 days thereafter, at a redemption price of 100% of the principal amount thereof, without premium, plus accrued interest, if any, to the date of redemption.

(iii) During the LIBOR Index Interest Rate Period, if a Determination of Taxability occurs, at the option of the Borrower either (A) the Bonds Outstanding on the date of the occurrence of the Determination of Taxability shall be redeemed in whole (or in part if the Borrower delivers a Favorable Opinion of Tax Counsel addressed to the Trustee, the Purchaser and the Issuer) at any time within 60 days thereafter, at a redemption price of 100% of the principal amount thereof, without premium, plus accrued interest, if any, at the Taxable Rate from the date of the occurrence of the Determination of Taxability to the date of redemption; or (B) the Bonds will remain Outstanding but bear interest at the Taxable Rate.

B. *Optional Redemption During Initial Term Interest Rate Period.* [The Bonds are subject to optional redemption during the Initial Term Interest Rate Period by the Issuer at the direction of the Borrower prior to the stated maturity thereof on or after [December 1, 2026], in whole or in part at any time, at a redemption price of 100% of the principal amount to be redeemed, without premium, plus accrued interest, if any, to the date of redemption.]

C. *Optional Redemption during Variable Interest Rate Period or on any Conversion Date.* (i) On any Business Day during a Variable Interest Rate Period (except a LIBOR Index Interest Rate Period) and on any Conversion Date, the Bonds may be redeemed by the Trustee, at the option of the Issuer upon written direction of the Borrower as provided in Section 7.5 of the Loan Agreement, in whole or in part, at a redemption price of 100% of the principal amount thereof, without premium, plus accrued interest to the date of redemption.

(ii) When interest on the Bonds is payable at a LIBOR Index Rate, the Bonds may be redeemed in whole or in part at the option of the Borrower, on any LIBOR Index Reset Date.

D. *Optional Redemption during Term Interest Rate Period other than Initial*

*Term Interest Rate Period.* During any Term Interest Rate Period (other than the Initial Term Interest Rate Period), the Bonds shall be subject to redemption in whole or in part at any time, at the option of the Issuer upon written direction of the Borrower as provided in Section 7.5 of the Loan Agreement (1) on the day next succeeding the last day of each Term Interest Rate Period at a redemption price equal to the principal amount of the Bonds being redeemed plus accrued interest, if any, to the redemption date and (2) either (i) on the redemption dates and at the redemption prices specified by the Borrower pursuant to the last paragraph of this Section 4.1D hereof or (ii) during the redemption periods specified below, in each case in whole or in part, at the redemption prices (expressed as percentages of principal amount) hereinafter indicated plus accrued interest, if any, to the redemption date:

LENGTH OF TERM INTEREST RATE PERIOD	REDEMPTION DATES AND PRICES
Greater than 5 years	At any time on any day following the fifth anniversary of the effective date at 100%
Less than or equal to 5 years	Not redeemable

Notwithstanding the optional redemption schedule set forth above, on or prior to the effective date of a Term Interest Rate Period (other than the Initial Term Interest Rate Period), the Borrower can provide an alternate optional redemption schedule if it obtains a Favorable Opinion of Tax Counsel addressed to the Trustee.

*Section 4.2. Selection of Bonds for Redemption.* Whenever provision is made in this Indenture for the redemption of less than all of the Bonds, the Trustee shall select the Bonds to be redeemed from all Bonds or such given portion thereof not previously called for redemption randomly *provided* that Bank Bonds shall be selected prior to any other Bonds. Redemptions shall be made so that no Bond shall remain Outstanding in an amount that is not an Authorized Denomination.

*Section 4.3. Notice of Redemption.* (A) Notice of redemption shall be mailed by first class mail not less than 30 days (15 days in case of redemption under Section 4.1C hereof) nor more than 60 days before such redemption date, to the respective Holders of any Bonds designated for redemption at their addresses on the registration books maintained by the Bond Registrar. Each notice of redemption shall state the redemption date, the place or places of redemption, if less than all of the Bonds are to be redeemed, the series and distinctive number(s) of the Bonds to be redeemed, and in the case of Bonds to be redeemed in part only, the respective portions of the principal amount thereof to be redeemed. Subject to the second succeeding sentence, each such notice shall also state that on said date there will become due and payable on each of said Bonds the principal thereof or of said specified portion of the principal thereof in the case of a Bond to be redeemed in part only, and that from and after such redemption date interest thereon shall cease to accrue, and shall require that such Bonds be then surrendered. Neither failure to receive such notice nor any defect therein shall affect the

sufficiency of such redemption. With respect to any notice of optional redemption of Bonds at the specific written direction of the Borrower, unless upon the giving of such notice Bonds shall be deemed to have been paid within the meaning of Article X, such notice may state (if so directed by the Borrower in writing to the Trustee) that such redemption shall be conditional upon the receipt by the Trustee on or prior to the date fixed for such redemption of moneys (or Available Moneys if a Letter of Credit is then in effect) sufficient to pay the principal of, and premium, if any, and interest on, such Bonds to be redeemed, and that if such moneys shall not have been so received said notice shall be of no further force and effect and the Issuer shall not be required to redeem such Bonds. In the event that such notice of redemption contains such a condition and such moneys are not so received, the redemption shall not be made and the Trustee shall promptly thereafter give notice to such Holders, in the manner in which the notice of redemption was given, that such moneys were not so received.

(B) If the Bonds have a CUSIP number or CUSIP numbers assigned, then the Trustee shall use CUSIP numbers in notices of redemption as a convenience to Holders; *provided* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Bonds or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Bonds, and any such redemption shall not be affected by any defect in or omission of such numbers.

(C) Notice of redemption of the Bonds shall be given by the Trustee, at the expense of the Borrower, for and on behalf of the Issuer. So long as the Bonds are registered in the name of DTC or its nominee, the Trustee shall cause notice of any redemption of Bonds hereunder to be made in accordance with the Letter of Representation. If at any time the book-entry-only system shall be discontinued with respect to the Bonds or if any Bonds are not registered in the name of DTC, its nominee or similar depository or nominee, the Trustee shall cause any notice of redemption to be mailed by first class mail, postage prepaid to the Owners of all Bonds to be redeemed at the registered addresses appearing in the Bond Register.

(D) At the same time that it sends notice of redemption to Holders of the Bonds, the Trustee shall also send a copy of the notice by first class mail, by Electronic Means or by overnight delivery to the Remarketing Agent, to the Tender Agent, to the Credit Provider, if any, and to the Securities Depository. Failure to provide notice to the Remarketing Agent, to the Tender Agent, to the Credit Provider, if any, or to the Securities Depository shall not affect the validity of proceedings for the redemption of the Bonds.

*Section 4.4. Partial Redemption of Bonds.* Upon surrender of any Bond redeemed in part only, the Issuer shall execute and the Trustee shall authenticate and deliver to the Holder thereof, at the expense of the Borrower, a new Bond or Bonds of Authorized Denominations equal in aggregate principal amount to the unredeemed portion of the Bond surrendered.

*Section 4.5. Effect of Redemption of Bonds.* Notice of redemption having been duly given as aforesaid, and moneys for payment of the redemption price of, together with interest accrued to the date fixed for redemption on, the Bonds (or portions thereof) so called for redemption being held by the Trustee on the redemption date designated in such notice, the Bonds (or portions thereof) so called for redemption shall become due and payable, interest on

the Bonds so called for redemption shall cease to accrue, said Bonds (or portions thereof) shall cease to be entitled to any benefit or security under this Indenture (except for payment of particular Bonds for which moneys are being held by the Trustee and which money shall be pledged to such payment), and the Holders of said Bonds shall have no rights in respect thereof except to receive payment of said principal, premium, if any, and interest accrued to the date fixed for redemption.

*Section 4.6. Mandatory Tender for Purchase of Bonds.* (A)(1) On any Conversion Date for the Bonds,

(2) On the last Business Day not less than five calendar days preceding the expiration date of any then-current Letter of Credit if no Alternate Letter of Credit will be provided, except that if subparagraph (A)(1) or subparagraph (A)(3) will also apply, this subparagraph will not apply,

(3) On the effective date of any Letter of Credit or Alternate Letter of Credit complying with the requirements of Section 5.8 of the Loan Agreement (or if such date is not a Business Day on the next succeeding Business Day),

(4) On the date set forth in a notice provided by the Credit Provider in accordance with Section 4.9 hereof that the Credit Provider has elected to purchase the Bonds in lieu of acceleration thereof; and

(5) On each Bank Tender Date;

the Holder or Direct Participant of each Bond shall tender such Bond for purchase as provided below and such Bond shall be purchased or deemed purchased as provided in Section 4.7(A)(3) hereof at a Purchase Price equal to the principal amount thereof plus accrued and unpaid interest thereon. Subject to Section 4.7(G) hereof, payment of the Purchase Price of such Bond shall be made by 3:00 p.m. (New York City time), in the same manner as payment of interest on the Bonds, to the Bondholders of record on the Record Date. If the Bonds are not Book-Entry Bonds, the Holders shall deliver the Bonds no later than 2:30 p.m. (New York City time) on the Purchase Date to the Tender Agent at its Corporate Trust Office, accompanied by an instrument of transfer thereof, in form satisfactory to the Tender Agent, with the signatures guaranteed in accordance with the guidelines set forth by one of the nationally recognized medallion signature programs. If the Bonds are Book-Entry Bonds, on the Purchase Date, the tendering Direct Participants shall transfer, on the registration books of DTC, the beneficial ownership interests in the Bonds tendered for purchase to the account of the Trustee or a Direct Participant acting on behalf of the Trustee.

(B) Any instrument delivered to the Trustee or Tender Agent in accordance with this Section shall be irrevocable with respect to the mandatory purchase for which such instrument was delivered and shall be binding upon any subsequent Bondholder or Direct Participant of the Bond to which it relates (including any Bond issued in exchange therefor or upon the registration of transfer thereof) and as of the date of such instrument.

(C) (1) Whenever the Borrower has delivered to the Trustee written notice of the delivery of a Letter of Credit or an Alternate Letter of Credit pursuant to Section 5.8 of the Loan Agreement, the Trustee shall mail by first class mail a notice to all Holders of the Bonds stating that the Bonds will be subject to mandatory tender for purchase on the effective date of the Letter of Credit or Alternate Letter of Credit (or if not a Business Day on the next succeeding Business Day) and information on where such Bonds are to be delivered. Such notice shall be mailed at least 10 days prior to the effective date of the Letter of Credit or Alternate Letter of Credit and a copy of such notice shall be provided to the Credit Provider, if any.

(2) The Trustee shall provide notice to the Issuer, each Rating Agency then rating the Bonds, the Remarketing Agent and the Borrower upon the receipt of any Letter of Credit or Alternate Letter of Credit.

(3) In the event of a mandatory tender pursuant to Section 4.6(A)(2) hereof, the Trustee shall mail by first class mail a notice to all Holders of the Bonds stating that the Bonds will be subject to mandatory tender on the last Business Day not less than five calendar days preceding the expiration date of the Letter of Credit. Such notice shall be mailed at least 30 days prior to the expiration date of the Letter of Credit and a copy of such notice shall be provided to the Remarketing Agent and the Credit Provider, if any.

*Section 4.7. Purchase and Remarketing of Bonds.*

(A) *Purchase of Bonds.* Whenever the Bonds are Book-Entry Bonds, all references in this Section 4.7 to the Tender Agent shall instead mean the Trustee, as the context may require.

(1) As soon as practicable but in any event no later than (a) 11:00 a.m. (New York City time) on the Business Day after a Tender Notice is received during a Weekly Interest Rate Period or (b) 11:15 a.m. (New York City time) on the same Business Day that a Tender Notice is received during a Daily Interest Rate Period, the Tender Agent shall give telephonic, electronic, or telecopier notice, promptly confirmed in writing, to the Trustee, the Borrower and the Remarketing Agent, specifying the principal amount of Bonds tendered pursuant to Section 2.4(A) hereof. The Trustee shall promptly supply the same notice to the Credit Provider.

(2) The Tender Agent shall purchase, but only from the sources listed below, Bonds required to be purchased in accordance with Section 4.6 or Section 4.8 or tendered pursuant to Section 2.4(A) hereof from the Holders thereof by 3:00 p.m. (New York City time) on the date such Bonds are required to be purchased at the Purchase Price provided in Section 4.6, Section 4.8 or Section 2.4(A) hereof. Funds for the payment of such Purchase Price shall be derived from the following sources in the order of priority indicated:

(a) the proceeds of the sale of the Bonds (but only such remarketing proceeds as are received from purchasers of the Bonds pursuant to Section 4.7(B) hereof) furnished to the Tender Agent by the Trustee, which shall have received such funds from the Remarketing Agent against delivery of the remarketed Bonds

to the Remarketing Agent; *provided, however*, that while a Letter of Credit is then in effect such proceeds shall not have been derived from the Issuer or the Borrower unless subparagraph (c) below applies;

(b) moneys furnished to the Tender Agent representing the proceeds of a draw under the Letter of Credit; and

(c) only if the Credit Provider has failed to pay a drawing on the Letter of Credit, if the Letter of Credit has been repudiated or if there is no Letter of Credit, and the sources in subparagraphs (a) and (b) above are insufficient, from Purchase Price Payments furnished by the Borrower to the Tender Agent.

(3) The provisions of this Section 4.7(A)(3) shall not apply at any time that the Bonds are Book-Entry Bonds. With respect to any Bonds tendered for purchase or required to be tendered for purchase, for which sufficient funds to accomplish such purchase are available to the Tender Agent at the respective times at which payment of the Purchase Price is to be made as provided herein:

(a) Such Bonds shall be deemed purchased for all purposes of this Indenture, irrespective of whether or not such Bonds shall have been presented to the Tender Agent, and the former Holder or Holders of such Bonds shall have no claim thereon, under this Indenture or otherwise, for any amount other than the Purchase Price thereof and such Bonds shall no longer be deemed to be Outstanding for purposes of this Indenture and the Bond Registrar shall so note on the Bond Register for the Bonds.

(b) Subject to Section 4.7(G) hereof, in the event that any Bonds shall not be presented to the Tender Agent, the Tender Agent shall segregate and hold the moneys for the Purchase Price of such Bonds in trust, uninvested, as provided in Section 5.5 hereof for the benefit of the former Holders of such Bonds, who shall thereafter be restricted exclusively to such moneys for the satisfaction of any claim for the Purchase Price of such Bonds.

(c) In the event that any Bonds shall not be presented to the Tender Agent at the time specified in Section 2.4, Section 4.6 or Section 4.8 hereof (each, an "*Undelivered Bond*"), then the Issuer shall execute and deliver to the Tender Agent, and the Tender Agent shall deliver to the Trustee for authentication, a new Bond or Bonds, as the case may be, in an aggregate principal amount equal to the principal amount of the Undelivered Bonds bearing a number or numbers not contemporaneously outstanding. Every Bond authenticated and delivered as provided in the preceding sentence shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Bonds duly issued hereunder. The Tender Agent shall maintain a record of any Undelivered Bonds, together with the names and addresses of the former Holders thereof.

(d) In case any Bonds which have been deemed purchased as provided in Section 4.7(A)(3)(a) hereof are delivered to the Tender Agent subsequent to the date and time specified for such delivery for payment of the Purchase Price thereof at its Corporate Trust Office, accompanied by an instrument of transfer thereof, in form satisfactory to the Tender Agent, executed in blank by the Holder thereof with the signature guaranteed in accordance with the guidelines set forth by one of the nationally recognized medallion signature programs on any Business Day, the Tender Agent shall (subject to Section 4.7(G) hereof) pay the Purchase Price of such Bond to the Holder no later than 12:30 p.m. (New York City time) on the next succeeding Business Day. Any such Bond so delivered to the Tender Agent shall be canceled and delivered to the Trustee.

(B) *Notice of Interest Rates; Remarketing of Bonds; Restrictions on Remarketing.*

(1) The Remarketing Agent or the Calculation Agent, as the case may be, shall determine the rate of interest to be borne by the Bonds as provided in Section 2.3 hereof and shall furnish to the Remarketing Agent, the Trustee, the Borrower, the Credit Provider and the Tender Agent in a timely manner all information necessary for the Tender Agent and the Trustee to carry out their respective duties hereunder, including, but not limited to, the interest rates applicable to the Bonds.

(2) The Remarketing Agent or the Calculation Agent, as the case may be, shall periodically inform the Trustee, the Credit Provider, and DTC (if applicable) pursuant to the letter of representations described in Section 2.11(E) hereof, if so requested, of the rate of interest borne by the Bonds from time to time.

(3) The Remarketing Agent shall, pursuant to and subject to the Remarketing Agreement, use its best efforts to sell any Bonds tendered for purchase to new purchasers, and shall arrange for the Purchase Price of remarketed Bonds to be deposited with the Trustee against the delivery of remarketed tendered Bonds. Not later than 12:00 noon (New York City time) or, if later, one hour before the time by which the Trustee would be required to draw on the Letter of Credit pursuant to Section 4.7(D)(1) below, or, if no Letter of Credit is in effect, not later than 11:30 a.m. (New York City time) on the Purchase Date, the Remarketing Agent shall notify the Tender Agent of (i) the amount of Bonds which have been remarketed and for which remarketing proceeds will be deposited with the Trustee (against delivery of the remarketed Bonds) and the name, address and taxpayer identification number of the new purchasers and the denominations with respect to which such remarketed Bonds are to be registered and (ii) if applicable, the amount required to be drawn under the Letter of Credit or, if no Letter of Credit is in effect, the amount required to be provided by the Borrower to provide sufficient funds to purchase the Bonds actually tendered or deemed tendered for which no remarketing proceeds are available as of the time of such notice. Immediately upon receipt of the notice from the Remarketing Agent described in the preceding sentence, the Tender Agent shall notify the Trustee, the Borrower and the Credit Provider, if any, of the same. Notwithstanding the above, the Trustee will draw by the time required under the Letter of Credit an amount equal to the amount required to pay the tendering Bondholders minus

the proceeds it has on hand prior to the required draw time. Notwithstanding anything in this Indenture to the contrary, Bonds may be remarketed only at a price of par (except with a Favorable Opinion of Tax Counsel, for a Term Interest Rate Period which has a term to the maturity date of such Bonds), plus accrued interest, if any.

(4) While a Letter of Credit is in effect, the Remarketing Agent shall not sell any Bonds to the Issuer, the Borrower or any affiliate of the Issuer or the Borrower, except under the circumstances described in Section 4.7(D)(2).

(5) Notwithstanding the foregoing Section 4.7(B)(3), the Remarketing Agent shall not offer any tendered Bonds for sale upon written instructions from the Borrower to suspend remarketing efforts. In such event, provided sufficient funds are available, the Trustee shall purchase tendered Bonds from the other sources described in Section 4.7(B)(3).

(C) *Delivery of Remarketed Bonds.*

(1) The Tender Agent and the Trustee shall each hold all Bonds delivered to them respectively in trust for the benefit of the respective Holders which shall have so delivered such Bonds or for the Direct Participants who have transferred their interests in the Book-Entry Bonds until moneys representing the Purchase Price of such Bonds shall have been delivered to or for the account of or to the order of such Holders or Direct Participants. The Trustee, for Book-Entry Bonds, or the Tender Agent (or after five days, as provided in Section 4.7(G), the Trustee) for non-Book-Entry Bonds, shall each hold all moneys for the purchase of Bonds in trust in non-commingled funds, uninvested, for the benefit of the person or entity which shall have so delivered such moneys until Bonds purchased with such moneys shall have been delivered to or for the account of such person or entity. Neither the Issuer nor the Borrower shall have any right, title, or interest in or to any moneys held by the Trustee, the Tender Agent or the Remarketing Agent or pursuant to Section 4.7(G) hereof. Bonds purchased with moneys described in Section 4.7(A)(2)(a) hereof, including without limitation Bonds issued in place of such Bonds pursuant to Section 4.7(A)(3)(c) hereof, shall be registered as directed by the Trustee (based on specific written instructions received from the Remarketing Agent or, in the case of a change to a LIBOR Index Interest Rate Period, the written direction of the Borrower) and made available to the Remarketing Agent by 3:00 p.m. (New York City time) on the date of such purchase or transferred on the registration books of DTC on the date of such purchase or the date the ownership interest shall be transferred to the new Direct Participants on the books of DTC, against payment in immediately available funds or evidence of immediately available funds in the form of a federal reserve wire number.

(2) (a) Bonds purchased with moneys obtained by a drawing on a Letter of Credit (the "*Bank Bonds*"), including without limitation Bonds issued in place of such Bonds pursuant to Section 4.7(A)(3)(c) hereof, shall be registered in the name of the Credit Provider on the registration books of DTC in accordance with DTC's rules with respect to Book-Entry Bonds, or, if not Book-Entry Bonds, shall be registered in the name of the Credit Provider and delivered to the Credit Provider or the Trustee or Tender

Agent, as agent for the Credit Provider. The Remarketing Agent, at the request of the Credit Provider, shall obtain a new CUSIP number for such Bank Bonds. The Remarketing Agent shall seek to remarket any such Bank Bonds prior to remarketing any other Bonds tendered for purchase. The proceeds of any remarketing of Bank Bonds shall, except as provided in Section 4.7(D)(1), be delivered to the Credit Provider. Upon receipt by the Credit Provider of funds representing the proceeds of the remarketing of Bank Bonds, the Credit Provider shall notify the Trustee of the receipt and amount of such funds and the Trustee shall cause Bonds in place of such Bank Bonds to be made available for pick-up by the Remarketing Agent for subsequent delivery to the purchasers thereof and shall cause such Bank Bonds to be canceled, or the ownership interest shall be transferred to the new Direct Participants on the books of DTC. Prior to such delivery, the Trustee or the Tender Agent shall have received written confirmation from the Credit Provider of the reinstatement of the Letter of Credit.

(b) Bonds purchased with moneys provided by the Borrower as Purchase Price Payments ("*Borrower Bonds*"), including without limitation Bonds issued in place of such Bonds pursuant to Section 4.7(A)(3)(c) hereof, shall be registered in the name of the Borrower on the registration books of DTC in accordance with DTC's rules with respect to Book-Entry Bonds, or, if not Book-Entry Bonds, shall be registered in the name of the Borrower and delivered to the Borrower or the Trustee or Tender Agent, as agent for the Borrower for this purpose. Unless otherwise directed by the Borrower, the Remarketing Agent shall seek to remarket any such Borrower Bonds prior to remarketing any other Bonds tendered for purchase except Bank Bonds. The proceeds of any remarketing of Borrower Bonds shall be delivered to the Borrower. Upon receipt by the Borrower of funds representing the proceeds of the remarketing of Borrower Bonds, the Borrower shall notify the Trustee of the receipt and amount of such funds and the Trustee shall cause Bonds in place of such Borrower Bonds to be made available for pick-up by the Remarketing Agent for subsequent delivery to the purchasers thereof and shall cause such Borrower Bonds to be canceled, or the ownership interest shall be transferred to the new Direct Participants on the books of DTC.

(3) In the event that the Remarketing Agent is able to remarket any Bonds required to be purchased pursuant to Section 2.4, Section 4.6 or Section 4.8 hereof after the time on which the Remarketing Agent is required to provide notice to the Trustee as specified in Section 4.7(B)(3), or after the Trustee has given notice to the Borrower pursuant to Section 4.7(D)(2) if no Letter of Credit is then in effect, the Remarketing Agent shall give notice in the manner and containing the details set forth in said Section 4.7(B)(3), as soon as practicable after such remarketing, and the Bonds shall be registered in the names of the purchasers thereof and made available to the Remarketing Agent as soon as practicable thereafter on such date or the next succeeding Business Day or transferred on the registration books of DTC to the account of Direct Participants furnished to the Trustee or Tender Agent, as applicable, by the Remarketing Agent.

(4) If any Bond is tendered after a notice of redemption for such Bond has been given, the Remarketing Agent will give the redemption notice to any purchaser of such Bond or to DTC if a Book-Entry Bond and the purchaser (or the Direct Participant

in the case of a Book-Entry Bond) shall be required to acknowledge receipt of such redemption notice as a condition to such remarketing.

(D) *Draws Upon the Letter of Credit; Payments of Purchase Price by Borrower.*

(1) While a Letter of Credit is in effect, the Trustee shall draw on the Letter of Credit in an amount necessary and in sufficient time (as set forth by the terms of the Letter of Credit) so as to provide to the Trustee or Tender Agent, as applicable, the balance of the funds needed to purchase tendered Bonds under Section 2.4, Section 4.6 or Section 4.8 hereof by 2:30 p.m. (New York City time) on the Purchase Date, in an amount equal to the difference between the Purchase Price of the Bonds tendered and the remarketing proceeds received by the Trustee in conformance with the Remarketing Agent's notice pursuant to Section 4.7(B)(3) hereof prior to the draw time. If the Remarketing Agent remarkets Bonds after giving the notice pursuant to Section 4.7(B)(3) hereof prior to the time required to draw on the Letter of Credit, the Remarketing Agent or the Trustee (i) if a Letter of Credit is in effect and the Credit Provider has honored the drawing for the Purchase Price, shall deliver such remarketing proceeds to the Credit Provider as provided in Section 4.7(C)(2) against delivery of Bank Bonds or (ii) if a Letter of Credit has been dishonored or is not in effect, deliver such proceeds to the Trustee against delivery of remarketed tendered Bonds, which will use the remarketing proceeds to pay the Purchase Price if the same has not been paid or will transfer the remarketing proceeds to the Borrower to reimburse the Borrower for its payment of the Purchase Price. The Trustee shall transfer to the Credit Provider any excess moneys received from a draw on the Letter of Credit that are not needed to pay the Purchase Price of the Bonds on the Purchase Date. If the Trustee submits a draw request on the Letter of Credit by facsimile, the Trustee shall endeavor to telephonically confirm with the Credit Provider the terms of such draw request.

(2) If the Trustee has made a drawing on the Letter of Credit and the Credit Provider fails to make a payment for the Purchase Price of tendered Bonds by 2:30 p.m. (New York City time) on the Purchase Date or the Letter of Credit has been repudiated, or if there is no Letter of Credit and the Trustee does not have sufficient funds from remarketing of the Bonds by 12:00 noon (New York City time), the Trustee shall promptly notify the Borrower by telephone promptly confirmed in writing and request payment from the Borrower in accordance with the provisions of Section 4.7(A)(2)(c) hereof of the applicable Purchase Price in immediately available funds by 2:45 p.m. (New York City time) on the Purchase Date, and in the event the Bonds are not Book-Entry Bonds, the Trustee will direct the Borrower to transfer the funds to the Tender Agent.

(E) *Delivery of Proceeds of Sale.* Upon receipt, the proceeds of the remarketing by the Remarketing Agent of any Bonds shall be immediately applied by the Trustee or the Tender Agent, as applicable, to the payment of the Purchase Price of Bonds to the Holders or Beneficial Owners thereof pursuant to Section 4.7(A)(2)(a) hereof or to the reimbursement of the Credit Provider or the Borrower for such payment pursuant to Section 4.7(D). The Trustee or Tender Agent, as applicable, will make the Bonds available for delivery against receipt of proceeds of

the remarketing to the Remarketing Agent and will register such Bonds pursuant to the instructions of the Remarketing Agent or will direct the transfer on the registration books of DTC pursuant to the instructions of the Remarketing Agent or (1) in the case of the remarketing of Bonds which constitute Bank Bonds, as provided in Section 4.7(C)(2)(a) hereof and (2) in the case of the remarketing of Bonds which constitute Borrower Bonds, as provided in Section 4.7(C)(2)(b) hereof. In making payments to the Credit Provider or the Borrower, as applicable, the Trustee may conclusively assume that the Credit Provider or the Borrower, as applicable, has not been repaid from any other sources. To the extent that the Credit Provider is repaid with proceeds of the sale of Bank Bonds by the Remarketing Agent, or the Borrower is repaid with proceeds of the sale of Borrower Bonds, new Bonds shall be registered and delivered (or ownership interests transferred) as provided in Section 4.7(C)(1) hereof.

(F) *No Remarketing During Default.* Notwithstanding any other provision of this Indenture, there shall be no remarketing of Bonds under Section 4.7(B)(3) hereof during an Event of Default under Article VII hereof and the rate of interest borne by the Bonds shall be as set forth in Section 2.2 of this Indenture.

(G) *Unclaimed Moneys.* The Tender Agent shall, at the end of the fifth Business Day after a Purchase Date, transfer to the Trustee all funds then held on hand by virtue of the fact that Bonds deemed tendered on such date were not presented for purchase to the Tender Agent in accordance with the provisions of Sections 4.7(A)(3) or 4.7(C) hereof, such funds to be held by the Trustee in trust, in a segregated account for the benefit of the Bondholders (the "*Unclaimed Moneys Fund*"), for the payment of the Purchase Price thereof to the former Holders of such Bonds as required by the provisions of Sections 4.7(A)(3) or 4.7(C) hereof. The Trustee shall pay such Purchase Price from such amounts by check or draft of the Trustee made payable to the party entitled to such payment as soon as practicable after such party surrenders the Bond or Bonds so deemed purchased to the Trustee. Any such moneys so held in trust by the Trustee shall be held uninvested until paid to the person entitled thereto or disposed of as provided by law.

(H) *Purchase of Tendered Bonds with Purchase Price Payments Not to be Deemed a Redemption of Bonds.* Anything herein to the contrary notwithstanding, in no event shall the purchase of Bonds with Purchase Price Payments pursuant to this Section 4.7 be deemed to constitute a redemption of such Bonds, and the Borrower Bonds shall be and remain outstanding until they are remarketed in accordance with the provisions of Section 4.7, except upon the written notice by the Borrower to the Trustee and the Tender Agent that the Borrower has elected to treat the Borrower Bonds as paid and retired in full, accompanied by the surrender of said Borrower Bonds to the Trustee for cancellation, in the event that the Bonds are not Book-Entry Bonds at the time of said notice.

*Section 4.8. Purchase in Lieu of Optional Redemption.* The Borrower shall have the option to cause the Bonds to be purchased in lieu of optional redemption pursuant to Section 4.1(B), (C) or (D) hereof. Such option shall be exercised by the Borrower by delivering to the Trustee on or prior to the Business Day preceding the redemption date a written direction of the Borrower specifying that the Bonds shall not be redeemed, but instead shall be subject to purchase pursuant to this Section. The Trustee shall send a copy of such written direction of the

Borrower as soon as practicable to the Credit Provider, if any, or Purchaser, as applicable. Upon delivery of such notice, the Bonds shall not be redeemed but shall instead be subject to mandatory tender for purchase at a Purchase Price equal to the redemption price at which the Bonds would have been redeemed hereunder on a Purchase Date (the date that would have been the redemption date); *provided* that funds in an amount equal to the Purchase Price shall be made available to the Trustee on or prior to the Purchase Date. The applicable provisions of Section 4.7 shall govern such purchase.

*Section 4.9. Purchase in Lieu of Acceleration.* When Bonds are subject to acceleration as a result of an Event of Default under Section 7.1(E) hereof, all (but not less than all) of the Bonds are also subject to mandatory purchase as set forth in Section 4.6(A)(4) hereof at the prior written direction of the Credit Provider on the date designated by the Credit Provider as the date of purchase in lieu of acceleration of the Bonds (which date shall be no more than ten days after receipt by the Trustee (x) of written notice from the Credit Provider that a “default” or an “event of default” has occurred and is continuing under the Reimbursement Agreement or (y) of written notice from the Credit Provider that the Borrower has failed to reimburse the Credit Provider for an interest drawing under the Letter of Credit in accordance with its terms and/or the terms of the Reimbursement Agreement and the Credit Provider notifies the Trustee that the amount of such interest drawing will not be reinstated by the Credit Provider), at a Purchase Price equal to 100% of the principal amount thereof plus accrued interest as described below, if the Credit Provider gives notice to the Trustee and the Borrower at least two Business Days prior to the Purchase Date that it elects to have the Bonds purchased in lieu of acceleration. The Purchase Price shall include accrued interest from the Interest Payment Date next preceding the date of purchase to the date of purchase in lieu of acceleration of the Bonds. The Trustee shall give notice to the holders of the Bonds at least one Business Day prior to such Purchase Date of such purchase in lieu of acceleration as described herein. The Bonds will be purchased in lieu of acceleration only from amounts provided by the Credit Provider.

## ARTICLE V

### REVENUES; FUNDS AND ACCOUNTS; PAYMENT OF PRINCIPAL AND INTEREST

*Section 5.1. Pledge and Assignment; Bond Fund.* (A) Subject only to the provisions of this Indenture permitting the application thereof for the purposes and on the terms and conditions set forth herein, all of the Revenues and any other amounts held in the Bond Fund are hereby pledged to secure the full payment of the principal of, and premium, if any, and interest on, the Bonds in accordance with their terms and the provisions of this Indenture and thereafter to secure any amounts due from the Borrower to the Credit Provider pursuant to the Reimbursement Agreement with respect to any Letter of Credit. Subject only to the provisions of this Indenture permitting the application thereof for the purposes and on the terms and conditions set forth herein, all proceeds of the remarketing of Bonds pursuant to Section 4.7(B) hereof, all proceeds of draws under the Letter of Credit pursuant to Section 4.7(D) hereof, and all Purchase Price Payments pursuant to Section 4.2(c) of the Loan Agreement are hereby pledged to secure the full payment of the Purchase Price of the Bonds in accordance with their terms and the provisions of this Indenture. Notwithstanding any other provision of this Indenture, moneys in the account

created by Section 4.7(G) hereof shall be held solely for the benefit of the former holders of Bonds as provided in Section 4.7(G). Said pledge shall constitute a lien on and security interest in such assets and shall attach and be valid and binding from and after delivery of the Bonds, without any physical delivery thereof or further act.

(B) The Issuer hereby transfers in trust, and assigns to the Trustee, for the benefit of the Holders from time to time of the Bonds, and thereafter any Credit Provider, all of the Revenues and other assets pledged in subsection (A) of this Section and all of the right, title and interest of the Issuer in the Loan Agreement, except for the Reserved Rights of the Issuer which have been assigned to the Trustee, but are also held and retained by the Issuer concurrently with the Trustee and may be exercised and enforced by the Issuer whether or not the Trustee shall exercise or shall have purported to exercise such rights and remedies, without limiting the obligation of the Trustee to do so. The Trustee shall be entitled to and shall collect and receive all of the Revenues, and any such Revenues collected or received by the Issuer shall be deemed to be held, and to have been collected or received, by the Issuer as the agent of the Trustee and shall forthwith be paid by the Issuer to the Trustee. The Trustee as assignee of the Issuer (but not in the name of the Issuer) shall be entitled to and shall take all steps, actions and proceedings reasonably necessary in its judgment to enforce, either jointly with the Issuer or separately, all of the rights of the Issuer and all of the obligations of the Borrower under the Loan Agreement.

(C) All Revenues shall be promptly deposited by the Trustee upon receipt thereof in a special fund designated as the Bond Fund which the Trustee shall establish, maintain and hold in trust. Except as otherwise provided in Section 5.2 hereof, all moneys received by the Trustee and required to be deposited in the Redemption Account shall be promptly deposited in the Redemption Account, which the Trustee shall establish, maintain and hold in trust as provided in Section 5.2 hereof. All Revenues deposited with the Trustee shall be held, disbursed, allocated and applied by the Trustee only as provided in this Indenture. Notwithstanding the foregoing, during any LIBOR Index Interest Rate Period where the Purchaser is the sole Holder of all of the Bonds, upon written notice to the Trustee from the Borrower and the Purchaser, the Trustee need not establish a Bond Fund, and all Revenues shall be paid by the Borrower directly to the Holder. In such case, the Borrower, by the terms of the LIBOR Index Rate Agreement or otherwise, shall require the Purchaser to provide immediate written notice to the Trustee if any such payment is not received. The Trustee shall not be deemed to have any notice of the failure of the Borrower to make such a payment unless it has received the notice referred to in the prior sentence, and shall be entitled to assume that such payment has been made in the absence of such notice.

(D) Any amount held by the Trustee in the Bond Fund on the due date for a Loan Payment under the Loan Agreement shall be credited against the installment due on such date to the extent available for such purpose under the terms of this Indenture and the Loan Agreement.

*Section 5.2. Allocation of Revenues.* On or before any date on which interest or principal (whether at maturity, or by redemption or acceleration) is due, the Trustee shall transfer funds from the Bond Fund and deposit into the following respective accounts (each of which the Trustee is hereby directed and agrees to establish and maintain within the Bond Fund), the following amounts, in the following order of priority, the requirements of each such account (including the making up of any deficiencies in any such account resulting from lack of

Revenues sufficient to make any earlier required deposit) at the time of deposit to be satisfied before any transfer is made to any account subsequent in priority:

*First:* to the Interest Account, the aggregate amount of interest becoming due and payable on the next succeeding Interest Payment Date or date of redemption of all Bonds then Outstanding, until the balance in said account is equal to said aggregate amount of interest.

*Second:* to the Principal Account, the amount paid by the Borrower and designated as or attributable to principal on the Bonds in the most recent Loan Payment equal to the aggregate amount of principal due on the next succeeding Interest Payment Date.

*Third:* to the Redemption Account, the aggregate amount of principal and premium next coming due by acceleration or by redemption permitted or required under Article IV hereof, or any portion thereof paid by the Borrower.

*Section 5.3. Priority of Moneys in Bond Fund; Letter of Credit Account.* (A) Funds for the payment of the principal or redemption price of and interest on the Bonds shall be derived from the following sources in the order of priority indicated in each of the accounts in the Bond Fund; *provided, however,* that amounts in the respective accounts in the Bond Fund shall be used to pay when due (whether upon redemption, purchase, acceleration, Interest Payment Date, maturity or otherwise) the principal or redemption price of and interest on the Bonds held by Holders other than the Credit Provider or the Borrower prior to the payment of the principal and interest on the Bonds held by the Credit Provider or the Borrower:

(1) moneys paid into the Letter of Credit Account of the Bond Fund from a draw by the Trustee under the Letter of Credit;

(2) moneys paid into the Interest Account, if any, representing accrued interest received at the initial sale of the Bonds and proceeds from the investment thereof which shall be applied to the payment of interest on such Bonds;

(3) moneys paid into the Bond Fund pursuant to Section 10.1(B) hereof and proceeds from the investment thereof which, while a Letter of Credit is then in effect, constitute Available Moneys;

(4) any other moneys (other than from draws on the Letter of Credit) paid into and deposited in the Bond Fund and proceeds from the investment thereof, which, while a Letter of Credit is then in effect, constitute Available Moneys;

(5) any other moneys paid into and deposited in the Bond Fund by the Borrower and proceeds from the investment thereof, which are not Available Moneys; and

(6) any other moneys paid into and deposited in the Bond Fund and proceeds from the investment thereof, which are not Available Moneys.

The Trustee shall create within the Bond Fund a separate account called the "Letter of Credit Account," into which all moneys drawn under the Letter of Credit (other than moneys drawn pursuant to Section 4.7(D) hereof to pay the Purchase Price of tendered Bonds, which shall be held as provided in Section 4.7(C)(1) hereof) shall be deposited and disbursed. Neither the Borrower nor the Issuer shall have any rights to or interest in the Letter of Credit Account. The Letter of Credit Account shall be established and maintained by the Trustee and held in trust apart from all other moneys and securities held under this Indenture or otherwise, and over which the Trustee shall have the exclusive and sole right of withdrawal for the exclusive benefit of the Holders of the Bonds with respect to which such drawing was made. No moneys from the Letter of Credit Account may in any circumstance be used to pay principal or interest on any Bank Bonds or Borrower Bonds.

When notified by the Borrower in writing of the intent to create Available Moneys, the Trustee shall establish within the Interest Account, Principal Account or Redemption Account one or more subaccounts to facilitate the calculation of the aging of moneys deposited with the Trustee until they become Available Moneys.

(B) (1) The Trustee shall draw moneys under the Letter of Credit in accordance with the terms thereof in an amount necessary to make timely payments of principal of, and premium, if any, and interest on, the Bonds, other than Bank Bonds or Borrower Bonds, on each Interest Payment Date and when due whether at maturity, redemption, acceleration or otherwise. In addition, the Trustee shall draw moneys under the Letter of Credit in accordance with the terms thereof to the extent necessary to make timely payments of the Purchase Price required to be made pursuant to, and in accordance with, Section 4.7(D) hereof.

(2) Immediately after making a drawing under the Letter of Credit which has been honored, the Trustee shall reimburse the Credit Provider for the amount of the drawing using moneys, if any, contained in:

- (a) the Interest Account, if the drawing was to pay interest on the Bonds;
  - (b) the Principal Account, if the drawing was to pay principal on the Bonds;
- and
- (c) the Redemption Account, if the drawing was to redeem Bonds.

(C) If at any time there shall have been delivered to the Trustee an Alternate Letter of Credit pursuant to Section 5.8 of the Loan Agreement, then the Trustee shall accept such Alternate Letter of Credit and promptly surrender the then held Letter of Credit to the Credit Provider, in accordance with the terms of such Letter of Credit, for cancellation. If at any time there shall cease to be any Bonds Outstanding hereunder, the Trustee shall promptly surrender the Letter of Credit to the Credit Provider, in accordance with the terms of the Letter of Credit,

for cancellation. The Trustee shall comply with the procedures set forth in the Letter of Credit relating to the termination thereof.

(D) If at any time the Trustee has made a drawing on the Letter of Credit for principal of, or premium, if any, or interest due on the Bonds, and the Credit Provider has failed to make payment within the time specified in the Letter of Credit or the Letter of Credit has been repudiated, the Trustee shall immediately notify the Borrower by telephone promptly confirmed in writing and request payment of the amount due pursuant to Section 4.2(a) of the Loan Agreement, in immediately available funds by 2:45 p.m. (New York City time) on the applicable Bond Payment Date. The Trustee agrees to give a similar notice with respect to a drawing on the Letter of Credit for the applicable Purchase Price pursuant to Section 4.7(D)(2) hereof.

*Section 5.4. Letter of Credit.* The Trustee shall hold and maintain any Letter of Credit for the benefit of the Bondholders until such Letter of Credit expires in accordance with its terms or is replaced by an Alternate Letter of Credit. The Trustee shall enforce all terms, covenants and conditions of any Letter of Credit, including payment when due of any draws on the Letter of Credit, and the provisions relating to the payment of draws on, and reinstatement of amounts that may be drawn under, the Letter of Credit, and will not consent to, agree to or permit any amendment or modification of the Letter of Credit that would materially adversely affect the rights or security of the Holders of the Bonds. If at any time during the term of a Letter of Credit any successor Trustee shall be appointed and qualified under this Indenture, the resigning or removed Trustee shall request that the Credit Provider transfer the Letter of Credit to the successor Trustee. If the resigning or removed Trustee fails to make this request, the successor Trustee shall do so before accepting the appointment. When a Letter of Credit expires in accordance with its terms or is replaced by an Alternate Letter of Credit, the Trustee shall immediately surrender the Letter of Credit to the Credit Provider.

To the extent that any payment has been made to a Bondholder with funds provided by a draw upon a Letter of Credit for which the Credit Provider has not been reimbursed pursuant to the Reimbursement Agreement, the following provisions shall apply notwithstanding any other provision of this Indenture to the contrary. The Credit Provider shall be subrogated to the rights of such Bondholder. Any such payment shall not extinguish any payment obligation to the Bondholder, but shall effect a purchase by the Credit Provider of the payment right of the Bondholder, and the Credit Provider shall be considered a Bondholder with respect thereto. To the extent that any such payment is made to pay principal on a Bond, such Bond shall be registered in the name of the Credit Provider on the registration books of DTC, with respect to Book-Entry Bonds, or shall be registered in the name of the Credit Provider and delivered to the Credit Provider or an agent designated by the Credit Provider, and shall be given all of the rights accorded a Bank Bond hereunder. The Remarketing Agent, at the request of the Credit Provider, shall obtain a new CUSIP number for any such Bond.

*Section 5.5. Investment of Moneys.* All moneys in any of the funds or accounts established pursuant to this Indenture shall be invested by the Trustee as specifically directed in writing by the Borrower, solely in Investment Securities. Notwithstanding any other provision herein, in the absence of specific written investment instructions directing the Trustee by noon of the second Business Day preceding the day when investments are to be made, the Trustee is

directed to invest available funds in the money market mutual fund to be designated in writing by the Borrower to the Trustee prior to the Issuance Date, or should such designation not have been made or such designated fund be unavailable, in the Dreyfus Government Money Market Fund, or a successor money market fund offered by the Trustee. The Trustee shall not be liable for any consequences resulting from any investments made pursuant to the preceding sentence. The Trustee shall be entitled to rely conclusively upon the Borrower's specific written investment directions as to the fact that each such investment meets the criteria of this Indenture and the provisions of the Tax Agreement. Ratings of Investment Securities shall be determined at the time of purchase of such Investment Securities and the Trustee shall have no responsibility to monitor the ratings thereof.

Investment Securities may be purchased at such prices as the Trustee may be directed by the Borrower. All Investment Securities shall be acquired subject to the limitations set forth in Section 6.5 hereof, the limitations as to maturities hereinafter in this Section set forth and such additional limitations or requirements consistent with the foregoing as may be established by request of the Borrower.

Except as otherwise provided in this paragraph, moneys in all funds and accounts shall be invested in Investment Securities maturing not later than the date on which such moneys will be required for the purposes specified in this Indenture. Notwithstanding anything else in this Section 5.5, any moneys in the Interest Account, the Principal Account or the Redemption Account held for the payment of particular Bonds (prior to the payment or redemption date thereof) shall be invested at the specific written direction of the Borrower solely in direct obligations of the United States or bonds or other obligations guaranteed by the United States government or for which the full faith and credit of the United States is pledged for the full and timely payment of principal and interest thereof (or mutual funds consisting of such obligations which are rated in the highest rating category by each Rating Agency), rated in the highest rating category applicable to such investments which mature not later than the date on which it is estimated that such moneys will be required to pay such Bonds (but in any event maturing in not more than 30 days). Investments of moneys in the Rebate Fund are also subject to the provisions of the Tax Agreement. Moneys in the Letter of Credit Account created in Section 5.3 and moneys held for non-presented Bonds in accordance with Sections 4.7(G), 4.8 and 11.11 hereof shall be held uninvested.

All interest, profits and other income received from the investment of moneys in any fund established pursuant to this Indenture and allowed to be invested in accordance herewith shall be deposited in the fund from which such investment was made. Notwithstanding anything to the contrary contained in this paragraph, an amount of interest received with respect to any Investment Security equal to the amount of accrued interest, if any, paid as part of the purchase price of such Investment Security shall be credited to the fund from which such accrued interest was paid. To the extent that any Investment Securities are registrable, such Investment Securities shall be registered in the name of the Trustee.

For the purpose of determining the amount in any fund, all Investment Securities credited to such fund shall be valued at the lesser of cost or par value plus, prior to the first payment of

interest following purchase, the amount of accrued interest, if any, paid as a part of the purchase price.

Subject to Section 6.6 hereof, investments in any and all funds and accounts (other than moneys representing the proceeds of a draw on a Letter of Credit or held in the Letter of Credit Account, remarketing proceeds, Available Moneys, moneys being aged to become Available Moneys, moneys in the Rebate Fund or moneys held for the payment of particular Bonds (including moneys held for non-presented Bonds or held under Section 10.3 hereof)) may be commingled for purposes of making, holding and disposing of investments, notwithstanding provisions herein for transfer to or holding in particular funds and accounts amounts received or held by the Trustee hereunder, *provided* that the Trustee shall at all times account for such investments strictly in accordance with the funds and accounts to which they are credited and otherwise as provided in this Indenture. Subject to Section 6.5 hereof, any moneys invested in accordance with this Section may be invested in a pooled investment account consisting solely of funds held by the Trustee as a fiduciary. The Issuer acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Issuer the right to receive brokerage confirmations of security transactions as they occur, the Issuer specifically waives receipt of such confirmations to the extent permitted by law. The Trustee may act as principal or agent in the making or disposing of any investment. The Trustee may sell or present for redemption any Investment Securities so purchased whenever it shall be necessary to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund to which such Investment Security is credited, and the Trustee shall not be liable or responsible for any loss or tax resulting from such investment.

*Section 5.6. Rebate Fund.* At the specific request of the Borrower, the Trustee shall establish and maintain the Rebate Fund separate from any other fund established and maintained hereunder. The Trustee shall deposit funds into and disburse funds from the Rebate Fund as directed in writing by the Borrower in accordance with the terms hereof and the Tax Agreement. The Trustee shall deposit into the Rebate Fund any payments received from the Borrower for purposes of ultimate rebate to the United States in respect of the Bonds. The amount required to be held in the Rebate Fund in respect of the Bonds at any point in time is determined pursuant to the requirements of the Code, including particularly Section 148(f) of the Code. Moneys in the Rebate Fund neither will be pledged to nor are expected to be used to pay debt service on the Bonds. Amounts in the Rebate Fund may be invested without regard to yield. The Borrower has covenanted in the Tax Agreement to take all action necessary to preserve the exemption from federal income taxation of interest on the Bonds, including without limitation, the payment of any rebate due under the Code. The Trustee has undertaken no duty, and is under no obligation to calculate any amount due with respect to such rebate, to verify amounts contained in any written request or direction, or to make such payments.

*Section 5.7. Transfer of Additional Payments.* The Trustee shall transfer the Additional Payments to or at the written direction of the Issuer when due, to the extent of amounts received from the Borrower therefor.

## ARTICLE VI

### PARTICULAR COVENANTS

*Section 6.1. Punctual Payment.* The Issuer shall punctually pay or cause to be paid the principal, premium, if any, and interest to become due in respect of all the Bonds, in strict conformity with the terms of the Bonds and of this Indenture, according to the true intent and meaning thereof, but only out of Revenues and other assets specifically pledged for such payment as provided in this Indenture, and nothing in this Indenture or the Bonds shall otherwise be considered as assigning or pledging any funds or assets of the Issuer.

THE BONDS AND THE OBLIGATION TO PAY INTEREST THEREON AND PREMIUM, IF ANY, WITH RESPECT THERETO ARE A LIMITED AND NOT A GENERAL OBLIGATION OF THE ISSUER PAYABLE SOLELY OUT OF THE REVENUES AND INCOME DERIVED FROM THE LOAN AGREEMENT AND AS OTHERWISE PROVIDED IN THIS INDENTURE, AND SHALL NOT BE DEEMED TO CONSTITUTE AN INDEBTEDNESS OR AN OBLIGATION OF THE ISSUER, THE STATE, OR ANY POLITICAL SUBDIVISION OR MUNICIPAL CORPORATION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION. THE BONDS DO NOT NOW NOR SHALL EVER CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE ISSUER OR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWERS.

*Section 6.2. Extension of Payment of Bonds.* The Issuer shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or the time of payment of any 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 the Bonds or the time of 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 benefits of this Indenture, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest thereon which shall not have been so extended. Nothing in this Section shall be deemed to limit the right of the Issuer to issue bonds for the purpose of refunding any Outstanding Bonds, and such issuance shall not be deemed to constitute an extension of maturity of Bonds. The provisions of this Section shall not apply if the maturity of all of the Bonds is extended in accordance with the provisions of Section 9.1(A) hereof.

*Section 6.3. Against Encumbrances.* The Issuer shall not create, or permit the creation of, any pledge, lien, charge or other encumbrance upon the Revenues and other assets specifically pledged or assigned under this Indenture while any of the Bonds are Outstanding, except the pledge and assignment created by this Indenture. Subject to this limitation, the Issuer expressly reserves the right to enter into one or more other indentures for any of its corporate purposes, and reserves the right to issue other obligations for such purposes.

*Section 6.4. Power to Issue Bonds and Make Pledge and Assignment; Limited Obligations.* The Issuer is duly authorized pursuant to law to issue the Bonds and to enter into this Indenture and to pledge and assign the Revenues and other assets purposed to be pledged and assigned, respectively, under this Indenture in the manner and to the extent provided in this Indenture. The Issuer has duly authorized the execution and delivery of the Bonds and this

Indenture under the terms and provisions of the Act and a resolution adopted by the Issuer and further represents, covenants and warrants that all requirements have been met and procedures have occurred in order to ensure the enforceability against the Issuer of the Bonds and this Indenture. The Issuer has taken all necessary action and has complied with all provisions of the Act required to make the Bonds, the Loan Agreement and this Indenture the valid, legal and binding special and limited obligations of the Issuer.

*Section 6.5. Accounting Records and Reports.* The Trustee shall keep or cause to be kept books of record and account in its customary fashion in which entries shall be made of all transactions relating to the receipt, investment, disbursement, allocation and application of the Revenues and the proceeds of the Bonds. Such records shall specify the account or fund to which each investment (or portion thereof) held by the Trustee is to be allocated and shall set forth, in the case of each Investment Security, (a) its purchase price, (b) identifying information, including principal amount, interest rate, and payment dates, (c) the amount received at maturity or its sale price, as the case may be, (d) the amounts and dates of any payments made with respect thereto, and (e) such documentation as is required to be retained by the Trustee, as evidence to establish that any requirements set forth in the Tax Agreement or with respect to establishing market price, to the extent provided to it. Such records shall be open to inspection by any Holder, the Borrower, the Issuer and the Credit Provider at any reasonable time during regular business hours on reasonable notice.

*Section 6.6. Arbitrage Covenants.* (A) The Issuer covenants and agrees that it will not take any action, or fail to take any action, if such action or failure to take such action on a matter would adversely affect the exclusion from gross income of the interest payable on the Bonds under Section 103 of the Code. Without limiting the generality of the foregoing, the Issuer covenants and agrees that it will comply with the requirements of the Tax Agreement. The covenants of the Issuer in this Section are made solely in reliance on the representations and the covenants of the Borrower set forth in the Loan Agreement and the Tax Agreement.

(B) The Borrower has covenanted to pay or cause to be paid to the United States rebate payments with respect to the Bonds as provided in the Tax Agreement. The Trustee agrees to comply with all specific written instructions of the Borrower given pursuant to the Tax Agreement; *provided, however*, that the Borrower shall be responsible for such instructions complying with the Tax Agreement, and the Trustee shall not be responsible in any way for any rebate or other arbitrage calculations.

The Trustee conclusively shall be deemed to have complied with the provisions of this Section 6.6(B) if it follows the directions of the Borrower set forth in the instructions required by the Tax Agreement and shall not be required to take any action under this Section 6.6(B) in the absence of such directions from the Borrower. The Trustee shall not be liable for any consequences resulting from its failure to act if no instructions from the Borrower (or in the absence of Borrower instructions, instructions from the Issuer) are delivered to it.

(C) Notwithstanding any provision of this Section, if the Borrower shall provide to the Trustee and the Issuer an Opinion of Tax Counsel addressed to the Trustee that any action required under Section 5.6 or this Section 6.6 is no longer required, or that some further action is

required to maintain the Tax-exempt status of interest on the Bonds, the Trustee may rely conclusively on such opinion in complying with the requirements of this Section, and the covenants contained herein shall be deemed to be modified to that extent.

*Section 6.7. Other Covenants.* (A) The Trustee shall promptly collect all amounts due from the Borrower pursuant to the Loan Agreement, and from the Credit Provider pursuant to the Letter of Credit (if any), shall perform all duties imposed upon it pursuant to the Loan Agreement and shall diligently enforce, and take all steps, actions and proceedings reasonably necessary for the enforcement of all of the rights of the Issuer (other than the Issuer's Reserved Rights) and all of the obligations of the Borrower pursuant to the Loan Agreement.

(B) The Issuer shall not purchase Bonds from the Remarketing Agent.

*Section 6.8. Further Assurances.* The Issuer will make, execute and deliver any and all such further indentures, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Indenture and for the better assuring and confirming unto the Holders of the Bonds of the rights and benefits provided in this Indenture.

*Section 6.9. Continuing Disclosure.* Pursuant to Section 5.4 of the Loan Agreement, the Borrower has covenanted and agreed to undertake all responsibility for compliance, or to cause compliance with, continuing disclosure requirements, when and if applicable. The Issuer and the Trustee shall have no liability to the Holders of the Bonds or any other person with respect to such disclosure matters. Notwithstanding any other provision of this Indenture, failure of the Borrower to comply with the Continuing Disclosure Undertaking shall not be considered an Event of Default hereunder or a Loan Default Event under the Loan Agreement and may not result in the acceleration of the maturity of the Bonds.

## ARTICLE VII

### EVENTS OF DEFAULT AND REMEDIES OF BONDHOLDERS

*Section 7.1. Events of Default; Acceleration; Waiver of Default.* Each of the following events which has occurred and is continuing shall constitute an "Event of Default" hereunder:

(A) default in the due and punctual payment of the principal of, redemption price, Purchase Price or premium (if any) on, any Bond, whether at maturity as therein expressed, by proceedings for redemption, by declaration or otherwise;

(B) failure to make payment of any installment of interest on any Bond when due and such interest remains unpaid for five days after the due date;

(C) failure by the Issuer to perform or observe any other of the covenants, agreements or conditions on its part in this Indenture or in the Bonds contained, and the continuation of such failure for a period of 90 days after written notice thereof, specifying such default and requiring the same to be remedied, shall have been given to the Issuer,

any Credit Provider, and the Borrower by the Trustee, or to the Issuer, the Borrower and the Trustee by the Holders of not less than 25% in aggregate principal amount of the Bonds at the time Outstanding;

(D) the occurrence and continuance of a Loan Default Event described in Section 6.1 of the Loan Agreement; or

(E) if applicable, receipt by the Trustee of written notice from any Credit Provider stating that either (i) an Event of Default (as defined in the Reimbursement Agreement) has occurred under the Reimbursement Agreement and directing the Trustee to accelerate the Bonds or (ii) the interest component of a Letter of Credit will not be reinstated by the Credit Provider.

No default specified in (C) above shall constitute an Event of Default unless the Issuer and the Borrower shall have failed to correct such default within the applicable period; *provided, however*, that if the default shall be such that it cannot be corrected within such period but can be corrected, it shall not constitute an Event of Default if corrective action is instituted by the Issuer or the Borrower within the applicable period and diligently pursued. With regard to any alleged default concerning which notice is given to the Borrower under the provisions of this Section, the Issuer hereby grants the Borrower full authority for the account of the Issuer to perform any covenant or obligation the non-performance of which is alleged in said notice to constitute a default in the name and stead of the Issuer with full power to do any and all things and acts to the same extent that the Issuer could do and perform any such things and acts and with power of substitution.

During the continuance of an Event of Default described in (A), (B), (C) or (D) above, unless the principal of all the Bonds shall have already become due and payable, the Trustee may (but shall be under no obligation to), and upon the written request of the Holders of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding or upon the occurrence of an Event of Default described in (E) above, the Trustee shall, promptly upon such occurrence, by notice in writing to the Issuer, the Borrower, any Purchaser and any Credit Provider, declare the principal of all the Bonds then Outstanding, and the interest accrued thereon, to be due and payable immediately, and upon any such declaration the same shall become and shall be immediately due and payable, subject to Section 4.9 hereof, anything in this Indenture or in the Bonds contained to the contrary notwithstanding. Upon any such declaration, the Trustee shall promptly draw upon any then existing Letter of Credit in accordance with the terms thereof and apply the amount so drawn to pay the principal of and interest on the Bonds declared to be due and payable and shall take such enforcement action under the Loan Agreement as the Trustee shall deem appropriate. Interest on the Bonds shall cease to accrue as of the date of the declaration of acceleration, subject to Section 4.9 hereof. The Trustee shall promptly notify the Bondholders of the date of acceleration and the cessation of accrual of interest on the Bonds in the same manner as for a notice of redemption.

The preceding paragraph, however, is subject to the condition that if, at any time after the principal of the Bonds shall have been declared due and payable because of the occurrence of a default specified in (A), (B), (C), or (D) above, and before any judgment or decree for the

payment of the moneys due shall have been obtained or entered as hereinafter provided, and before the Letter of Credit has been drawn upon in accordance with its terms and honored, there shall have been deposited with the Trustee a sum sufficient to pay (with Available Moneys if a Letter of Credit is in effect) all the principal of the Bonds matured prior to such declaration and all matured installments of interest (if any) upon all the Bonds, with interest on such overdue installments of principal at the rate of interest then borne by the Bonds, and the reasonable fees and expenses of the Trustee, and any and all other defaults known to the Trustee (other than in the payment of principal of and interest on the Bonds due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall have been made therefor, then, and in every such case, the Holders of at least a majority in aggregate principal amount of the Bonds then Outstanding, by written notice to the Trustee, may, on behalf of the Holders of all the Bonds, rescind and annul such declaration and its consequences and waive such default; but no such rescission and annulment shall extend to or shall affect any subsequent default, or shall impair or exhaust any right or power consequent thereon. Notwithstanding any other provision of this Indenture, but subject to Section 8.1(A), the Trustee may not exercise any remedy in the event of an Event of Default under Section 7.1(A) through (D) hereof without the written consent of the Credit Provider, so long as a Letter of Credit is in effect and the Credit Provider has not wrongfully failed to make a payment thereunder, or without the written consent of the Purchaser, if the Purchaser is the sole Holder of all of the Bonds; except that the Trustee may exercise any and all remedies under this Indenture and the Loan Agreement to collect any fees, expenses and indemnification, in a form and content acceptable to the Trustee, from the Borrower without obtaining the consent of the Credit Provider or the Purchaser.

*Section 7.2. Institution of Legal Proceedings by Trustee.* Subject to Section 7.1 hereof, if one or more of the Events of Default shall happen and be continuing, the Trustee in its discretion may, and upon the written request of the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding and upon being indemnified to its satisfaction therefor pursuant to Sections 8.1(A), 8.3(D) and 8.6(B) hereof shall, proceed to protect or enforce its rights or the rights of the Holders of Bonds under the Act or under this Indenture, the Loan Agreement or the Letter of Credit, if any, by a suit in equity or action at law, either for the specific performance of any covenant or agreement contained herein or therein, or in aid of the execution of any power herein or therein granted, or by mandamus or other appropriate proceeding for the enforcement of any other legal or equitable remedy as the Trustee may deem necessary in support of any of its rights or duties hereunder or thereunder.

*Section 7.3. Application of Revenues and Other Funds After Default.* If an Event of Default shall occur and be continuing, all Revenues and any other funds then held or thereafter received by the Trustee under any of the provisions of this Indenture (subject to Sections 5.6, 6.6 and 11.11 hereof) shall be promptly applied by the Trustee as follows and in the following order:

(A) To the payment of any expenses necessary in the opinion of the Trustee to protect the interests of the Holders of the Bonds and payment of reasonable fees, charges and expenses of the Trustee and the Issuer (including reasonable fees and disbursements of its legal counsel) incurred in and about the performance of its powers and duties under this Indenture; and

(B) To the payment of the principal of and interest then due on the Bonds (upon presentation of the Bonds to be paid, and stamping thereon of the payment if only partially paid, or surrender thereof if fully paid) subject to the provisions of this Indenture (including Section 6.2 hereof), as follows:

(1) Unless the principal of all of the Bonds shall have become or have been declared due and payable,

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

*Second:* To the payment to the persons entitled thereto of the unpaid principal of any Bonds which shall have become due, whether at maturity or by call for redemption, with interest on the overdue principal at the rate borne by the Bonds, and, if the amount available shall not be sufficient to pay in full all the Bonds, together with such interest, then to the payment thereof ratably, according to the amounts of principal due on such date to the persons entitled thereto, without any discrimination or preference; and

(2) If the principal of all of the Bonds shall have become or have been declared due and payable, to the payment of the principal and interest then due and unpaid upon the Bonds, with interest on the overdue principal at the rate borne by the Bonds, and, if the amount available shall not be sufficient to pay in full the whole amount so due and unpaid, then to the payment thereof ratably, 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, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or preference;

*provided, however,* that (i) in no event shall moneys derived from drawings under a Letter of Credit, moneys set aside to pay principal or interest on any particular Bonds (including moneys held for non-presented Bonds or held under Section 10.3 hereof), or the proceeds from remarketing of the Bonds be used to pay any of the items listed in clause (A) of this Section, and (ii) Available Moneys and moneys being aged to become Available Moneys, if applicable, shall not be used to pay any of the items listed in clause (A) of this Section, until all amounts have been paid under clause (B) of this Section.

Whenever the principal of, and premium, if any, and interest on, all Bonds have been paid under the provisions of this Indenture and all fees, expenses and charges of the Trustee have

been paid, any balance remaining hereunder shall be paid in the order of priority as provided in Section 10.1.

*Section 7.4. Trustee to Represent Bondholders.* The Trustee is hereby irrevocably appointed (and the successive respective Holders of the Bonds, by taking and holding the same, shall be conclusively deemed to have so appointed the Trustee) as trustee and true and lawful attorney-in-fact of the Holders of the Bonds for the purpose of exercising and prosecuting on their behalf such rights and remedies as may be available to such Holders under the provisions of the Bonds, this Indenture, the Loan Agreement, the Letter of Credit, the Act and applicable provisions of any other law. Subject to Section 7.1 hereof, upon the occurrence and continuance of an Event of Default or other occasion giving rise to a right in the Trustee to represent the Bondholders, the Trustee in its discretion may (but shall be under no obligation to), and upon the written request of the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding, and upon being indemnified to its satisfaction therefor, shall, proceed to protect or enforce its rights or the rights of the Holders by such appropriate action, suit, mandamus or other proceedings, including the filing of such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claim of the Trustee and the Bondholders allowed in any judicial proceeding relative to the Borrower or the Issuer, its creditors or its property, as it may deem necessary to protect and enforce any such right, at law or in equity, either for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or for the enforcement of any other appropriate legal or equitable right or remedy vested in the Trustee or in the Holders under this Indenture, the Loan Agreement, the Letter of Credit, the Act or any other law; and upon instituting such proceeding, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver of the Revenues and other assets pledged under this Indenture, pending such proceedings. All rights of action under this Indenture or the Bonds or otherwise may be prosecuted and enforced by the Trustee without the possession of any of the Bonds or the production thereof in any proceeding relating thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in the name of the Trustee for the benefit and protection of all the Holders of the Bonds, subject to the provisions of this Indenture (including Section 6.2 hereof).

*Section 7.5. Bondholders' Direction of Proceedings.* Anything in this Indenture to the contrary notwithstanding, but subject to Sections 8.1(A), 8.3(A), 8.3(D), 8.6(B) and 11.13, the Holders of 25% in aggregate principal amount of the Bonds then Outstanding shall have the right, by an instrument or concurrent instruments in writing executed and delivered to the Trustee, to direct the method of conducting all remedial proceedings taken by the Trustee hereunder, *provided* that such direction shall not be otherwise than in accordance with law and the provisions of this Indenture, and that the Trustee shall have the right to decline to follow any such direction which in the opinion of the Trustee would be unjustly prejudicial to Bondholders not parties to such direction or for which it has not been provided indemnity reasonably satisfactory to it.

*Section 7.6. Limitation on Bondholders' Right to Sue.* Subject to Section 7.7 hereof, no Holder of any Bond shall have the right to institute any suit, action or proceeding at law or in equity, for the protection or enforcement of any right or remedy under this Indenture, the Loan

Agreement, any Letter of Credit, the Act or any other applicable law with respect to such Bond, unless (1) such Holder shall have given to the Trustee written notice of the occurrence of an Event of Default; (2) the Holders of not less than 25% in aggregate principal amount of the Bonds then Outstanding shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such suit, action or proceeding in its own name; (3) subject to Sections 8.1(A), 8.3(D) and 8.6(B) hereof, such Holder or said Holders shall have tendered to the Trustee indemnity reasonably satisfactory to it against the costs, expenses and liabilities to be incurred in compliance with such request; and (4) the Trustee shall have refused or omitted to comply with such request for a period of 60 days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Holder of Bonds of any remedy hereunder or under law; it being understood and intended that no one or more Holders of Bonds shall have any right in any manner whatever by such Holders' action to affect, disturb or prejudice the security of this Indenture or the rights of or obtain a preference or priority over, any other Holders of Bonds, or to enforce any right under this Indenture, the Loan Agreement, any Letter of Credit, the Act or other applicable law with respect to the Bonds, except in the manner herein provided, and that all proceedings at law or in equity to enforce any such right shall be instituted, had and maintained in the manner herein provided and for the benefit and protection of all Holders of the Outstanding Bonds, subject to the provisions of this Indenture (including Section 6.2 hereof).

*Section 7.7. Obligation of Issuer.* Subject to Section 11.1 hereof, nothing in Section 7.6 or in any other provision of this Indenture (except the requirement for authentication by the Trustee in Section 2.5 hereof), or in the Bonds, shall affect or impair the obligation of the Issuer to pay or cause to be paid through the Trustee the principal of, and the premium, if any, and interest on, the Bonds to the respective Holders of the Bonds at their date of maturity, or upon call for redemption, as herein provided, but only out of the Revenues and other assets herein pledged therefor, or affect or impair the right of such Holders to enforce such payment by virtue of the contract embodied in the Bonds.

*Section 7.8. Termination of Proceedings.* In case any proceedings taken by the Trustee, the Credit Provider, if any, or any one or more Bondholders on account of any Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee, the Credit Provider, if any, or the Bondholders, then in every such case the Issuer, the Trustee, the Credit Provider, if any, the Purchaser, if any, and the Bondholders, subject to any determination in such proceedings, shall be restored to their former positions and rights hereunder, severally and respectively, and all rights, remedies, powers and duties of the Issuer, the Trustee, the Credit Provider, if any, and the Bondholders shall continue as though no such proceedings had been taken.

*Section 7.9. Remedies Not Exclusive.* No remedy herein conferred upon or reserved to the Trustee, the Credit Provider, if any, the Purchaser, if any, or to the Holders of the Bonds is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to

the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

*Section 7.10. No Waiver of Default.* No delay or omission of the Trustee, the Credit Provider, if any, the Purchaser, if any, or of any Holder of the Bonds to exercise any right or power arising upon the occurrence of any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Indenture to the Trustee, the Credit Provider, if any, or to the Holders of the Bonds may be exercised from time to time and as often as may be deemed expedient.

*Section 7.11. Consent of Credit Provider and Purchaser to Defaults and Waivers.* This Section shall apply only if (i) a Letter of Credit is in effect or (ii) during a LIBOR Index Interest Rate Period. Notwithstanding any other provision of this Article VII, and subject to Section 8.1(A) and Section 8.6(B) hereof, so long as the Credit Provider is not continuing wrongfully to dishonor drawings under the Letter of Credit, no Event of Default shall be declared pursuant to Section 7.1(C) or (D) hereof (except in a case resulting from the failure of the Borrower to pay the Trustee's and the Issuer's fees and expenses or to indemnify the Trustee and the Issuer), nor any remedies exercised with respect to any Event of Default (other than acceleration pursuant to Section 7.1 upon an Event of Default described in Section 7.1(E)(ii) hereof) by the Trustee or by the Bondholders (except in a case resulting from the failure of the Borrower to pay the Trustee's fees and expenses or to indemnify the Trustee and no Event of Default under this Indenture shall be waived by the Trustee or the Bondholders to the extent it may otherwise be permitted hereunder, without, in any case, the prior written consent of the Credit Provider (or, during a LIBOR Index Interest Rate Period, the Purchaser) and, in the case of a waiver of an Event of Default under Section 7.1(E), rescission in writing by the Credit Provider of any notice of an event of default under the Reimbursement Agreement and (if applicable) reinstatement of the interest component of the Letter of Credit. No Event of Default can be waived, in any circumstance, unless the Trustee has received written notice from the Credit Provider that the Letter of Credit, if any, has been fully reinstated and is in full force and effect.

## ARTICLE VIII

### THE TRUSTEE, THE PAYING AGENT, THE BOND REGISTRAR, THE TENDER AGENT, AND THE REMARKETING AGENT

*Section 8.1. Duties, Immunities and Liabilities of Trustee and Bond Registrar.* (A) The Trustee and the Bond Registrar shall, prior to an Event of Default, and after the curing of all Events of Default which shall have occurred, perform such duties and only such duties as are specifically set forth in this Indenture and shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee and the Bond Registrar, as the case may be. The Trustee shall, during the existence of any Event of Default (which has not been cured), exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as prudent persons would exercise or use under the circumstances in the conduct of their own affairs.

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

(1) Prior to such an Event of Default hereunder and after the curing of all Events of Default which may have occurred,

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

(b) in the absence of bad faith on the part of the Trustee or the Bond Registrar, as the case may be, the Trustee or the Bond Registrar, as the case may be, may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificate or opinion furnished to the Trustee or the Bond Registrar, as the case may be, conforming to the requirements of this Indenture, but in the case of any such certificate or opinion which by any provision hereof is specifically required to be furnished to the Trustee or the Bond Registrar, as the case may be, the Trustee or the Bond Registrar, as the case may be, shall be under a duty to examine the same to determine whether or not it conforms to the requirements of this Indenture (but need not confirm or investigate the legal sufficiency of such certificate or opinion, accuracy of mathematical calculations or other facts stated therein); and

(2) At all times, regardless of whether or not any Event of Default shall exist,

(a) the Trustee and the Bond Registrar shall not be liable for any error of judgment made in good faith by a responsible officer, director or employee of the Trustee or the Bond Registrar unless it shall be proved that the Trustee or the Bond Registrar, as the case may be, was negligent in ascertaining the pertinent facts; and

(b) neither the Trustee nor the Bond Registrar shall be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a majority, or such smaller or larger percentage as may be required hereunder, in aggregate principal amount of the Bonds at the time Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee or the Bond Registrar, or exercising any trust or power conferred upon the Trustee or the Bond Registrar under this Indenture.

None of the provisions contained in this Indenture shall require the Trustee or the Bond Registrar to expend or risk its own funds or otherwise incur individual financial liability in the performance of any of its duties or in the exercise of any of its rights or powers other than to

notify the Issuer in writing that it intends to take no particular action or to notify the Bondholders that it will take no action, if it has reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not reasonably assured to it. All indemnifications and releases from liability granted herein to the Trustee or the Bond Registrar shall extend to the directors, officers, employees and agents of the Trustee or the Bond Registrar. The rights of the Trustee to such indemnification shall survive the termination of this Indenture, the payment or defeasance of the Bonds, and the resignation or removal of the Trustee.

(B) The Issuer shall remove the Trustee at any time upon written request of the Borrower (provided there is no Loan Default Event existing under the Loan Agreement), or if at any time requested to do so by an instrument or concurrent instruments in writing signed by the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding (or their attorneys duly authorized in writing) or if at any time the Issuer shall receive notice from the Trustee or the Borrower that the Trustee shall have ceased to be eligible in accordance with subsection (E) of this Section, or shall have become incapable of acting, or shall have been adjudged bankrupt or insolvent, or a receiver of the Trustee or its property shall have been appointed, or any public officer shall have taken control or charge of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, in each case by giving written notice of such removal to the Trustee, and thereupon the Issuer shall appoint, at the written direction of the Borrower, a successor Trustee by an instrument in writing.

(C) The Trustee may at any time resign by giving 45 days written notice of such resignation to the Borrower and the Issuer. Upon receiving such notice of resignation, the Issuer shall promptly appoint, at the written direction of the Borrower (provided there is no Loan Default Event existing under the Loan Agreement), a successor Trustee by an instrument in writing. The successor Trustee shall provide the Bondholders notice of the Trustee's resignation by mail at the addresses shown on the registration books maintained by DTC. If the Trustee has given such notice of resignation the Trustee may petition any court of competent jurisdiction for the appointment of a temporary successor Trustee to serve as Trustee until a successor Trustee has been duly appointed. The Trustee shall not be relieved of its duties until such successor Trustee has accepted appointment. The Trustee's rights to indemnity and reimbursement of outstanding fees and expenses survive the Trustee's resignation or removal.

(D) Any removal or resignation of the Trustee pursuant to (B) or (C) above and appointment of a successor Trustee shall become effective only upon acceptance of appointment by the successor Trustee. If no successor Trustee shall have been appointed and have accepted appointment within 45 days of giving notice of removal or notice of resignation as aforesaid, the resigning Trustee or any Bondholder (on behalf of itself and all other Bondholders) may, at the expense of the Borrower, petition any court of competent jurisdiction for the appointment of a successor Trustee, and such court may thereupon, after such notice (if any) as it may deem proper, appoint such successor Trustee. Any successor Trustee appointed under this Indenture shall signify its acceptance of such appointment by executing and delivering to the Borrower, the Issuer and to its predecessor Trustee a written acceptance thereof, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become vested with all the moneys, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Trustee, with like effect as if originally named Trustee herein; but, nevertheless at the written request of the

Issuer, the Borrower or the successor Trustee, such predecessor Trustee shall execute and deliver any and all instruments of conveyance or further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all the right, title and interest of such predecessor Trustee in and to any property held by it under this Indenture and shall pay over, transfer, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth upon payment of the predecessor Trustee's fees and expenses (including its counsel fees and expenses). Upon the written request of the Borrower or the successor Trustee, the Issuer shall execute and deliver any and all instruments as may be reasonably required for more fully and certainly vesting in and confirming to such successor Trustee all such moneys, estates, properties, rights, powers, trusts, duties and obligations. Upon acceptance of appointment by a successor Trustee as provided in this subsection, such successor Trustee shall mail a notice of the succession of such Trustee to the trusts hereunder to each Rating Agency which is then rating the Bonds, to the Bondholders at the addresses shown on the registration books maintained by the Trustee, and to any Credit Provider.

(E) Any Trustee appointed under the provisions of this Section in succession to the Trustee shall be a trust company, bank or corporation having the powers of a trust company which either (i) has a combined capital and surplus of at least \$50,000,000, and is subject to supervision or examination by federal or state authority or (ii) is a wholly owned subsidiary of a bank, trust company or bank holding company meeting, on an aggregate basis, the tests set out in clause (i). If such bank, trust company or corporation publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this subsection the combined capital and surplus of such bank, trust company or corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this subsection (E), the Trustee shall resign immediately in the manner and with the effect specified in this Section and a successor Trustee shall be appointed and accept such appointment within 30 days.

(F) The Trustee is not responsible for effecting, maintaining or renewing any policies of insurance or for any representations regarding the sufficiency of any policy of insurance.

(G) [The Trustee shall be responsible for filing financing or continuation statements prepared and provided to the Trustee by or on behalf of the Borrower or the Issuer, all at the Borrower's expense.] [The Trustee shall not be responsible for and makes not representation as to the legality, effectiveness or sufficiency of any security document or for the creation, perfection, priority or protection of any lien securing the Bonds. The Trustee shall not be responsible for filing any financing or continuation statement or recording any documents or instruments in any public office at any time or otherwise for perfecting or maintaining the perfection of any lien or security interest in the trust estate it being understood that the Borrower shall be obligated to make such filings on behalf of the Trustee and provide a copy of the filed initial financing statement to the Trustee.] [Subject to review and approval.]

(H) Subject to the provisions of Sections 5.6 and 10.3 hereof, all moneys received by the Trustee and the Tender Agent shall, until used or applied as herein provided, be held in trust

for the purposes for which they were received and, except as provided below, need not be segregated from other funds. Moneys representing the proceeds of draws on the Letter of Credit or held in the Letter of Credit Account, all Available Moneys, all remarketing proceeds, all moneys being aged to become Available Moneys, all moneys held for the payment of particular Bonds and otherwise to the extent required by law or by this Indenture shall be held by the Trustee and the Tender Agent in separate and segregated accounts as provided herein. The Trustee and the Tender Agent shall be under no liability for interest on any moneys received by them hereunder except as provided in Section 5.5 hereof. Any moneys held by the Trustee or the Tender Agent shall be invested as provided in Section 5.5 hereof.

(I) The Trustee shall not be responsible for monitoring or reviewing the Borrower's insurance or be obligated to file claims or proofs of loss in the case of insurance, or to pay taxes or assessments.

*Section 8.2. Merger or Consolidation.* Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such company shall be eligible under subsection (E) of Section 8.1, shall be the successor to such Trustee without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding. The Trustee shall provide written notice to the Issuer and the Borrower and an accompanying certificate reflecting such eligibility and such merger.

*Section 8.3. Liability of Trustee.* (A) The recitals of facts herein and in the Bonds contained shall be taken as statements of the Issuer, and the Trustee shall assume no responsibility for the correctness of the same, or make any representations of the validity or sufficiency of this Indenture or of the Bonds. In addition, the Trustee shall assume no responsibility with respect to this Indenture or the Bonds other than in connection with the duties or obligations assigned to or imposed upon the Trustee herein or in the Bonds. The Trustee shall not be responsible for the application of the Bond proceeds, for the use or application of any property, or moneys released or paid out in accordance with the provisions of this Indenture or the Bonds and under no circumstances shall the Trustee be liable in its individual capacity for the obligations evidenced by the Bonds. The Trustee shall, however, be responsible for its representations contained in its certificate of authentication on the Bonds. The Trustee shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct. The Trustee may become the Holder of Bonds with the same rights it would have if it were not Trustee and, to the extent permitted by law, may act as depositary for and permit any of their officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bondholders, whether or not such committee shall represent the Holders of a majority in aggregate principal amount of the Bonds then Outstanding.

The Trustee may execute any of the trusts or powers set forth herein and perform the duties required of it hereunder by or through attorneys, agents, or receivers, and shall not be responsible for the negligence or willful misconduct of such attorneys, agents, or receivers

appointed by the Trustee with due care, and shall be entitled to the advice of counsel selected by it concerning all matters of trusts and its duties herein.

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

(C) The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than 25% in aggregate principal amount of the Bonds at the time Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture.

(D) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the Bondholders pursuant to the provisions of this Indenture unless such Bondholders shall have offered to the Trustee security or indemnity satisfactory to it against the costs, expenses and liabilities which may be incurred therein or thereby.

(E) The Trustee shall not be liable for any action taken by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture.

(F) Except for Events of Default under Sections 7.1(A), (B) and (E), the Trustee shall not be deemed to have knowledge of any default or Event of Default hereunder unless and until a responsible officer of the Trustee has actual knowledge thereof, or shall have received written notice thereof, at its Corporate Trust Office. Except as otherwise expressly provided herein, the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions, covenants or agreements herein or of any of the documents executed in connection with the Bonds, or of the existence of a default or Event of Default thereunder. The Trustee shall not be responsible for the validity or effectiveness of any security interest in collateral given to or held by it.

(G) The Trustee shall have no responsibility, opinion or liability with respect to any information statement or recital found in any official statement or other disclosure material, prepared or distributed with respect to the issuance of the Bonds, except for information provided by the Trustee.

(H) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty.

(I) It is the purpose of this Section 8.3(I) that there shall be no violation of any law of any jurisdiction (including particularly the law of the State) denying or restricting the right of banking corporations or associations to transact business as Trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture or the Loan Agreement, and in particular in case of the enforcement thereof in an Event of Default, or in case the Trustee deems that by

reason of any present or future law of any jurisdiction it may not exercise or hold any of the powers, rights, remedies, duties, obligations, claims, demands, causes of action, immunities, estates, titles, interests, or liens herein or therein granted to or vested in the Trustee or hold title to the properties, in trust, as herein granted, or take any other action which may be desirable or necessary in connection therewith (collectively, the "*powers, duties, and interests of the Trustee*"), the Trustee may appoint an additional institution as a separate or co-Trustee, in which event all of such powers, duties, and interests expressed or intended by this Indenture or the Loan Agreement to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate or co-Trustee, but only the extent necessary to enable such separate or co-Trustee to exercise such powers, duties, and interests and every covenant and obligation necessary to the exercise thereof by such separate or co-Trustee shall run to and be enforceable by either of them.

Should any deed, conveyance, or instrument in writing from the Issuer be required by the separate or co-Trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to it such powers, duties, and interests of the Trustee, any and all such deeds, conveyances, and instruments in writing shall, on request, be executed, acknowledged, and delivered by the Issuer. In case any separate or co-Trustee, or a successor to either, shall become incapable of acting, resign, or be removed, all the powers, duties, and interests of such separate or co-Trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new Trustee or successor to such separate or co-Trustee. Any co-Trustee appointed by the Trustee pursuant to this Section may be removed by the Trustee, in which case all powers, duties, and interests vested in such co-Trustee shall again vest in the Trustee as if no such appointment of a co-Trustee had been made.

Notwithstanding any provision to the contrary in this Indenture, the Borrower shall not be liable to any Trustee or successor Trustee for any costs, fees or expenses incurred in connection with the appointment of any separate or co-Trustee or, without the express prior written approval of the Borrower, in connection with any duties or actions undertaken by such appointed separate or co-Trustee, and such appointed separate or co-Trustee shall be subject to the same terms and conditions, and entitled to the same benefits, of this Indenture as applicable to any Trustee or successor Trustee.

*Section 8.4. Right of Trustee to Rely on Documents.* Subject to the standard of care stated herein, the Trustee shall be fully protected in acting upon any notice, resolution, request, consent, order, certificate, report, opinion, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Issuer, personally or by agent or attorney, at the sole cost of the Borrower and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation. The Trustee may consult with counsel of its selection, who may be counsel of or to the Issuer or the Borrower, with regard to legal questions,

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

Whenever in the administration of the trusts imposed upon it by this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a Certificate of the Issuer, and such Certificate shall be full warrant to the Trustee for any action taken or suffered in good faith under the provisions of this Indenture in reliance upon such Certificate, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as it may deem reasonable.

Any action taken, or omitted to be taken, by the Trustee in good faith pursuant to this Indenture upon the request or authority or consent of any person who, at the time of making such request or giving such authority or consent, is a Bondholder, shall be conclusive and binding upon all future Bondholders and upon Bonds executed and delivered in exchange therefore or in place thereof.

*Section 8.5. Preservation and Inspection of Documents.* All documents received by the Trustee under the provisions of this Indenture shall be retained in its possession and shall be subject at all reasonable times to the inspection of the Issuer, the Borrower and any Bondholder and their agents and representatives duly authorized in writing, at reasonable hours and under reasonable conditions.

*Section 8.6. Compensation and Indemnification.* (A) The Trustee, the Tender Agent, the Paying Agent and the Bond Registrar shall be entitled to compensation as agreed to in writing from time to time between the Trustee (or the Tender Agent, the Paying Agent or the Bond Registrar, as the case may be) and the Borrower for all services rendered by them in the execution of the trusts created and in the exercise and performance of any of the powers and duties hereunder of the Trustee, the Tender Agent, the Paying Agent or the Bond Registrar, as the case may be, which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust, and the Borrower shall pay or reimburse the Trustee, the Tender Agent, the Paying Agent or the Bond Registrar, as the case may be, upon its request for reasonable out-of-pocket expenses, disbursements and advances incurred or made by the Trustee, the Tender Agent, the Paying Agent or the Bond Registrar, as the case may be, in accordance with any of the provisions of this Indenture (including the reasonable compensation and the expenses and disbursements of its counsel and of all persons not regularly in its employ) except any such expense, disbursement or advance determined to have been caused by its own negligence or willful misconduct. If any property, other than cash, shall at any time be held by the Trustee, the Tender Agent, the Paying Agent or the Bond Registrar, as the case may be, subject to this Indenture, or any Supplemental Indenture, as security for the Bonds, the Trustee, the Tender Agent, the Paying Agent or the Bond Registrar, as the case may be, if and to the extent authorized by a receivership, bankruptcy or other court of competent jurisdiction or by the instrument subjecting such property to the provisions of this Indenture as such security for the Bonds shall be entitled to make advances for the purpose of preserving such property or of

discharging tax liens or other prior liens or encumbrances thereon. The Borrower has also agreed in the Loan Agreement to indemnify the Trustee, the Tender Agent, the Paying Agent or the Bond Registrar, as the case may be, for, and to hold it harmless against, any loss, liability, claim, damage, judgments or expense incurred or made without negligence or willful misconduct on the part of the Trustee, the Tender Agent, the Paying Agent or the Bond Registrar, as the case may be, arising out of or in connection with the acceptance or administration of this trust, including the costs and expenses of defending itself against any claim of liability in the premises (including reasonable attorneys' fees and expenses). Notwithstanding the foregoing, the Trustee shall make timely payments of principal of and interest on the Bonds with moneys on deposit in the Bond Fund as provided herein, shall make timely draws on a Letter of Credit as provided herein and shall accelerate the payment of principal on the Bonds when required by this Indenture without seeking any prior indemnification from the Borrower or any Bondholder. The rights of the Trustee, the Tender Agent, the Paying Agent and the Bond Registrar to compensation for their services and to payment or reimbursement for expenses, disbursements, liabilities and advances shall have priority over the Bonds in respect of all property and funds held or collected by the Trustee as such, except for moneys held in the Rebate Fund, proceeds of a drawing under the Letter of Credit or held in the Letter of Credit Account, Available Moneys, moneys being aged to become Available Moneys, remarketing proceeds, and other funds held in trust by the Trustee or the Tender Agent, as the case may be, for the benefit of the Holders of particular Bonds, including, without limitation, (i) moneys or securities held pursuant to Article X hereof; and (ii) moneys or securities held for the payment of Bonds upon maturity or redemption and prior to the presentation of such Bonds. The compensation and indemnification obligations provided hereunder and in the Loan Agreement shall survive the payment in full or defeasance of the Bonds, the termination of this Indenture and the Loan Agreement, and the resignation or removal of the Trustee, Tender Agent, Paying Agent or Bond Registrar.

(B) The Trustee shall be under no obligation to institute any suit or take any remedial proceeding under this Indenture, or to enter any appearance in or in any way defend any suit in which it may be made defendant, or to take any steps in the execution of the trusts hereby created or in the exercise of any rights or powers hereunder at the request, order or direction of any Holders of Bonds or otherwise (except declaring the principal of and interest on the Bonds to be due immediately under Section 7.1, drawing on a Letter of Credit, or making payment when due on the Bonds) until it shall be indemnified to its satisfaction against any and all reasonable costs and expenses, outlays, and counsel fees and other disbursements and against all liability not determined to have been caused by its own negligence or willful misconduct, *provided, however*, that if the Trustee intends to seek indemnification pursuant to this Section 8.6 prior to instituting any such action it shall so inform the Holders (as appropriate), the Issuer and any Credit Provider in writing as soon as possible and provided further that the Borrower shall not be liable for any settlement of any such action without its consent, which consent shall not be unreasonably withheld.

*Section 8.7. Paying Agent.* The Issuer, at the expense and written direction of the Borrower and with the written approval of the Trustee, shall appoint and at all times have a Paying Agent in such cities as the Borrower deems desirable, for the payment of the principal of, and the interest (and premium, if any) on, the Bonds. It shall be the duty of the Trustee to make such credit arrangements with such Paying Agent as may be necessary to assure, to the extent of

the moneys held by the Trustee for such payment, the prompt payment of the principal of, and interest (and premium, if any) on, the Bonds presented at either place of payment. The Trustee will not be responsible for the failure of any Credit Provider or any other party to make funds available to the Trustee or Paying Agent. The Trustee is the initial Paying Agent. If the Paying Agent is any entity other than the Trustee, it shall be subject to the same standards applicable to the Trustee as set forth in this Indenture.

*Section 8.8. Trustee and Issuer Required to Accept Directions and Actions of Borrower.* Whenever after a reasonable, specific written request by the Borrower, and if the Borrower is not in default under the Loan Agreement, the Issuer shall fail, refuse or neglect to give any specific written direction to the Trustee or to require the Trustee to take any action which the Issuer is required to have the Trustee take pursuant to the provisions of the Loan Agreement or this Indenture, the Borrower may give any such specific written direction to the Trustee or require the Trustee to take any such action (so long as such action does not adversely impair the rights of the Issuer, the Trustee and the Bondholders hereunder or conflict with the terms of this Indenture), and the Trustee is hereby irrevocably empowered and directed to accept such specific written direction from the Borrower[, subject to the provisions of Section 11.8 hereof,] as sufficient for all purposes of this Indenture, provided the Trustee receives indemnity satisfactory to it. The Borrower shall have the right, on behalf of the Issuer, to cause the Trustee to comply with any of the Trustee's obligations under this Indenture to the same extent that the Issuer is empowered so to do.

Certain actions or failures to act by the Issuer under this Indenture may create or result in an Event of Default under this Indenture, and the Borrower, on behalf of the Issuer, may, to the extent permitted by law, perform any and all acts or take such action (so long as such action does not adversely impair the rights of the Issuer, the Trustee and the Bondholders hereunder or conflict with the terms of this Indenture) as may be necessary for and on behalf of the Issuer to prevent or correct said Event of Default, and the Trustee shall take or accept such performance by the Borrower as performance by the Issuer in such event provided the Trustee receives indemnity satisfactory to it; *provided, however*, that the foregoing shall not extend the time for performance required hereby.

The Issuer hereby authorizes the Borrower to give all directions, do all things and perform all acts provided, and to the extent so provided, by this Section. The Borrower shall act reasonably pursuant to such authorization, and no action of the Borrower thereunder shall create any liability of the Issuer, including any liability with respect to payment of the Bonds (except as otherwise provided in this Indenture).

*Section 8.9. Independent Counsel.* The Trustee may consult with independent counsel, chosen by it with reasonable care, and shall not be liable for action taken or not taken in good faith in reliance upon the written advice or opinion of such counsel.

*Section 8.10. Limitation on Trustee's Liability.* Nothing in this Indenture shall be construed to impose any duties upon the Trustee beyond those set forth in this Indenture. The Trustee shall not be liable or deemed in breach or default hereunder if and to the extent its performance hereunder is prevented by reason of force majeure. The term "force majeure"

means an occurrence that is beyond the control of the Trustee and could not have been avoided by exercising due care. Force majeure shall include acts of God, terrorism, war, riots, floods, earthquakes, epidemics or other similar occurrences.

*Section 8.11. Notices to Rating Agency and Credit Provider.* The Trustee shall provide each Rating Agency and any Credit Provider with prior written notice (to the extent the Trustee has received prior notice) upon the occurrence of: (i) the provision, expiration, termination or extension of a Letter of Credit; (ii) the discharge of liability on the Bonds pursuant to Section 10.2 hereof; (iii) the resignation or removal of the Trustee, Tender Agent, or Remarketing Agent; (iv) acceptance of appointment as successor Trustee, Tender Agent, or Remarketing Agent hereunder; (v) the redemption of all or any portion of the Bonds; (vi) conversion to a new Interest Rate Period; (vii) a change in this Indenture, the Loan Agreement or a Letter of Credit; and (viii) when the Bonds are no longer Outstanding. The Trustee shall also notify any Rating Agency of any changes to any of the documents to which the Trustee is a party, upon its receipt of notification of any such changes. The Trustee shall not be liable to any party for failure to give notice as provided in this Section.

*Section 8.12. Appointment and Duties of Remarketing Agent; No Remarketing Agent.* The Borrower shall appoint the Remarketing Agent for the Bonds, as required by Section 5.10 of the Loan Agreement and as subject to the conditions set forth in Section 8.13 hereof and in the Remarketing Agreement. The Remarketing Agent shall designate to the Trustee its principal office and signify its acceptance of the duties and obligations imposed on it hereunder by a written instrument of acceptance delivered to the Borrower, the Issuer and the Trustee under which the Remarketing Agent will agree to perform the obligations of the Remarketing Agent set forth herein and under which the Remarketing Agent will agree to keep such books and records as shall be consistent with prudent industry practice and to make such books and records available for inspection by the Issuer, the Trustee and the Borrower at all reasonable times upon reasonable notice. The Remarketing Agent shall determine the interest rates on the Bonds and perform the other duties provided for in Section 2.3 and shall remarket Bonds as provided in Section 4.7 hereof. The Remarketing Agent shall hold all moneys delivered to it for the benefit of the person or entity which shall have so delivered such moneys until such moneys are delivered to the Trustee as provided herein. The Remarketing Agent may for its own account or as broker or agent for others deal in Bonds and may do anything any other Holder may do to the same extent as if the Remarketing Agent were not serving as such.

All references to the Remarketing Agent in this Indenture and the Loan Agreement shall be of no force and effect unless a Remarketing Agent has been appointed in accordance with this Indenture.

*Section 8.13. Eligibility of Remarketing Agent; Replacement.* (A) Any Remarketing Agent shall be (i) an investment bank that is a member of the Financial Industry Regulatory Authority having a capitalization of at least \$20,000,000 as shown in the most recent annual report of the Remarketing Agent or its parent or (ii) a commercial bank or trust company having a capitalization of at least \$100,000,000 as shown in its (or its parent's) most recent published annual report, organized and doing business under the laws of the United States or any state or the District of Columbia.

(B) The Remarketing Agent may resign by notifying the Issuer, the Trustee, the Tender Agent, the Borrower and any Credit Provider in writing at least 45 days before the effective date of such resignation. The Borrower may remove the Remarketing Agent at any time on 30 days notice at its own discretion and appoint a successor by notifying the Remarketing Agent, the Credit Provider, the Issuer and the Trustee. No removal shall become effective until the successor has delivered an acceptance of its appointment to the Trustee.

(C) The Borrower, at its option, may appoint to serve with the Remarketing Agent, one or more co-Remarketing Agents; *provided* that all interest rate determinations shall be made by the Remarketing Agent and not a co-Remarketing Agent. In the event of appointment of a co-Remarketing Agent, any such co-Remarketing Agent shall be subject to this Section and Sections 8.12, 8.14 and 8.22 hereof.

*Section 8.14. Compensation of Remarketing Agent.* The Remarketing Agent shall not be entitled to any compensation from the Issuer or the Trustee but, rather, shall make separate arrangements with the Borrower for its compensation.

*Section 8.15. Appointment and Duties of Tender Agent.* The Issuer, at the direction of the Borrower, hereby appoints the Trustee as initial Tender Agent. The Tender Agent shall designate its principal office and signify its acceptance of all of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer, the Trustee, any Credit Provider and the Remarketing Agent. The Tender Agent shall perform the duties provided for in this Indenture and in exercising such duties shall be entitled to the same rights and immunities and indemnities applicable to the Trustee as set forth in this Indenture and shall not be liable for any action or omission to act except for its own negligence or willful misconduct. Notwithstanding any provision in this Indenture to the contrary, the Tender Agent shall not be responsible for any misconduct or negligence on the part of any agent, correspondent, attorney or receiver appointed with due care by it hereunder.

*Section 8.16. Eligibility of Tender Agent; Replacement.* The Tender Agent and any successor to the Tender Agent shall be a corporation, bank or trust company organized and doing business under the laws of the United States, any state or the District of Columbia and shall either (i) have a combined capital and surplus of at least \$50,000,000, and be subject to supervision or examination by federal or state authority or (ii) be a wholly owned subsidiary of a bank, trust company or bank holding company meeting, on an aggregate basis, the tests set out in clause (i). If such corporation, bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this subsection the combined capital and surplus of such corporation, bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. At all times when the Bonds are not Book-Entry Bonds the Tender Agent shall have an office or agency for servicing the Bonds in New York, New York. In case at any time the Tender Agent shall cease to be eligible in accordance with the provisions of this Section 8.16, the Tender Agent shall resign immediately in the manner and with the effect specified in this Section, and a new Tender Agent shall be appointed and accept such appointment within 30 days.

The Tender Agent may resign by notifying the Issuer, the Borrower, the Trustee, any Credit Provider, the Remarketing Agent and the Bondholders in writing at least 45 days before the effective date of such resignation. The Trustee, at the written direction of the Borrower, may remove the Tender Agent and appoint a successor by notifying the Tender Agent, the Remarketing Agent, any Credit Provider and the Issuer in writing. No resignation or removal shall be effective until the successor has delivered an acceptance of its appointment to the Trustee and the predecessor Tender Agent.

In the event of the resignation or removal of the Tender Agent, such Tender Agent shall pay over, assign and deliver any moneys held by it as Tender Agent to its successor, or if there is no successor, to the Trustee. In the event that for any reason there shall be a vacancy in the office of Tender Agent, the Trustee shall act as such Tender Agent to the extent it has operational capacity to perform such tasks.

*Section 8.17. Compensation of Tender Agent.* The Tender Agent shall not be entitled to any compensation from the Issuer, the Remarketing Agent or the Trustee, but rather shall only be entitled to compensation from the Borrower.

*Section 8.18. Appointment and Duties of Bond Registrar.* The Issuer, at the direction of the Borrower, hereby designates the Trustee as initial Bond Registrar, *provided* that the Tender Agent shall act as co-Bond Registrar with respect to Bonds tendered pursuant to Sections 2.4, 4.6 and 4.8 hereof.

The Bond Registrar shall not be entitled to any compensation from the Issuer, the Remarketing Agent, or the Trustee but, rather, shall only be entitled to compensation from the Borrower.

*Section 8.19. Eligibility of Bond Registrar.* A Bond Registrar appointed pursuant to this Indenture shall be a corporation organized and doing business under the laws of the United States or any state or the District of Columbia, subject to supervision or examination by federal or state authorities and shall either (i) have a combined capital and surplus of at least \$50,000,000, and be subject to supervision or examination by federal or state authority or (ii) be a wholly owned subsidiary of a bank, trust company or bank holding company meeting, on an aggregate basis, the tests set out in clause (i). If such corporation, bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this subsection the combined capital and surplus of such corporation, bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

*Section 8.20. Bond Registrar's Performance of Duties.* The Bond Registrar shall perform the duties provided for in this Indenture and in exercising such duties shall be entitled to the same rights and immunities and indemnities applicable to the Trustee as set forth in this Indenture and shall not be liable for any action or omission to act except for negligence or willful misconduct.

*Section 8.21. Replacement of Bond Registrar.* The Bond Registrar may resign by notifying the Issuer, the Trustee, any Credit Provider and the Borrower in writing at least 45 days before the effective date of such resignation. The Issuer, at the written direction of the Borrower, may remove the Bond Registrar and appoint a successor by notifying the Bond Registrar, the Remarketing Agent, any Credit Provider and the Trustee. No resignation or removal shall be effective until the successor has delivered an acceptance of its appointment to the Trustee and the predecessor Bond Registrar.

In the event of the resignation or removal of the Bond Registrar, such Bond Registrar shall pay over, assign and deliver any moneys held by it as Bond Registrar to its successor, or if there is no successor, to the Trustee. In the event that for any reason there shall be a vacancy in the office of Bond Registrar, the Trustee shall act as such Bond Registrar to the extent it has operational capacity to perform such tasks.

*Section 8.22. Successor Remarketing Agent by Merger.* If the Remarketing Agent consolidates with, merges or converts into, or transfers all or substantially all its underwriting business to, another entity, the resulting, surviving or transferee entity shall, if otherwise eligible to serve hereunder, be the successor Remarketing Agent without any further act. The Remarketing Agent shall provide written notice to the Trustee and the Borrower and an accompanying certificate reflecting such eligibility and such merger.

*Section 8.23. Rule G-34.* After the execution and delivery of any Rule G-34 Document in connection with any amendment, extension, renewal, replacement or termination thereof, the Trustee shall within one Business Day of receiving a written request from the Remarketing Agent provide to the Remarketing Agent, by electronic delivery, a word-searchable PDF file containing an executed copy of the relevant Rule G-34 Document. If any Non-Public Information has been redacted, the Trustee shall also provide to the Remarketing Agent a complete copy of the Rule G-34 Document including such Non-Public Information.

## ARTICLE IX

### MODIFICATION OR AMENDMENT OF THE INDENTURE AND THE LOAN AGREEMENT

*Section 9.1. Amendments Permitted.* (A) Except as provided in subsection (B), this Indenture and the rights and obligations of the Issuer and of the Holders of the Bonds and of the Trustee may be modified or amended from time to time and at any time by an indenture or indentures supplemental hereto, which the Issuer and the Trustee may enter into when the written consent of the Holders of a majority in aggregate principal amount of all Bonds then Outstanding (or, in lieu thereof, of any Credit Provider as provided in Section 11.13 hereof) and a Favorable Opinion of Tax Counsel shall have been filed with the Trustee. No such modification or amendment shall (1) extend the fixed maturity of any Bond, or reduce the amount of principal thereof, or change the rights of optional and mandatory tender or redemption or extend the time of payment, or change the method of computing the rate of interest thereon or create a privilege or priority of any Bond over any other Bond, or extend the time of payment of interest thereon, without the consent of the Holder of each Bond so affected, or (2) reduce the aforesaid percentage of Bonds the consent of the Holders of which is required to effect any such

modification or amendment, or (3) permit the creation of any lien on the Revenues and other assets pledged under this Indenture prior to or on a parity with the lien created by this Indenture, or (4) deprive the Holders of the Bonds of the lien created by this Indenture on such Revenues and other assets (except as expressly provided in this Indenture), without the consent of the Holders of all of the Bonds then Outstanding and receipt by the Trustee of a Favorable Opinion of Tax Counsel. It shall not be necessary for the consent of the Bondholders to approve the particular form of any Supplemental Indenture, but it shall be sufficient if such consent shall approve the substance thereof. Promptly after the execution by the Issuer and the Trustee of any Supplemental Indenture pursuant to this subsection (A), the Trustee shall mail a notice, setting forth in general terms the substance of such Supplemental Indenture, to each Rating Agency then rating the Bonds, the Remarketing Agent and the Holders of the Bonds at the addresses shown on the registration books of the Trustee. Any failure to give such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such Supplemental Indenture.

(B) This Indenture and the rights and obligations of the Issuer, of the Trustee and of the Holders of the Bonds may also be modified or amended from time to time and at any time by an indenture or indentures supplemental hereto, which the Issuer and the Trustee may enter into without the consent of any Bondholders, but with the consent of the Credit Provider (if a Letter of Credit is in effect), and only to the extent permitted by law and after receipt of a Favorable Opinion of Tax Counsel and an Opinion of Counsel addressed to the Trustee that the provisions of such Supplemental Indenture do not materially adversely affect the interests of the Holders of the Bonds, including, without limitation, for any one or more of the following purposes:

(1) to add to the covenants and agreements of the Issuer in this Indenture contained other covenants and agreements thereafter to be observed, to pledge or assign additional security for the Bonds, or to surrender any right or power herein reserved to or conferred upon the Issuer;

(2) to make such provisions for the purpose of curing any ambiguity, inconsistency or omission, or of curing or correcting any defective provision, contained in this Indenture, or in regard to matters or questions arising under this Indenture, as the Issuer, at the direction of the Borrower, may deem necessary or desirable and not inconsistent with this Indenture, including amendments pursuant to Section 2.3(G)(3) hereof;

(3) to modify, amend or supplement this Indenture in such manner as to permit the qualification hereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect, and to add such other terms, conditions and provisions as may be permitted by said act or similar federal statute;

(4) to conform to the terms and provisions of any Letter of Credit or to obtain or maintain a rating on the Bonds;

(5) to modify, alter, amend or supplement this Indenture in any other respect, including amendments which would otherwise be described in Section 9.1(A) hereof, if (i) the effective date of such Supplemental Indenture is a date on which all Bonds

affected thereby are subject to mandatory tender for purchase pursuant to Section 4.6 or 4.8 or (ii) notice of the proposed Supplemental Indenture is mailed to Holders of the affected Bonds at least 30 days before the effective date thereof and, on or before such effective date, such Bondholders have the right to demand purchase of their Bonds pursuant to Section 2.4(A) hereof; or

(6) to make any other changes to this Indenture that do not materially adversely affect the rights of any Bondholder.

(C) The Trustee and the Issuer may in their discretion, but shall not be obligated to, enter into any such Supplemental Indenture authorized by subsections (A) and (B) of this Section which materially adversely affects the Trustee's or the Issuer's own rights, duties or immunities, respectively, under this Indenture or otherwise.

(D) Anything herein to the contrary notwithstanding, a Supplemental Indenture under this Section shall not become effective unless and until the Borrower shall have consented thereto in writing so long as no Event of Default under Section 6.1 of the Loan Agreement shall have occurred and be continuing as a result of the failure of the Borrower to perform its obligations thereunder.

*Section 9.2. Effect of Supplemental Indenture.* Upon the execution of any Supplemental Indenture pursuant to this Article, this Indenture shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Indenture of the Issuer, the Trustee, the Credit Provider, if any, and all Holders of Bonds Outstanding shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any such Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Any such Supplemental Indenture shall comply with the terms of this Article IX, and the Trustee shall receive and may conclusively rely on an Opinion of Counsel addressed to the Trustee that the Supplemental Indenture complies with the provisions therein.

*Section 9.3. Endorsement of Bonds; Preparation of New Bonds.* Bonds delivered after the execution of any Supplemental Indenture pursuant to this Article may, and if the Issuer so determines shall, bear a notation by endorsement or otherwise in form approved by the Issuer as to any modification or amendment provided for in such Supplemental Indenture, and, in that case, upon demand of the Holder of any Bond Outstanding at the time of such execution and presentation of such Holder's Bond for the purpose at the office of the Trustee or at such additional offices as the Trustee may select and designate for that purpose, a suitable notation shall be made on such Bond. If the Supplemental Indenture shall so provide, new Bonds so modified as to conform, in the opinion of the Issuer, to any modification or amendment contained in such Supplemental Indenture, shall be prepared and executed by the Issuer and authenticated by the Trustee, and upon demand of the Holders of any Bonds then Outstanding shall be exchanged at the Corporate Trust Office of the Trustee without cost to any Bondholder,

for Bonds then Outstanding, upon surrender for cancellation of such Bonds, in equal aggregate principal amounts.

*Section 9.4. Amendment of Particular Bonds.* The provisions of this Article shall not prevent any Bondholder from accepting any amendment as to the particular Bonds held by it, *provided* that due notation thereof is made on such Bonds.

*Section 9.5. Amendment of Loan Agreement.* Except as provided in Section 9.4 of the Loan Agreement, the Issuer shall not amend, modify or terminate any of the terms of the Loan Agreement, or consent to any such amendment, modification or termination, without the prior written consent of the Trustee. The Trustee shall give such written consent only if (1) in the Opinion of Counsel addressed to the Trustee, such amendment, modification or termination will not materially adversely affect the interests of the Bondholders or result in any material impairment of the security hereby given for the payment of the Bonds and all conditions precedent to the execution and delivery of the amendment have been satisfied, (2) a Favorable Opinion of Tax Counsel shall have been filed with the Trustee, (3) the Trustee first obtains the written consent of the Holders of a majority in aggregate principal amount of the Bonds then Outstanding (or, in lieu thereof, of any Credit Provider as provided in Section 11.13 hereof) to such amendment, modification or termination or (4) such amendment, modification or termination is made in connection with the amendment of this Indenture pursuant to Section 9.1(B), *provided* that no such amendment, modification or termination shall reduce the amount of Loan Payments or Purchase Price Payments to be made by the Borrower pursuant to the Loan Agreement, or extend the time for making such payments, without the written consent of all of the Holders of the Bonds then Outstanding. The Trustee shall receive and may conclusively rely upon an Opinion of Counsel addressed to the Trustee with respect to the effect of any amendments hereto or to the Loan Agreement.

## ARTICLE X

### DEFEASANCE

*Section 10.1. Discharge of Indenture.* Bonds may be paid by the Issuer in any of the following ways, *provided* that the Issuer also pays or causes to be paid any other sums payable hereunder by the Issuer:

(A) by paying or causing to be paid (with Available Moneys when a Letter of Credit is then in effect) the principal of, and interest and premium, if any, on, the Bonds then Outstanding as and when the same become due and payable;

(B) by depositing with the Trustee, in trust, at or before maturity or the redemption date thereof, money or securities in the necessary amount (as provided in Section 10.3 hereof) to pay or redeem (with Available Moneys when a Letter of Credit is then in effect) all Bonds then Outstanding; or

(C) by delivering to the Trustee, for cancellation by it, the Bonds then Outstanding.

If the Issuer shall also pay or cause to be paid all other sums payable hereunder by the Issuer, then and in that case, at the election of the Issuer (evidenced by a Certificate of the Issuer, filed with the Trustee, signifying the intention of the Issuer to discharge all such indebtedness and this Indenture), and notwithstanding that any Bonds shall not have been surrendered for payment, this Indenture and the pledge of Revenues and other assets made under this Indenture and all covenants, agreements and other obligations of the Issuer under this Indenture shall cease, terminate, become void and be completely discharged and satisfied except only as provided in Section 10.2 hereof. In such event, upon specific written request of the Issuer, the Trustee shall cause trust statements for such period or periods as may be requested by the Issuer to be prepared and filed with the Issuer and shall execute and deliver to the Issuer all such instruments as may be necessary or desirable to evidence such discharge and satisfaction (provided satisfactory indemnity is provided to it) and the Trustee shall pay over, transfer, assign or deliver all moneys or securities or other property held by it pursuant to this Indenture (other than the Rebate Fund) which are not required for the payment or redemption of Bonds not theretofore surrendered for such payment or redemption and which are otherwise not amounts owed to the Trustee hereunder in the following order (1) first, to any Credit Provider to the extent of any amounts due to the Credit Provider pursuant to the Reimbursement Agreement with respect to the Letter of Credit and (2) second, to the Issuer, to pay any Administrative Fees and Expenses or any other amounts due and owing to the Issuer and (3) third, to the Borrower, *provided, however*, that the Borrower may not receive any funds derived from a draw on a Letter of Credit, remarketing proceeds, or moneys held for the payment of particular Bonds (including moneys held for non-presented Bonds).

*Section 10.2. Discharge of Liability on Bonds.* Upon the deposit with the Trustee pursuant to Section 10.1, in trust, at or before maturity or redemption, as the case may be, of money or securities in the necessary amount (as provided in Section 10.3 hereof) to pay or redeem any Outstanding Bond (whether upon or prior to its maturity or the redemption date of such Bond), *provided* that, if such Bond is to be redeemed prior to maturity, notice of such redemption shall have been given as provided in Article IV or provision satisfactory to the Trustee shall have been made for the giving of such notice, then all liability of the Issuer in respect of such Bond shall cease, terminate and be completely discharged, except only that the Holder thereof shall thereafter be entitled to payment of the principal of, and premium, if any, and interest on, such Bond by the Issuer, and the Issuer shall remain liable for such payment, but only out of such money or securities deposited with the Trustee as aforesaid for their payment and such money or securities shall be pledged to such payment; *provided further, however*, that the provisions of Sections 5.4 and 10.4 hereof shall apply in all events.

The Issuer may at any time surrender to the Trustee for cancellation by it any Bonds previously issued and delivered, which the Issuer may have acquired in any manner whatsoever, and such Bonds, upon such surrender and cancellation, shall be deemed to be paid and retired.

*Section 10.3. Deposit of Money or Securities with Trustee.* Whenever in this Indenture it is provided or permitted that there be deposited with or held in trust by the Trustee money or securities in the necessary amount to pay or redeem any Bonds, the money or securities to be deposited or held may include money or securities held by the Trustee in the funds and accounts

established pursuant to this Indenture (exclusive of the Rebate Fund, the Letter of Credit Account, and the account described in Section 4.7(G) hereof) and shall be any combination of:

(A) moneys (Available Moneys when a Letter of Credit is then in effect) in an equal amount to the principal amount of such Bonds, and all unpaid interest thereon to maturity except that, in the case of Bonds which are to be redeemed prior to maturity and in respect of which notice of such redemption shall have been given as provided in Article IV or provision satisfactory to the Trustee shall have been made for the giving of such notice, the amount to be deposited or held shall be the principal amount or redemption price of such Bonds and all unpaid interest thereon to the redemption date; or

(B) Government Obligations and, when a Letter of Credit is then in effect, which are purchased with Available Moneys, the principal of and interest on which when due and without reinvestment will provide money sufficient to pay the principal of, premium, if any, and all unpaid interest to maturity or to the redemption date on the Bonds to be paid or redeemed, as such principal and interest become due, with maturities no longer than 30 days or as may be necessary to make the required payment on the Bonds, *provided* that, in the case of Bonds which are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as provided in Article IV or provision satisfactory to the Trustee shall have been made for the giving of such notice;

*provided*, in each case, that the Trustee shall have been irrevocably instructed (by the terms of this Indenture or by written request of the Issuer) to apply such money or securities to the payment of such principal, premium, if any, and interest with respect to such Bonds and, if a Letter of Credit is then in effect, a legal opinion from a nationally recognized firm in bankruptcy law that payment of the Bonds from such moneys will not be a voidable preference in the event of the bankruptcy of the Borrower or the Issuer.

With respect to subsection (B) of this Section 10.3, the Trustee may require an opinion of a verification agent as to the sufficiency of the principal of and interest on the Government Obligations or bonds, notes or other obligations as referenced therein.

*Section 10.4. Payment of Bonds After Discharge of Indenture Obligation.* Notwithstanding any provisions of this Indenture, any moneys deposited with the Trustee in trust for the payment of the principal of, or interest or premium on, any Bonds remaining unclaimed after the principal of any Bond has become due and payable (whether at maturity or upon call for redemption or by declaration as provided in this Indenture), shall be disposed of as provided by Section 11.11(C), law and the Holders of such Bonds shall thereafter be entitled to look only to the transferee of such moneys for payment thereof, and all liability of the Trustee with respect to such moneys shall thereupon cease.

## ARTICLE XI

### MISCELLANEOUS

*Section 11.1. Extent of Covenants; No Personal Liability.* All covenants, stipulations, obligations and agreements of the Issuer contained in this Indenture are and shall be deemed to be covenants, stipulations, obligations and agreements of the Issuer to the full extent authorized by the Act. No covenant, stipulation, obligation or agreement of the Issuer contained in this Indenture shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, officer, agent or employee of the Issuer in other than that person's official capacity. No such person, including any official executing the Bonds, this Indenture, the Loan Agreement or any amendment or supplement hereto or thereto shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance or execution hereof or thereof.

*Section 11.2. Successor Is Deemed Included in All References to Predecessor.* Whenever in this Indenture either the Issuer, any Credit Provider or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants, stipulations, promises and agreements in this Indenture contained by or on behalf of the Issuer, any Credit Provider or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not. If any of the powers or duties of the Issuer shall hereafter be transferred by any law of the State, and if such transfer shall relate to any matter or thing permitted or required to be done under this Indenture by the Issuer, then the body or official of the State who shall succeed to such powers or duties shall act and be obligated in the place and stead of the Issuer as in this Indenture provided.

*Section 11.3. Limitation of Rights to Parties and Bondholders.* Nothing in this Indenture or in the Bonds expressed or implied is intended or shall be construed to give to any person other than the Issuer, the Trustee, the Borrower, any Credit Provider, the Remarketing Agent, the Direct Participants (as provided in Section 2.4 hereof) and the Holders and Beneficial Owners of the Bonds, any legal or equitable right, remedy or claim under or in respect of this Indenture or any covenant, condition or provision therein or herein contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the Issuer, the Trustee, the Borrower, any Credit Provider, the Remarketing Agent, the Direct Participants (as provided in Section 2.4 hereof) and the Holders and Beneficial Owners of the Bonds.

*Section 11.4. Waiver of Notice.* Whenever in this Indenture the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice. In any such case the giving of a notice, or lack of giving notice to such entitled person who has waived such right, shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

*Section 11.5. Disposal of Bonds.* The Trustee shall cancel all Bonds surrendered for transfer, payment or cancellation and shall dispose of such Bonds in accordance with its retention policies then in effect.

*Section 11.6. Severability of Invalid Provisions.* If any one or more of the provisions contained in this Indenture or in the Bonds shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Indenture and such invalidity, illegality or unenforceability shall not affect any other provision of this Indenture, and this Indenture shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The Issuer and the Trustee each hereby declares that it would have entered into this Indenture and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the issuance of the Bonds pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of this Indenture may be held illegal, invalid or unenforceable.

*Section 11.7. Governing Law.* This Indenture shall be governed by and construed in accordance with the laws of the State (without regard to the State's conflicts of laws principles).

*Section 11.8. Notices.* Notices shall be delivered to each Bondholder by first-class mail, postage prepaid, at the address set forth for such Bondholder on the registration books of the Trustee. Any notice to or demand upon the Trustee may be served or presented by first-class mail, postage prepaid and such demand may be made, at the Corporate Trust Office of the Trustee, which, as of the date of adoption of this Indenture, is located as the following address:

The Bank of New York Mellon Trust Company, N.A.  
500 Ross Street, 12th Floor  
Pittsburgh, Pennsylvania 15262  
Attention: Global Corporate Trust - Public Finance

or at such other address as may have been filed in writing by the Trustee with the Issuer and the Borrower. Any notice to or demand upon the Issuer or the Borrower shall be deemed to have been sufficiently given or served for all purposes by being mailed by first-class mail, postage prepaid, addressed as follows:

To the Issuer: Sweetwater County Wyoming  
P.O. Box 730  
80 West Flaming Gorge Way  
Green River, Wyoming 82935  
Attention: County Clerk

To the Borrower: FMC Corporation  
FMC Tower at Cira Centre South  
2929 Walnut Street  
Philadelphia, Pennsylvania 19104  
Attention: Treasurer

Any notice to or demand upon the Credit Provider or the Remarketing Agent shall be deemed to have been sufficiently given or served for all purposes by being mailed by first-class

mail, postage prepaid, to such addresses as may have been filed in writing from time to time with the Trustee.

[The Trustee shall have the right to accept and act upon instructions, including funds transfer instructions (“*Instructions*”) given pursuant to this Indenture and delivered using Electronic Means; *provided, however*, that the Issuer and/or the Borrower, as applicable, shall provide to the Trustee an incumbency certificate listing officers with the authority to provide such Instructions (“*Authorized Officer*”) and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Issuer and/or the Borrower, as applicable, whenever a person is to be added or deleted from the listing. If the Issuer and/or the Borrower, as applicable, elects to give the Trustee Instructions using Electronic Means and the Trustee in its discretion elects to act upon such Instructions, the Trustee’s understanding of such Instructions shall be deemed controlling. The Issuer and the Borrower understand and agree that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The Issuer and the Borrower shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee and that the Issuer, the Borrower and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Issuer and/or the Borrower, as applicable. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee’s reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The Issuer and the Borrower agree: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Issuer and/or the Borrower, as applicable; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures.] [Subject to review and approval.]

*Section 11.9. Evidence of Rights of Bondholders.* (A) Any request, consent or other instrument required or permitted by this Indenture to be signed and executed by Bondholders may be in any number of concurrent instruments of substantially similar tenor and shall be signed or executed by such Bondholders in person or by an agent or agents duly appointed in writing. Proof of the execution of any such request, consent or other instrument or of a writing appointing any such agent, or of the holding by any person of Bonds transferable by delivery, shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee and of the Issuer if made in the manner provided in this Section.

(B) The fact and date of the execution by any person of any such request, consent or other instrument or writing may be proved by the certificate of any notary public or other officer

of any jurisdiction, authorized by the laws thereof to take acknowledgments of deeds, certifying that the person signing such request, consent or other instrument acknowledged to such notary public or other officer the execution thereof, or by an affidavit of a witness of such execution duly sworn to before such notary public or other officer.

(C) The ownership of registered Bonds shall be proved by the bond registration books held by the Trustee. The Trustee and the Issuer may conclusively assume that such ownership continues until written notice to the contrary is served upon the Trustee. The fact and the date of execution of any request, consent or other instrument and the amount and distinguishing numbers of Bonds held by the person so executing such request, consent or other instrument may also be proved in any other manner which the Trustee may deem sufficient. The Trustee may nevertheless, in its discretion, require further proof in cases where it may deem further proof desirable.

Any request, consent, or other instrument or writing of the Holder of any Bond shall bind every future Holder of the same Bond and the Holder of every Bond issued in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Trustee or the Issuer in accordance therewith or reliance thereon.

*Section 11.10. Disqualified Bonds.* In determining whether the Holders of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Indenture, Bonds which are owned or held by or for the account of the Issuer or the Borrower, or by any other obligor on the Bonds, or by any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the Issuer or the Borrower or any other obligor on the Bonds, shall (unless all of the Bonds are so owned) be disregarded and deemed not to be Outstanding for the purpose of any such determination; *provided* that, for the purpose of determining whether the Trustee shall be protected in relying on any such demand, request, direction, consent or waiver, only Bonds which the Trustee knows to be so owned shall be disregarded. Bonds so owned which have been pledged in good faith may be regarded as Outstanding for the purposes of this Section if the pledgee certifies to the Trustee the pledgee's right to vote such Bonds and that the pledgee is not a person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the Issuer or the Borrower or any other obligor on the Bonds. The Trustee shall be entitled to rely and shall be fully protected in relying upon the certifications of any such pledgee.

*Section 11.11. Money Held for Particular Bonds.* (A) The money held by the Trustee for the payment of the interest, principal or premium due on any date with respect to particular Bonds (or portions of Bonds in the case of registered Bonds redeemed in part only) shall, on and after such date and pending such payment, be set aside on its books and held uninvested in trust by it for the Holders of the Bonds entitled thereto, subject, however, to the provisions of Section 10.4 and Section 11.11(C) hereof.

(B) If the Issuer deposits with the Trustee funds sufficient to pay the principal or redemption price of any Bonds becoming due, either at maturity or by call for redemption or otherwise, together with all interest accruing thereon to the due date, all interest on such Bonds shall cease to accrue on the due date and all liability of the Issuer with respect to such Bonds

shall likewise cease, except as hereinafter provided. Thereafter the Holders of such Bonds shall be restricted exclusively to the funds so deposited for any claim of whatsoever nature with respect to such Bonds, *provided* that such restriction shall not affect the obligations of the Borrower to make payments for the benefit of the Holders of the Bonds pursuant to this Indenture or the Loan Agreement, and the Trustee shall hold such funds in trust for such Holders.

(C) Any moneys which shall be set aside by the Trustee or deposited with the Trustee and which shall remain unclaimed by the holders of such Bonds for a period of six years after the date on which such Bonds shall have become due and payable shall upon request in writing be paid to the Borrower, and thereafter the Holders of such Bonds shall look only to the Borrower for payment and then only to the extent of the amount so received without any interest thereon, and the Trustee and the Issuer shall have no responsibility with respect to such moneys. In the absence of any such written request, the Trustee shall from time to time deliver such unclaimed funds to or as directed by pertinent escheat authority, as identified by the Trustee in its sole discretion, pursuant to and in accordance with applicable unclaimed property laws, rules or regulations. Any such delivery shall be in accordance with the customary practices and procedures of the Trustee and the escheat authority. All moneys held by the Trustee and subject to this Section 11.11(C) shall be held uninvested and without liability for interest thereon.

*Section 11.12. Funds and Accounts.* Any fund or account required by this Indenture to be established and maintained by the Trustee may be established and maintained in the accounting records of the Trustee, either as a fund or an account, and may, for the purposes of such records, any audits thereof and any reports or statements with respect thereto, be treated either as a fund or as an account; but all such records with respect to all such funds and accounts shall at all times be maintained in accordance with corporate trust industry standards and with due regard for the requirements of Section 6.5 hereof and for the protection of the security of the Bonds and the rights of every Holder thereof. The Trustee may establish and maintain for so long as is necessary one or more temporary funds and accounts under this Indenture, including but not limited to a temporary fund for holding the proceeds of the Bonds.

*Section 11.13. Rights of Credit Provider.* Notwithstanding anything in this Indenture to the contrary, so long as a Letter of Credit is then in effect and the Credit Provider has not failed or refused to honor a properly presented and conforming draw under the Letter of Credit, the Credit Provider, and not the Owners of the Bonds, shall be deemed to be the Owner of 100% of the Outstanding Bonds at all times for the purpose of giving any approval, request, consent, direction (other than pursuant to Sections 2.3(A), 2.4, 2.6, 2.7, 7.6, 9.4 and 11.9 hereof), declaration, rescission or amendment which under this Indenture is to be given by the Owners of the Bonds at the time Outstanding; *provided, however*, that the Credit Provider shall not consent to any modification or amendment of this Indenture or the Loan Agreement requiring the consent of the Owners of 100% in aggregate principal amount of the Bonds Outstanding or which would cause the interest on the Bonds to be no longer excluded from gross income for federal income tax purposes unless the actual Owners of 100% in aggregate principal amount of the Bonds Outstanding shall have also consented thereto or unless the Credit Provider is also the registered owner of 100% of the Bonds Outstanding; and provided further, that the Credit Provider shall have no right to deprive any Owner of the Bonds of the benefit of the Letter of Credit under the circumstances and in the manner contemplated as set forth herein.

*Section 11.14. Waiver of Personal Liability.* No recourse shall be had for the payment of the principal of or interest on any of the Bonds issued under this Indenture or for any claim based thereon or upon any obligation, covenant or agreement contained in this Indenture or the Loan Agreement or any agreement supplemental thereto, against any past, present or future commissioner, council member, officer, employee or agent of the Issuer, or any commissioner, council member, officer, employee or agent of any successor corporation or body politic, as such, either directly or through the Issuer or any successor corporation or body politic, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such commissioner, council member, officer, employee or agent as such, is hereby expressly waived and released as a condition of and consideration for the execution of this Indenture or the Loan Agreement and the issuance of any of the Bonds.

*Section 11.15. Issuer May Rely On Certificates.* The Issuer shall be protected and shall incur no liability in acting or proceeding, or in not acting or not proceeding, in good faith and in accordance with the terms of this Indenture, upon any resolution, order, notice, request, consent, waiver, certificate, statement, affidavit, requisition, bond or other paper or document which it shall in good faith believe to be genuine and to have been adopted or signed by the proper board or person or to have been prepared and furnished pursuant to any of the provisions of the Loan Agreement or this Indenture, or upon the written opinion of any attorney, engineer, accountant or other expert believed by it to be qualified in relation to the subject matter, and the Issuer shall not be under any duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument.

*Section 11.16. Business Day.* If any payment is to be made hereunder or any action is to be taken hereunder on any date that is not a Business Day, such payment or action otherwise required to be made or taken on such date shall be made or taken on the immediately succeeding Business Day with the same force and effect as if made or taken on such scheduled date.

*Section 11.17. Complete Agreement.* This Indenture represents the complete agreement between the parties with respect to the Bonds and related matters. There are no oral agreements between the parties hereto.

*Section 11.18. Execution in Several Counterparts.* This Indenture may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the Issuer and the Trustee shall preserve undestroyed, shall together constitute but one and the same instrument.

*Section 11.19. Limited Liability.* Notwithstanding any other terms or provisions of this Indenture, neither this Indenture nor any obligations of the Issuer hereunder shall constitute a general debt, liability or obligation of the Issuer or the State, or a pledge of the faith and credit or taxing power, if any, of the Issuer or the State, or give rise to any pecuniary liability of the Issuer or the State, but shall be special and limited obligations of the Issuer, payable solely out of the Revenues and the other assets pledged thereto under this Indenture.

IN WITNESS WHEREOF, the Issuer has caused this Indenture to be executed on its behalf and attested by its duly authorized officers and its corporate seal hereunto affixed, and the Trustee, in token of its acceptance of the trusts created hereunder, has caused this Indenture to be signed in its corporate name by one of its duly authorized officers, all as of the day and year first above written.

ATTEST:

SWEETWATER COUNTY, WYOMING

\_\_\_\_\_  
County Clerk

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

Chairman  
Board of County Commissioners

[SEAL]

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

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

EXHIBIT A

FORM OF BOND

No. R-1

\$90,000,000

SWEETWATER COUNTY, WYOMING  
SOLID WASTE DISPOSAL REFUNDING REVENUE BOND  
(FMC CORPORATION PROJECT) SERIES 2016

DATED:

MATURITY DATE:

CUSIP:

November 30, 2016

December 1, 2035

\_\_\_\_\_

Registered Owner: CEDE & Co.

Principal Amount: NINETY MILLION DOLLARS

SWEETWATER COUNTY, WYOMING, a political subdivision duly organized and existing under the Constitution and laws of the State of Wyoming (the "Issuer"), for value received, hereby promises to pay (but only out of Revenues as hereinafter provided) to the registered owner identified above or registered assigns, on the maturity date set forth above (the "Maturity Date"), the Principal Amount set forth above and to pay (but only out of Revenues as hereinafter provided) interest on the balance of said principal amount from time to time remaining unpaid from and including the date hereof until payment of said principal amount has been made or duly provided for, at the rates and on the dates determined as described herein and in the Indenture (as hereinafter defined), and to pay (but only out of Revenues as hereinafter provided) interest on overdue principal at the rate borne by this Bond commencing on the initial date of such delinquency until such amount has been paid, except as the provisions hereinafter set forth with respect to acceleration of maturity, redemption prior to maturity or purchase may become applicable hereto. If an Event of Default shall have occurred and be continuing under the Indenture, then all Bonds bearing interest at a Daily Interest Rate or a Weekly Interest Rate shall bear interest at the Alternate Rate from the date of such Event of Default and all Bonds bearing interest at a LIBOR Index Rate shall bear interest at the Default Rate from the date of such Event of Default. The principal of and premium, if any, on this Bond are payable at final maturity, acceleration or redemption in lawful money of the United States of America upon surrender hereof at the Corporate Trust Office of The Bank of New York Mellon Trust Company, N.A., as trustee, or its successor in trust (the "Trustee"). Interest payments on this Bond shall be made on each Interest Payment Date (as defined below) commencing June 1, 2017 to the person appearing on the bond registration books of the Bond Registrar as the Bondholder thereof on the Record Date (as hereinafter defined), such interest to be paid by the Paying Agent to such Bondholder (i) by check mailed on the Interest Payment Date to such Bondholder's address as it appears on the registration books or at such other address as has been furnished to the Bond Registrar as provided below, in writing by such Bondholder not later than the Record Date, (ii) for any Bondholder holding Bonds accruing interest at the Daily Interest Rate, the Weekly

Interest Rate, the Index Interest Rate or the LIBOR Index Rate, by wire transfer in immediately available funds at an account maintained in the United States at such wire address as such Bondholder shall specify in its written request (any such written request shall remain in effect until rescinded in writing by such Bondholder), or (iii) during a Term Interest Rate Period upon written request, at least three Business Days prior to the applicable Record Date of the Bondholder of Bonds aggregating not less than \$1,000,000 in principal amount, by wire transfer in immediately available funds at an account maintained in the United States at such wire address as such Bondholder shall specify in its written notice (any such written request shall remain in effect until rescinded in writing by such Bondholder); except, in each case, that, if and to the extent that there shall be a default in the payment of the interest due on such Interest Payment Date, such defaulted interest shall be paid to the Bondholder in whose name any such Bonds are registered at the close of business on the fifth Business Day next preceding the date of payment of such defaulted interest. Both the principal of and premium, if any, on the Bonds shall be payable upon surrender thereof in lawful money of the United States of America at the Corporate Trust Office of the Trustee.

*“Interest Payment Date”* means, (i) during a Variable Interest Rate Period, the first Business Day of each calendar month next succeeding the end of the Interest Period to which such Interest Payment Date relates, (ii) during a Term Interest Rate Period of more than six calendar months, the first day of the calendar month that is six months after the commencement of such Term Interest Rate Period, and the first day of each sixth calendar month thereafter until the end of such Term Interest Rate Period, with the first Interest Payment Date to occur on June 1, 2017, (iii) each Conversion Date, and (iv) the Principal Payment Date.

The initial Interest Rate Period for this Bond shall be the Initial Term Interest Rate Period.

This Bond shall initially bear interest at a rate per annum set forth in the Indenture for the period set forth in the Indenture. The interest rate on this Bond may thereafter be adjusted to a Daily Interest Rate, a Weekly Interest Rate, an Index Interest Rate, another Term Interest Rate or a LIBOR Index Rate as provided in the Indenture.

The principal of, premium, if any, and interest on the Bonds are payable by the Issuer solely from Revenues and the other assets pledged thereto under the Indenture hereinafter referred to, including all proceeds derived pursuant to a Letter of Credit, if a Letter of Credit is in effect.

This Bond is one of a duly authorized issue of bonds designated as “Sweetwater County, Wyoming Solid Waste Disposal Refunding Revenue Bonds (FMC Corporation Project) Series 2016”, limited in aggregate principal amount to \$90,000,000 (the “*Bonds*”). The Bonds are issued under and secured by and entitled to the benefits of an Indenture of Trust, dated as of November 1, 2016 (the “*Indenture*”), between the Issuer and the Trustee. Proceeds from the sale of the Bonds will be used to refund certain outstanding Prior Bonds of Sweetwater County, Wyoming, the proceeds of which were used to refund the Series 1994 Bonds of Sweetwater County, Wyoming (the proceeds of which were used to finance the Project, as defined in the Indenture), under the terms of a Loan Agreement, dated as of November 1, 2016 (the “*Loan*”).

*Agreement*”), between the Issuer and FMC Corporation (the “*Borrower*”). Capitalized terms not defined herein shall have the meanings ascribed thereto in the Indenture.

The Bonds are issued pursuant to and in full compliance with the Constitution and laws of the State of Wyoming (the “*State*”), particularly the Act, and pursuant to a resolution adopted by the Board of County Commissioners of the Issuer on November 1, 2016, which resolution authorizes the execution and delivery of the Loan Agreement and the Indenture. THE BONDS AND THE OBLIGATION TO PAY INTEREST THEREON AND PREMIUM, IF ANY, WITH RESPECT THERETO ARE A LIMITED AND NOT A GENERAL OBLIGATION OF THE ISSUER PAYABLE SOLELY OUT OF THE REVENUES AND INCOME DERIVED FROM THE LOAN AGREEMENT AND AS OTHERWISE PROVIDED IN THE INDENTURE, AND SHALL NOT BE DEEMED TO CONSTITUTE AN INDEBTEDNESS OR AN OBLIGATION OF THE ISSUER, THE STATE, OR ANY POLITICAL SUBDIVISION OR MUNICIPAL CORPORATION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION. THE BONDS DO NOT NOW NOR SHALL EVER CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE ISSUER OR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWERS.

The Bonds shall be secured under the Indenture by payments received by the Trustee under the Loan Agreement, with certain exceptions set forth in the Indenture; by moneys drawn by the Trustee under any irrevocable letter of credit that may be issued under the Loan Agreement (together with any Alternate Letter of Credit (as that term is defined in the Indenture) issued in substitution therefor in accordance with the Loan Agreement, the “*Letter of Credit*”) in favor of the Trustee, issued at the request and for the account of the Borrower, subject, however, to termination as provided therein and in the Indenture; and by other moneys held by the Trustee under the Indenture for such purpose (all of the foregoing, the “*Revenues*”); and as otherwise provided in the Indenture, and there shall be no other recourse against the Issuer or any property now or hereafter owned by it.

Reference is hereby made to the Indenture and all indentures supplemental thereto for a description of the rights thereunder of the registered Bondholders of the Bonds, of the nature and extent of the security, of the rights, duties and immunities of the Trustee and of the rights and obligations of the Issuer thereunder, to all of the provisions of which Indenture and of the Loan Agreement, and any Letter of Credit, the Holder of this Bond, by acceptance hereof, assents and agrees.

The Bonds are issuable as fully registered bonds without coupons in Authorized Denominations.

This Bond is transferable by the Bondholder hereof, in person, or by its attorney duly authorized in writing, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon such transfer a new fully registered Bond or Bonds, in an Authorized Denomination or Denominations, for the same aggregate principal amount, will be issued to the transferee in exchange therefor. The Issuer and the Trustee may treat the Bondholder hereof as the absolute Bondholder hereof for all purposes, and the Issuer and the Trustee shall not be affected by any notice to the contrary.

The term of the Bonds will be divided into consecutive Interest Rate Periods, as provided in the Indenture, during each of which the Bonds shall bear interest at Daily Interest Rates, Weekly Interest Rates, LIBOR Index Rates, Index Interest Rates or a Term Interest Rate. The first Interest Rate Period for this Bond shall be the Initial Term Interest Rate Period as specified in the Indenture. The interest rate determination method for the Bonds (in whole or in part) may be subsequently changed from time to time by the Borrower, without the consent of the Holders of the Bonds, as provided in the Indenture. The Trustee shall give notice to Holders of the Bonds, as provided in the Indenture, prior to any change in the interest rate determination method.

Except as provided above, interest on the Bonds with respect to each Interest Period will be paid on the immediately succeeding Interest Payment Date provided that if any Interest Payment Date is not a Business Day, such interest shall be mailed or wired as provided above on the next succeeding Business Day with the same effect as if made on the day such payment was due. During a Daily Interest Rate Period, Weekly Interest Rate Period, Index Interest Rate Period or a Term Interest Rate Period of six calendar months or less, interest on the Bonds shall be computed upon the basis of a 365-day year or 366-day year, as applicable, for the number of days actually elapsed. During any other Term Interest Rate Period, interest on the Bonds shall be computed upon the basis of a 360-day year, consisting of twelve 30-day months. Interest on Bonds accruing at the LIBOR Index Rate shall be computed on the basis of a 360-day year for the actual number of days elapsed, except as otherwise described in the Indenture. The Bonds shall bear interest from and including the Issuance Date until payment of the principal or redemption price thereof has been made or provided for, whether at maturity, upon redemption or otherwise, or until the Bonds have been accelerated.

At any time the Bonds are in a Daily Interest Rate Period, Weekly Interest Rate Period, Index Interest Rate Period or a Term Interest Rate Period of less than one year, the Borrower will retain a Remarketing Agent meeting the requirements of the Indenture to perform the duties assigned to the Remarketing Agent therein. The Remarketing Agent so retained may be removed or replaced in accordance with the provisions of the Remarketing Agreement and the Indenture.

Determination of the interest rate by the Remarketing Agent and the Calculation Agent, as applicable, shall be conclusive and binding upon the registered Bondholders of the Bonds, the Issuer, the Borrower and the Trustee.

The Bonds are subject to redemption as provided in the Indenture.

The Bonds are subject to mandatory and optional tender for purchase as provided in the Indenture.

The Holder of this Bond shall have no right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon the Indenture or to enforce a drawing on the Letter of Credit, except as provided in the Indenture.

The Indenture may be supplemented or amended as provided in the Indenture.

The Indenture prescribes the manner in which it may be discharged and after which the Bonds shall no longer be secured by or entitled to the benefits of the Indenture, except for the purposes of transfer and exchange of Bonds and of payment of the principal of and premium, if any, and interest on the Bonds as the same become due and payable, including a provision that under certain circumstances the Bonds shall be deemed to be paid if certain securities, as defined in the Indenture, maturing as to principal and interest in such amounts and at such times as to insure the availability of sufficient moneys to pay the principal of, and premium, if any, and interest on, such Bonds and all necessary and proper fees, compensation and expenses of the Trustee shall have been deposited with the Trustee.

So long as a Letter of Credit is then in effect and the Credit Provider has not failed or refused to honor a properly presented and conforming draw under the Letter of Credit, the Credit Provider, and not the registered owners of the Bonds, shall be deemed to be the Owner of 100% of the Outstanding Bonds at all times for the purpose of giving any approval, request, consent, direction (other than related to a demand purchase by the Owner of this Bond and as otherwise provided in the Indenture), declaration, rescission or amendment which under the Indenture is to be given by the registered owners of the Bonds at the time Outstanding; *provided, however*, that the Credit Provider shall not consent to any modification or amendment of the Indenture or the Loan Agreement requiring the consent of the Owners of 100% in aggregate principal amount of the Bonds Outstanding or which would cause the interest on the Bonds to be no longer excluded from gross income for federal income tax purposes unless the actual Owners of 100% in aggregate principal amount of the Bonds Outstanding shall have also consented thereto or unless the Credit Provider is also the registered owner of 100% of the Bonds Outstanding; and provided further, that the Credit Provider shall have no right to deprive any Owner of the Bonds of the benefit of the Letter of Credit under the circumstances and in the manner contemplated as set forth in the Indenture.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the State or the Indenture to exist, to have happened or to have been performed precedent to or in the issuance of this Bond, exist, have happened and have been performed and that said issue of Bonds, together with all other indebtedness of the Issuer, is within every debt and other limit prescribed by said Constitution or statutes.

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

IN WITNESS WHEREOF, Sweetwater County, Wyoming has caused this Bond to be signed in its name and on its behalf by the manual or facsimile signature of the Chairman of the Board of County Commissioners and its corporate seal to be hereunto affixed, impressed or otherwise reproduced, and attested by the manual or facsimile signature of its County Clerk, and this Bond to be dated the Issuance Date.

[SEAL]

ATTEST:

SWEETWATER COUNTY, WYOMING

\_\_\_\_\_  
County Clerk

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

Chairman  
Board of County Commissioners

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

Dated: \_\_\_\_\_, 2016

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

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

By \_\_\_\_\_  
Authorized Representative

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("*DTC*"), to the Issuer or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of *DTC* (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of *DTC*), any transfer, pledge, or other use hereof for value or otherwise by or to any person is wrongful inasmuch as the registered owner hereof Cede & Co., has an interest herein.

**ASSIGNMENT**

For value received the undersigned do(es) hereby sell, assign and transfer unto \_\_\_\_\_ [name, address and tax i.d. number of transferee] the within-mentioned Registered Bond and do(es) hereby irrevocably constitute and appoint \_\_\_\_\_ attorney, to transfer the same on the books of the Trustee with full power of substitution in the premises.

Dated: \_\_\_\_\_, 20\_\_

Signed: \_\_\_\_\_

Note: The signature(s) to this Assignment must correspond with the name(s) as written on the face of the within Registered Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature guaranteed by:

- 
- **Notice:** Signature guarantee should be made by a guarantor institution participating in the Securities, Transfer Agents Medallion Program or in such other program acceptable to the Bond Registrar.

**EXHIBIT B**

**INVESTOR LETTER**

\_\_\_\_\_

Sweetwater County Wyoming  
P.O. Box 730  
80 West Flaming Gorge Way  
Green River, Wyoming 82935  
Attention: County Clerk

FMC Corporation  
1735 Market Street  
Philadelphia, Pennsylvania 19103  
Attention: Treasurer

Re: \$90,000,000 Sweetwater County, Wyoming  
Solid Waste Disposal Refunding Revenue Bonds  
(FMC Corporation Project) Series 2016

Ladies and Gentlemen:

The undersigned is a duly authorized officer of \_\_\_\_\_ (the "*Purchaser*"). The undersigned acknowledges receipt, on behalf of the Purchaser, of the fully executed Sweetwater County, Wyoming (the "*Issuer*") Solid Waste Disposal Refunding Revenue Bonds (FMC Corporation Project) Series 2016, dated November 30, 2016, in the principal amount of \$90,000,000 (the "*Bonds*").

The undersigned certifies and agrees in conjunction with its purchase of the Bonds as follows:

(1) The Purchaser agrees to the terms and provisions set forth in the Bonds and the Indenture of Trust dated as of November 1, 2016, between the Issuer and The Bank of New York Mellon Trust Company, N.A., as trustee, relating to the Bonds.

(2) The Purchaser has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of prospective investments. In reaching the conclusion that it desires to acquire the Bonds, the Purchaser has carefully evaluated all risks associated with this purchase and acknowledges that it is able to bear the economic risk of this purchase. The Purchaser is an "accredited investor" within the meaning of Rule 501(a) promulgated under the

Securities Act of 1933, as amended (the "1933 Act") or a "qualified institutional buyer" as defined in Rule 144A promulgated under the 1933 Act.

(3) The Purchaser is purchasing the Bonds for investment for its own account or for its loan portfolio and is not purchasing the Bonds for resale or other disposition, and the Purchaser has no present intention of reselling or otherwise disposing of all or any part of the Bonds or dividing its interest therein; however, the Purchaser reserves the right to sell participation interests in or otherwise dispose of the Bonds as it chooses. The Purchaser agrees that it will not sell, transfer, assign, or otherwise dispose of the Bonds or such ownership interests therein (1) unless it obtains from the purchaser and delivers to the Issuer an agreement similar in form and substance to this Investment Letter and (2) except in compliance with the applicable provisions of the 1933 Act, the Securities Exchange Act of 1934, as amended (the "1934 Act"), any rules and regulations promulgated under either the 1933 Act or the 1934 Act, and the applicable securities laws of any other jurisdiction, and in connection therewith, the Purchaser agrees that it shall furnish to any purchaser of the Bonds all information required by applicable law.

(4) The Purchaser, through its agents and employees, has investigated FMC Corporation (the "Company") and its financial, statistical, demographic, and other information and acknowledges that it has been furnished with, or has been given access to, without restriction or limitation, all of the underlying documents in connection with this transaction, as well as all other information which a reasonable, prudent, and knowledgeable investor would desire in evaluating the purchase of the Bonds. Further, the Purchaser acknowledges that the Company and other knowledgeable parties have made available to it and its representatives the opportunity to ask any questions it may have, and receive satisfactory answers, concerning the Company and the security and the source of payment of the Bonds.

(5) The Purchaser has been informed that no official statement has been prepared in connection with the sale and delivery of the Bonds to the Purchaser and understands that the Bonds are not rated.

Signed and delivered as of the date shown above.

Sincerely yours,

\_\_\_\_\_

Signed by: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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TAX EXEMPTION CERTIFICATE AND AGREEMENT

AMONG

SWEETWATER COUNTY, WYOMING

FMC CORPORATION

and

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

Relating to

\$90,000,000

SWEETWATER COUNTY, WYOMING  
SOLID WASTE DISPOSAL REFUNDING REVENUE BONDS  
(FMC CORPORATION PROJECT) SERIES 2016

dated November 30, 2016

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## TAX EXEMPTION CERTIFICATE AND AGREEMENT

The undersigned are duly qualified officers of Sweetwater County, Wyoming (the “*Issuer*”), FMC Corporation (the “*Company*”) and The Bank of New York Mellon Trust Company, N.A., as trustee (the “*Trustee*”). The undersigned officer of the Issuer is charged, with others, with the responsibility for executing and delivering the Bonds. The Bonds were authorized pursuant to a duly authorized resolution of the Board of Commissioners of the Issuer adopted on November 1, 2016 (the “*Resolution*”) and are being issued pursuant to the Indenture of Trust dated as of November 1, 2016 (the “*Indenture*”), between the Issuer and the Trustee. Sale Proceeds of the Bonds will be provided to the Company pursuant to the Loan Agreement dated as of November 1, 2016 (the “*Loan Agreement*”), between the Issuer and the Company. Certain terms are defined in Article I hereof. Terms used herein and not defined in Article I shall have the meanings given to them in the Indenture.

One purpose of executing this Tax Agreement is to set forth various facts regarding the Bonds and to establish the expectations of the Issuer, the Company and the Trustee as to future events regarding the Bonds and the use of Bond proceeds. To the extent such facts do not relate directly to the Issuer or the Trustee, the Issuer and the Trustee are relying upon the certifications of the Company, which they believe is reasonable and prudent. The certifications, covenants and representations contained herein are made on behalf of the Issuer, the Company and the Trustee for the benefit of the Owners from time to time of the Bonds.

The Issuer and the Company hereby covenant that they will not take any action, omit to take any action or permit the taking or omission of any action within their control (including, without limitation, making or permitting any use of the proceeds of the Bonds) if taking, permitting or omitting to take such action would cause any of the Bonds to be an arbitrage bond within the meaning of the Code or would otherwise cause the interest on the Bonds to be included in the gross income of the recipients thereof for federal income tax purposes. The Issuer acknowledges that, in the event of an examination by the Internal Revenue Service of the exemption from federal income taxation of interest on the Bonds, under present rules, the Issuer may be treated as a “taxpayer” in such examination. The Company agrees that it will direct the Issuer to respond in a commercially reasonable manner to any inquiries from the Internal Revenue Service in connection with such an examination and will provide certain indemnification pursuant to Section 8.2 of the Loan Agreement, and the Issuer agrees that it will reasonably cooperate with the Company (at the expense of the Company) in this regard.

The Trustee is executing and delivering this Tax Agreement solely for the purposes of acknowledging the matters set forth herein, and being bound to undertake the duties and responsibilities relating to amounts held under the Indenture set forth with respect to the Trustee in the following Articles and Sections (including all Exhibits and Appendices referred to therein) of this Tax Agreement: Sections 2.4 and 2.6, Article III, Sections 4.1, 4.2, 4.3, 4.4, 5.2, 5.3, 5.6, 6.2, 6.6, 6.7, 6.9, 6.11, 6.12, 6.13, 6.14, 6.15, 6.16 and 6.17. With respect to matters set forth in the remaining Sections of this Tax Agreement, the Trustee has made no investigations, makes no representation and undertakes no duties or responsibilities.

## ARTICLE I

### DEFINITIONS

In addition to such other words and terms used and defined in this Tax Agreement, the following words and terms used in this Tax Agreement shall have the following meanings unless, in either case, the context or use clearly indicates another or different meaning is intended:

“*Bond Counsel*” means Chapman and Cutler LLP or any other nationally recognized firm of attorneys experienced in the field of municipal bonds whose opinions are generally accepted by purchasers of municipal bonds.

“*Bond Fund*” means the Bond Fund established pursuant to the Indenture.

“*Bond Purchase Agreement*” means the Bond Purchase Agreement dated [November 17], 2016 by and among the Issuer, the Company and Merrill Lynch, Pierce, Fenner & Smith Incorporated in connection with the Bonds.

“*Bonds*” means the obligations of the Issuer described on the cover page of this Tax Agreement.

“*Closing*” means the date of this Tax Agreement, which is the first date on which the Issuer is receiving the purchase price for the Bonds.

“*Code*” means the Internal Revenue Code of 1986.

“*Commingled Fund*” means any fund or account containing both Gross Proceeds and an amount in excess of \$25,000 that are not Gross Proceeds if the amounts in the fund or account are invested and accounted for collectively, without regard to the source of funds deposited in the fund or account. An open-ended regulated investment company under Section 851 of the Code is not a commingled fund.

“*Control*” means the possession, directly or indirectly through others, of either of the following discretionary and non-ministerial rights or powers over another entity:

(a) to approve and to remove without cause a controlling portion of the governing body of a Controlled Entity; or

(b) to require the use of funds or assets of a Controlled Entity for any purpose.

“*Controlled Entity*” means any entity or one of a group of entities that is subject to Control by a Controlling Entity or group of Controlling Entities.

“*Controlled Group*” means a group of entities directly or indirectly subject to Control by the same entity or group of entities, including the entity that has the Control of the other entities.

“*Controlling Entity*” means any entity or one of a group of entities directly or indirectly having Control of any entities or group of entities.

“*Costs of Issuance*” means the costs of issuing the Bonds, including underwriters’ discount or fees, placement agent fees and legal fees.

“*External Commingled Fund*” means a Commingled Fund in which the Issuer, the Company and all Related Persons to the Issuer and the Company, own, in the aggregate, not more than ten percent of the beneficial interests.

“*GIC*” means (a) any investment that has specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate and (b) any agreement to supply investments on two or more future dates (e.g., a forward supply contract).

“*Gross Proceeds*” means amounts in the funds listed on *Exhibit D* hereto.

“*Indenture*” means that certain trust indenture pursuant to which the Bonds are being issued and identified in the preamble to this Tax Agreement.

“*Issuer*” is defined in the preamble to this Tax Agreement.

“*Loan Agreement*” means the Loan Agreement identified in the preamble to this Tax Agreement.

“*Person*” means any entity with standing to be sued or to sue, including any natural person, corporation, body politic, governmental unit, agency, authority, partnership, trust, estate, association, company, or group of any of the above.

“*Prior Bond Fund*” means the fund or account or funds or accounts established with respect to the Prior Bonds from which current debt service on the Prior Bonds has been or will be paid excluding any interest paid on the Prior Bonds from Prior Bond Proceeds.

“*Prior Bond Proceeds*” means amounts actually or constructively received from the sale of the Prior Bonds and all other amounts properly treated as gross proceeds of the Prior Bonds under the Regulations, including (a) amounts used to pay underwriter’s discount or compensation and accrued interest, other than accrued interest for a period not greater than one year before the Prior Bonds were issued but only if it is to be paid within one year after the Prior Bonds were issued and (b) amounts derived from the sale of any right that is part of the terms of a Prior Bond or is otherwise associated with a Prior Bond (e.g., a redemption right).

“*Prior Bonds*” means the \$90,000,000 aggregate principal amount Sweetwater County, Wyoming Solid Waste Disposal Refunding Revenue Bonds (FMC Corporation Project) Series 2005.

*"Prior Indenture"* means the Indenture of Trust, dated as of December 1, 2005, between the Issuer and the The Bank of New York (now the Trustee as successor trustee) relating to the Prior Bonds.

*"Project"* means the Project, as defined in the Indenture, as further described in Section 2.2 hereof and the Project Certificate.

*"Project Certificate"* means the Company's Project and Refunding Certificate dated the date hereof and executed by the Company in connection with the issuance of the Bonds.

*"Purchaser"* means the one or more purchasers of the Bonds from the Issuer.

*"Qualified Tax Exempt Obligations"* means (a) any obligation described in Section 103(a) of the Code, the interest on which is excludable from gross income of the owner thereof for federal income tax purposes; (b) an interest in a regulated investment company to the extent that at least ninety-five percent of the income to the holder of the interest is interest which is excludable from gross income under Section 103 of the Code of any owner thereof for federal income tax purposes and (c) certificates of indebtedness issued by the United States Treasury pursuant to the Demand Deposit State and Local Government Series program described in 31 C.F.R. part 344.

*"Rebate Fund"* means the fund, if any, identified and defined in Section 4.2 herein.

*"Rebate Provisions"* means the rebate requirements contained in Section 148(f) of the Code and in the Regulations.

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

*"Related Person"* means (i) in the case of the Issuer, any member of the same Controlled Group as the Issuer or (ii), in the case of the Company, any person related to the Company within the meaning of Section 144(a)(3) of the Code.

*"Sale Proceeds"* means amounts actually or constructively received from the sale of the Bonds, including (a) amounts used to pay underwriter's or placement agent's discount or compensation and accrued interest, other than accrued interest for a period not greater than one year before Closing but only if it is to be paid within one year after Closing and (b) amounts derived from the sale of any right that is part of the terms of a Bond or is otherwise associated with a Bond (e.g., a redemption right).

*"Series 1994 Bonds"* means collectively, the Series 1994A Bonds and the Series 1994B Bonds.

*"Series 1994A Bonds"* means the \$45,000,000 aggregate principal amount Sweetwater County, Wyoming Solid Waste Disposal Revenue Bonds (FMC Corporation Project) Series 1994A.

“*Series 1994B Bonds*” means the \$45,000,000 aggregate principal amount Sweetwater County, Wyoming Solid Waste Disposal Revenue Bonds (FMC Corporation Project) Series 1994B.

“*Tax Agreement*” means this Tax Exemption Certificate and Agreement.

“*Transferred Proceeds*” means amounts actually or constructively received from the sale of the Prior Bonds, plus investment earnings thereon, which have not been spent prior to the date principal on the Prior Bonds is discharged by the Bonds to the extent allocated to the Bonds under the Regulations.

“*Tronox*” means together, Tronox US Holdings Inc. (a corporation duly organized and validly existing under the laws of the State of Delaware, and the current owner of the Project) and Tronox Alkali Wyoming Corporation (a subsidiary of Tronox US Holdings Inc. and a corporation duly organized and validly existing under the laws of the State of Delaware, and the current operator of the Project).

“*Yield*” means that discount rate which when used in computing the present value of all payments of principal and interest paid and to be paid on an obligation produces an amount equal to the obligation’s purchase price (or in the case of the Bonds, the issue price as established in Section 5.1), including accrued interest. For purposes of computing the Yield on the Bonds and on investments, the same compounding interval (which must be an interval of not more than one year) and standard financial conventions (such as a 360-day year) must be used.

“*Yield Reduction Payment*” means a rebate payment or any other amount paid to the United States in the same manner as rebate amounts are required to be paid or at such other time or in such manner as the Internal Revenue Service may prescribe that will be treated as a reduction in Yield of an investment under the Regulations.

## ARTICLE II

### DESCRIPTION OF BONDS AND PRIOR BONDS

*Section 2.1. Purpose of the Bonds.* The Bonds are being issued to currently refund all of the Prior Bonds, in a prudent manner consistent with the needs of the Company. Sale Proceeds of the Bonds will be provided to the Company pursuant to the Loan Agreement. A breakdown of the sources and uses of funds is attached as *Exhibit A*. The Prior Bonds will be fully redeemed and retired within 90 days of the Closing (the “*Prior Bond Redemption Date*”). Accordingly, on and after the Prior Bond Redemption Date, interest will cease to accrue on the Prior Bonds.

*Section 2.2. Prior Bonds and Series 1994 Bonds.* (a) The Prior Bonds were issued to refund the Series 1994 Bonds, the proceeds of which were used to pay the cost of certain solid waste disposal facilities at the trona mining and soda ash manufacturing facilities located near Green River, in Sweetwater County, Wyoming (the “*Project*”), previously owned by the Company and operated by FMC Wyoming Corporation. The Plant was sold to Tronox US Holdings Inc. in April 2015 and is now operated by Tronox Alkali Wyoming Corporation, a

subsidiary of Tronox US Holdings Inc. The Company certifies that the Project financed or refinanced, directly or indirectly, in whole or in part, with the proceeds of the Series 1994 Bonds and the Prior Bonds have heretofore been placed in service and that the proceeds of the Prior Bonds, and all earnings thereon, have been fully expended as of the date hereof and no proceeds of tax-exempt obligations now exist which are on deposit in any construction fund dedicated to the payment of costs of the Project.

(b) The Prior Bonds were issued on December 15, 2005 in the aggregate principal amount of \$90,000,000, all of which is currently outstanding, pursuant to the Prior Indenture to refund the Series 1994 Bonds in advance of maturity. The Series 1994 Bonds were issued on June 15, 1994 with respect to the Series 1994A Bonds and on September 28, 1994 with respect to the Series 1994B Bonds in the aggregate principal amount of \$90,000,000. The proceeds of the Prior Bonds were used solely and exclusively to provide a portion of the funds necessary to fully refund and discharge all of the Series 1994 Bonds on December 15, 2005 in the aggregate principal amount of \$90,000,000 all of which is currently outstanding.

(c) The proceeds of the Series 1994 Bonds were used to finance the Project, which is more fully described in the Project Certificate.

(d) Immediately prior to the Closing, no money or property of any kind (including cash) was on deposit in any fund or account, regardless of where held or the source thereof, with respect to any of the Prior Bonds or any loan agreement, security agreement or note related to any of the Prior Bonds, or any credit enhancement or liquidity device relating to any of the foregoing. No amounts have been returned to the Company once such amounts have been deposited in any fund or account related to the foregoing, except for reimbursements to the Company for expenditures on the Project.

(f) The Prior Bond Fund created for the Prior Bonds has been depleted at least once each year except for carryover amounts which have not exceeded either one year's earnings on such fund or 1/12th of annual debt service on the Prior Bonds. Moneys deposited in the Prior Bond Fund have been expended to pay debt service on the Prior Bonds within 13 months from the date of such deposit.

(g) At the time each issue of the Series 1994 Bonds was issued, the Company reasonably expected that all of the proceeds of such issue (including investment proceeds) would be spent within three years of the respective date of issuance of such issue of the Series 1994 Bonds, and such proceeds were so spent. No more than fifty percent of the proceeds of any issue of the Series 1994 Bonds was invested in investments having a yield that was substantially guaranteed for four years or more.

*Section 2.3. No Grants.* None of the Sale Proceeds or investment earnings thereon will be used to make grants to any person.

*Section 2.4. Hedges.* Neither the Company, the Issuer nor any Related Person to either of them has entered into or expects to enter into any hedge (*e.g.*, an interest rate swap, interest rate cap, futures contract, forward contract or an option) with respect to the Bonds. The

Company and the Issuer acknowledge that any such hedge could affect, among other things, the calculation of Bond Yield under the Regulations. The Internal Revenue Service could recalculate Bond Yield if the failure to account for the hedge fails to clearly reflect the economic substance of the transaction.

The Company and the Issuer also acknowledge that if they acquire a hedging contract with an investment element (including *e.g.* an off-market swap agreement, or any cap agreement for which all or a portion of the premium is paid at, or before the effective date of the cap agreement), then a portion of such hedging contract may be treated as an investment of Gross Proceeds of the Bonds, and be subject to the fair market purchase price rules, rebate and yield restriction. The Company and the Issuer agree not to use proceeds of the Bonds to pay for any such hedging contract in whole or in part. The Company and the Issuer also agree that they will not give any assurances to any Bondholder or any credit or liquidity enhancer with respect to the Bonds that any such hedging contract will be entered into or maintained. The Company and the Issuer recognize that if a portion of a hedging contract is determined to be an investment of gross proceeds, such portion may not be fairly priced even if the hedging contract as a whole is fairly priced.

*Section 2.5. Internal Revenue Service Audits.* The Issuer represents that, except as described in the Project Certificate, the Internal Revenue Service has not contacted the Issuer regarding any obligations issued by or on behalf of the Issuer the proceeds of which have been or are to be used to finance assets or used for a purpose similar to the assets to be financed with the proceeds of the Bonds, the Prior Bonds, the Series 1994 Bonds or the purpose for which the Bonds are being issued or for which the Prior Bonds or the Series 1994 Bonds were issued or that are secured by or reasonably expected to be paid from the same or similar source as the Bonds, the Prior Bonds or the Series 1994 Bonds.

The Company represents that, except as described in the Project Certificate, it has not been contacted by the Internal Revenue Service or any issuer of bonds, the proceeds of which were lent to (or otherwise used for the benefit of) the Company regarding any examination of the Prior Bonds, the Series 1994 Bonds or any other tax exempt bonds issued for the benefit of the Company. To the best of the knowledge of the Company, neither the Prior Bonds, the Series 1994 Bonds nor any other bonds issued as tax exempt bonds for the benefit of the Company are or have been under examination by the Internal Revenue Service, except as described in the Project Certificate.

*Section 2.6. Investment of Bond Proceeds.* No portion of the Bonds is being issued solely for the purpose of investing a portion of the Sale Proceeds or investment earnings thereon at a Yield higher than the Yield on the Bonds.

*Section 2.7. Payments to Related Persons.* None of the Sale Proceeds or investment earnings thereon will be paid to the Issuer, the Company or any Related Person to the Issuer or the Company, except for any reimbursements to the Company for amounts paid to persons other than the Issuer, the Company or any Related Person to the Issuer or the Company, and the Issuer's fee described in Section 5.5 of this Tax Agreement.

## ARTICLE III

### USE OF PROCEEDS; DESCRIPTION OF FUNDS

*Section 3.1. Use of Proceeds.* (a) *Exhibit A* describes the use of the Sale Proceeds and investment earnings thereon and the funds held with respect to or securing the Prior Bonds under the Indenture at the time of Closing. As of the date hereof, there are no amounts on deposit in any fund or account with respect to the Prior Bonds, other than set forth in Section 2.2 hereof or as shown on *Exhibit A*.

(b) There are no funds or accounts created under the Indenture, other than the Bond Fund (including the Interest Account, the Principal Account, the Redemption Account and the Letter of Credit Account therein, each as defined in the Indenture) and the Rebate Fund if it is created as provided for in Section 4.2. The Sale Proceeds of the Bonds will be used to currently refund the Prior Bonds on December 1, 2016 and will be paid to the Trustee at Closing.

(c) Principal of and interest on the Bonds will be paid from the Bond Fund and the accounts therein as described in the Indenture.

(d) Costs of Issuance will be paid by the Company from a source other than tax-exempt financing.

(e) Payments made by the Company under the Loan Agreement will be deposited in the Bond Fund, when received by the Trustee, to be used to pay interest on and principal of the Bonds, as provided in the Indenture.

*Section 3.2. Purpose of Bond Fund.* The Bond Fund will be used primarily to achieve a proper matching of revenues and earnings with principal and interest payments on the Bonds in each bond year. It is expected that the Bond Fund will be depleted at least once a year, except for a reasonable carry over amount not to exceed the greater of (a) the earnings on the investment of moneys in the Bond Fund for the immediately preceding bond year or (b) 1/12th of the principal and interest payments on the Bonds for the immediately preceding bond year.

*Section 3.3. No Other Gross Proceeds.* (a) Except as identified on *Exhibit D* hereto, after the issuance of the Bonds, neither the Issuer, the Company nor any Related Person to either of them has or will have any property, including cash, securities or any other property held as a passive vehicle for the production of income or for investment purposes, that constitutes:

- (i) Sale Proceeds;
- (ii) amounts in any fund or account with respect to the Bonds (other than the Rebate Fund);
- (iii) Transferred Proceeds;

(iv) amounts that have a sufficiently direct nexus to the Bonds or to the governmental purpose of the Bonds to conclude that the amounts would have been used for that governmental purpose if the Bonds were not used or to be used for that governmental purpose (the mere availability or preliminary earmarking of such amounts for a governmental purpose, however, does not itself establish such a sufficient nexus);

(v) amounts in a debt service fund, redemption fund, reserve fund, replacement fund or any similar fund to the extent reasonably expected to be used directly or indirectly to pay principal of or interest on the Bonds or any amounts for which there is provided, directly or indirectly, a reasonable assurance that the amount will be available to pay principal of or interest on the Bonds or the obligations under any credit enhancement or liquidity device with respect to the Bonds, even if the Issuer, the Company or any Related Person to either of them encounters financial difficulties;

(vi) any amounts held pursuant to any agreement (such as an agreement to maintain certain levels of types of assets) made for the benefit of the owners of the Bonds or any credit enhancement provider, including any liquidity device or negative pledge (e.g., any amount pledged to pay principal of or interest on an issue held under an agreement to maintain the amount at a particular level for the direct or indirect benefit of the owners of the Bonds or a guarantor of the Bonds); or

(vii) amounts actually or constructively received from the investment and reinvestment of the amounts described in (i), (ii) or (iii) above.

(b) No compensating balance, liquidity account, negative pledge of property held for investment purposes required to be maintained at or above a particular level or similar arrangement exists with respect to, in any way, the Bonds, the Loan Agreement or any credit enhancement or liquidity device related to the Bonds.

(c) The term of the Bonds is not longer than is reasonably necessary for the governmental purposes of the Bonds because the weighted average maturity of the Bonds does not exceed 120 percent of the average reasonably expected economic life of the Project, as evidenced in the Project Certificate.

## ARTICLE IV

### ARBITRAGE REBATE; RECORD KEEPING; INVESTMENT DIRECTION

*Section 4.1. Compliance with Rebate Provisions.* The Company covenants to take such actions and make, or cause to be made, all calculations, transfers and payments that may be necessary to comply with the Rebate Provisions applicable to the Bonds. The Company will make, or cause to be made, rebate payments with respect to the Bonds in accordance with law. Such payments shall be made only out of amounts available under the Indenture or otherwise provided by the Company. The Issuer hereby agrees to cooperate with the Company (at the expense of the Company, including the fees of counsel to the Issuer) in complying with the Rebate Provisions, including, without limitation, making any appropriate filings requested by the

Company. Bond Counsel has provided a memorandum attached hereto as *Exhibit C* concerning the principles set forth in the Regulations regarding rebate.

*Section 4.2. Rebate Fund.* The Issuer is hereby authorized to create with the Trustee a special fund to be known as the Rebate Fund, which, if created, shall be continuously held, invested, expended and accounted for in accordance with the Indenture and this Tax Agreement. Moneys in the Rebate Fund shall not be considered moneys held for the benefit of the owners of the Bonds. Except as provided in the Regulations, moneys in the Rebate Fund (including earnings and deposits therein) shall be held in trust for payment to the United States as required by the Rebate Provisions and by the Regulations and as contemplated under the provisions of this Tax Agreement.

In addition to the amounts provided in this Tax Agreement, the Company hereby agrees to pay to the Trustee for deposit in the Rebate Fund for payment to the United States any amount which under the Regulations must be deposited in the Rebate Fund for payment to the United States with respect to the Bonds, but which is not available under the Indenture for transfer to the Rebate Fund for payment to the United States.

*Section 4.3. Records.* The Trustee (with respect to amounts held under the Indenture) and the Company agree to keep and retain or cause to be kept and retained for the period described in Section 6.12 adequate records with respect to the investment of all Gross Proceeds and amounts in the Rebate Fund. Such records shall include:

- (a) purchase price;
- (b) purchase date;
- (c) type of investment;
- (d) accrued interest paid;
- (e) interest rate;
- (f) principal amount;
- (g) maturity date;
- (h) interest payment date;
- (i) date of liquidation;
- (j) receipt upon liquidation; and
- (k) such other information as may be requested by the Issuer.

If any investment becomes Gross Proceeds on a date other than the date such investment is purchased, the records required to be kept shall include the fair market value of such investment on the date it becomes Gross Proceeds. If any investment is retained after the date the last Bond is retired, the records required to be kept shall include the fair market value of such investment on the date the last Bond is retired. Amounts or investments will be segregated whenever necessary to maintain these records.

*Section 4.4. Fair Market Value; Certificates of Deposit and Investment Agreements.* The Company will direct the Trustee to, and to the extent the Trustee has investment discretion the Trustee shall, continuously invest all amounts on deposit in the Rebate Fund, together with the amounts, if any, to be transferred to the Rebate Fund, in any investment permitted under this Tax Agreement and the Indenture. In directing the Trustee with respect to such investments, the Company shall take into account prudent investment standards and the date on which such moneys may be needed. Except as provided in the next sentence, all amounts that constitute Gross Proceeds and all amounts in the Rebate Fund shall be invested at all times to the greatest extent practicable in investments permitted under this Tax Agreement and the Indenture, and no amounts may be held as cash or be invested in zero yield investments other than obligations of the United States purchased directly from the United States. In the event moneys cannot be invested, other than as provided in this sentence due to the denomination, price or availability of investments, the amounts shall be invested in an interest bearing deposit of a bank with a yield not less than that paid to the general public or held uninvested to the minimum extent necessary.

Gross Proceeds and any amounts in the Rebate Fund that are invested in certificates of deposit or in GICs shall be invested only in accordance with the following provisions:

(a) Investments in certificates of deposit of banks or savings and loan associations that have a fixed interest rate, fixed payment schedules and substantial penalties for early withdrawal shall be made only if either (i) the Yield on the certificate of deposit (A) is not less than the Yield on reasonably comparable direct obligations of the United States and (B) is not less than the highest Yield that is published or posted by the provider to be currently available from the provider on reasonably comparable certificates of deposit offered to the public or (ii) the investment is an investment in a GIC and qualifies under paragraph (b) below.

(b) Investments in GICs shall be made only if:

(i) the bid specifications are in writing, include all material terms of the bid and are timely forwarded to potential providers (a term is material if it may directly or indirectly affect the yield on the GIC);

(ii) the terms of the bid specifications are commercially reasonable (a term is commercially reasonable if there is a legitimate business purpose for the term other than to reduce the yield on the GIC);

(iii) all bidders for the GIC have equal opportunity to bid so that, for example, no bidder is given the opportunity to review other bids (a last look) before bidding;

(iv) any agent used to conduct the bidding for the GIC does not bid to provide the GIC;

(v) at least three of the providers solicited for bids for the GIC are reasonably competitive providers of investments of the type purchased (*i.e.*, providers that have established industry reputations as competitive providers of the type of investments being purchased);

(vi) at least three of the entities that submit a bid do not have a financial interest in the Bonds;

(vii) at least one of the entities that provided a bid is a reasonably competitive provider that does not have a financial interest in the Bonds;

(viii) the bid specifications include a statement notifying potential providers that submission of a bid is a representation that the potential provider did not consult with any other provider about its bid, that the bid was determined without regard to any other formal or informal agreement that the potential provider has with the Company or any other person (whether or not in connection with the Bonds) and that the bid is not being submitted solely as a courtesy to the Company or any other person for purposes of satisfying the federal income tax requirements relating to the bidding for the GIC;

(ix) the determination of the terms of the GIC takes into account the reasonably expected deposit and drawdown schedule for the amounts to be invested;

(x) the highest-yielding GIC for which a qualifying bid is made (determined net of broker's fees) is in fact purchased; and

(xi) the obligor on the GIC certifies the administrative costs that it is paying or expects to pay to third parties in connection with the GIC.

(c) If a GIC is purchased, the Company will retain the following records with its bond documents until three years after the Bonds are redeemed in their entirety:

(i) a copy of the GIC;

(ii) the receipt or other record of the amount actually paid for the GIC, including a record of any administrative costs paid, and the certification under paragraph (b)(xi) of this section;

(iii) for each bid that is submitted, the name of the person and entity submitting the bid, the time and date of the bid, and the bid results; and

(iv) the bid solicitation form and, if the terms of the GIC deviated from the bid solicitation form or a submitted bid is modified, a brief statement explaining the deviation and stating the purpose for the deviation.

Moneys to be rebated to the United States shall be invested to mature on or prior to the anticipated rebate payment date. All investments made with Gross Proceeds or amounts in the Rebate Fund shall be bought and sold at fair market value. The fair market value of an investment is the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction. Except for investments specifically described in this section and United States Treasury obligations that are purchased directly from the United States Treasury, only investments that are traded on an established securities market, within the meaning of regulations promulgated under Section 1273 of the Code, will be purchased with Gross Proceeds. In general, an investment is traded on an established securities market only if at any time during the 31-day period ending 15 days after the purchase date: (i) within a reasonable period of time after the sale, the price for an executed purchase or sale of the investment (or information sufficient to calculate the sales price) appears in a medium that is made available to issuers of debt instruments, persons that regularly purchase or sell debt instruments (including a price provided only to certain customers or to subscribers), or persons that broker purchases or sales of debt instruments; (ii) there are one or more firm quotes for the investment (a firm quote is considered to exist when a price quote is available from at least one broker, dealer, or pricing service (including a price provided only to certain customers or to subscribers) for property and the quoted price is substantially the same as the price for which the person receiving the quoted price could purchase or sell the property; a price quote is considered to be available whether the quote is initiated by a person providing the quote or provided at the request of the person receiving the quote; the identity of the person providing the quote must be reasonably ascertainable for a quote to be considered a firm quote for this purpose; a quote will be considered a firm quote if the quote is designated as a firm quote by the person providing the quote or if market participants typically purchase or sell, as the case may be, at the quoted price, even if the party providing the quote is not legally obligated to purchase or sell at that price); or (iii) there are one or more indicative quotes for the investment (an indicative quote is considered to exist when a price quote is available from at least one broker, dealer, or pricing service (including a price provided only to certain customers or to subscribers) for property and the price quote is not a firm quote described in the prior clause). However, a maturity of a debt instrument is not treated as traded on an established market if at the time the determination is made the outstanding stated principal amount of the maturity that includes the debt instrument does not exceed \$100,000,000 (or, for a debt instrument denominated in a currency other than the U.S. dollar, the equivalent amount in the currency in which the debt instrument is denominated).

The Company (and the Trustee, to the extent of any investment discretion) agrees that an investment of Gross Proceeds in an External Commingled Fund shall be made only to the extent that such investment is made without an intent to reduce the amount to be rebated to the United States Government or to create a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the rebate or Yield restriction requirements not

been relevant. An investment of Gross Proceeds shall be made in a Commingled Fund other than an External Commingled Fund only if the investments made by such Commingled Fund satisfy the provisions of this Section 4.4.

A single investment, or multiple investments awarded to a provider based on a single bid, may not be used for funds subject to different rules relating to rebate or yield restriction.

The foregoing provisions of this Section 4.4 satisfy various safe harbors set forth in the Regulations relating to the valuation of certain types of investments. The safe harbor provisions of this Section 4.4 are contained herein for the protection of the Company, who has covenanted not to take any action to adversely affect the tax-exempt status of the interest on the Bonds. The Company will contact Bond Counsel if it does not wish to comply with the provisions of this Section 4.4 and forego the protection provided by the safe harbors provided herein. Modifications to this Tax Agreement can be made in accordance with Section 6.7 hereof.

*Section 4.5. Arbitrage Elections.* No elections regarding arbitrage are being made at this time.

## ARTICLE V

### YIELD AND INVESTMENT LIMITATIONS

*Section 5.1. Issue Price.* (a) The Underwriter, as defined in *Exhibit B*, has certified, *inter alia*, in the Certificate of Merrill Lynch, Pierce, Fenner & Smith Incorporated set forth as *Exhibit B*, which is attached hereto, that the first offering price at which such Purchaser reasonably expected to sell at least ten percent of the Bonds as shown on the cover page of the Official Statement relating to the Bonds.

None of the Bonds are being issued with an original issue discount in excess of five percent of the face amount of that Bond.

*Section 5.2. Yield Limits.* Except as provided in paragraphs (a) and (b) all Gross Proceeds shall be invested at market prices and at a Yield (after taking into account any Yield Reduction Payments) not in excess of the Yield on the Bonds.

The following may be invested without Yield restriction:

(a)

(i) amounts on deposit in the Bond Fund that have not been on deposit under the Indenture for more than 13 months, so long as the Bond Fund continues to qualify as a bona fide debt service fund as described in Section 3.2 hereof; and

(ii) Sale Proceeds used to currently refund the Prior Bonds for 90 days from the date of Closing;

(b)

(i) an amount not to exceed the lesser of \$100,000 or five percent of the Sale Proceeds;

(ii) amounts invested in Qualified Tax Exempt Obligations (to the extent permitted by law and the Indenture);

(iii) amounts in the Rebate Fund;

(iv) all amounts other than Sale Proceeds for the first 30 days after they become Gross Proceeds; and

(v) all amounts derived from the investment of Sale Proceeds or investment earnings thereon (except for amounts used to currently refund the Prior Bonds) for a period of one year from the date received.

*Section 5.3. Continuing Nature of Yield Limits.* Except as provided in Section 6.7, once moneys are subject to the Yield limits of Section 5.2 hereof, such moneys remain Yield restricted until they cease to be Gross Proceeds.

*Section 5.4. Yield on the Loan Agreement.* Payments of repayment installments under the Loan Agreement will be due on not later than the day and in the same amount as payments are due on the Bonds. The earnings and profits of any temporary investments of amounts held under the Indenture, if any, will accrue to the Company, not to the Issuer. The Yield on the Loan Agreement, taking into account the Issuer's fee described in Section 5.5, does not exceed the Yield on the Bonds by more than one-eighth of one percent.

*Section 5.5. Other Payments Relating to the Bonds.* Except for (a) the payments under the Loan Agreement as described above, (b) Costs of Issuance relating to the Bonds, including Purchaser's compensation, if any, (c) fees and expenses of the Trustee and Paying Agent, and (d) a one time Issuer's fee of \$1,000 for the issuance of the Bonds, no consideration, in cash or in kind, is being or will be paid by any person to any person in connection with or relating to issuing, carrying or redeeming the Bonds or issuing, carrying or repaying the Company's obligations under the Loan Agreement.

*Section 5.6. Federal Guarantees.* Except for investments meeting the requirements of Sections 5.2(a) hereof, investments of Gross Proceeds shall not be made in (a) investments constituting obligations of or guaranteed, directly or indirectly, by the United States (except obligations of the United States Treasury or investments in obligations issued pursuant to Section 21B(d)(3) of the Federal Home Loan Bank Act, as amended (e.g., Refcorp Strips)); or (b) federally insured deposits or accounts (as defined in Section 149(b)(4)(B) of the Code). Except as otherwise permitted in this Section and the Regulations, no portion of the payment of principal or interest on the Bonds or any credit enhancement or liquidity device relating to the foregoing is or will be guaranteed, directly or indirectly (in whole or in part), by the United States (or any agency or instrumentality thereof) including a lease, incentive payment, research

or output contract or any similar arrangement, agreement or understanding with the United States or any agency or instrumentality thereof. No portion of the Gross Proceeds has been or will be used to make loans the payment of principal or interest with respect to which is or will be guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof). This Section 5.6 does not apply to any guarantee by the Federal Housing Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, the Student Loan Marketing Association or the Bonneville Power Administration pursuant to the Northwest Power Act (16 U.S.C. 839d) as in effect on the date of enactment of the Tax Reform Act of 1984.

## ARTICLE VI

### MISCELLANEOUS

*Section 6.1. Project Certificate; Collateral Tax Consequences.* (a) The Company covenants that it will take all actions within its control that may be necessary to cause all representations and covenants in the Project Certificate with respect to future events to be true.

(b) The Company acknowledges that, because interest on the Bonds is excludible from gross income for federal income tax purposes, certain consequences and special rules may result to the Company with respect to federal income taxation of the Company. These consequences may include the required use of the alternative depreciation system for tax-exempt bond financed property under Section 168(g)(5) of the Code and the loss of the deductibility of interest paid with respect to the Bonds upon a "change in use" under Section 150(b) of the Code. The Company acknowledges that Chapman and Cutler LLP was not retained to advise and has no responsibility to advise the Company with respect to any of such consequences. The Company will consult with its own tax advisors with respect to such matters.

*Section 6.2. Termination; Interest of Issuer in Rebate Fund.* This Tax Agreement shall terminate at the later of (a) 75 days after the later of the date of the Bonds and the Prior Bonds have been fully paid and retired, (b) the date on which all amounts remaining on deposit in the Rebate Fund, if any, shall have been paid to or upon the order of the United States and any other payments required to satisfy the Rebate Provisions of the Code have been made to the United States or (c) all amounts due to the Trustee shall have been paid to the Trustee. Notwithstanding the foregoing, the provisions of Sections 4.3, 4.4(c) and 6.12 shall not terminate until the third anniversary of the date the Bonds are fully paid and retired.

The parties hereto recognize that amounts, if any, on deposit in the Rebate Fund are held for payment to the United States Treasury. The foregoing notwithstanding, the Company and the Issuer shall be deemed to have an interest in such amounts to the extent such amounts represent amounts available to satisfy the obligation of the Issuer and the Company to rebate certain amounts to the United States Treasury.

*Section 6.3. I.R.S. Form 8038.* The information contained in the Information Return for Tax-Exempt Private Activity Bond Issues, Form 8038 attached hereto as *Exhibit E*, is true and

complete. The Issuer will cause Form 8038 (and all other required information reporting forms) to be filed in a timely manner.

*Section 6.4. No Common Plan of Financing.* Neither the Issuer nor the Company nor any Related Person to either of them has sold any obligations other than the Bonds that are reasonably expected to be paid out of substantially the same source of funds as the Bonds. Neither the Issuer, the Company nor any Related Person to either of them will sell within 15 days after the date upon which the Bonds were sold any obligations other than the Bonds that are reasonably expected to be paid out of substantially the same source of funds as the Bonds.

*Section 6.5. Sale of the Project.* No portion of the Project (other than personal property or fixtures which was expected to be sold, traded in or discarded upon wearing out or becoming obsolete) was, on the dates the Series 1994A Bonds and the Series 1994B Bonds were issued, expected to be sold or otherwise disposed of in whole or in part prior to the last maturity of the Prior Bonds.

*Section 6.6. Future Events.* The Issuer, the Trustee and the Company acknowledge that any changes in facts or expectations from those set forth herein may result in different Yield restrictions or rebate requirements from those set forth herein and in the memorandum of Bond Counsel attached hereto as *Exhibit C* and agree to promptly contact Bond Counsel if such changes do occur.

*Section 6.7. Permitted Changes; Opinion of Bond Counsel.* The Yield restrictions contained in Section 5.2 or any other restriction or covenant contained herein need not be observed or may be changed if such nonobservance or change will not result in the loss of any exemption for the purpose of federal income taxation to which interest on the Bonds is otherwise entitled and the Issuer, the Company and the Trustee each receive an opinion of Bond Counsel to such effect.

*Section 6.8. No Extension of Maturity.* The sole maturity date of the Bonds is December 1, 2035, which is the same date as the sole maturity date of the Prior Bonds. Accordingly, no public hearing under the Code is necessary with respect to the issuance of the Bonds. A public hearing under the Code was, however, conducted by the Issuer on November 15, 2005 in connection with the issuance of the Prior Bonds. The Board of County Commissioners approved the issuance of the Prior Bonds pursuant to Section 147(f) of the Code following the public hearing on November 15, 2005.

*Section 6.9. Acceptance.* The Trustee shall accept the duties imposed upon it by this Tax Agreement and agree to perform said duties, but only upon and subject to the express terms and conditions stated in the Indenture.

The Trustee will invest all amounts on deposit in any fund established under the Indenture or in the Rebate Fund established hereunder as the Company may direct in order to comply with the rebate requirements contained in Section 148(f) of the Code.

*Section 6.10. Registered Form.* The Issuer and the Company each recognize that Section 149(a) of the Code requires the Bonds to be issued and to remain in fully registered form in order that interest thereon be exempt from federal income taxation under laws in force at the time the Bonds are delivered. In this connection, the Issuer and the Company each agree that it will not take any action to permit the Bonds to be issued in, or converted into, bearer or coupon form.

*Section 6.11. Records Retention.* The Trustee and the Company will each maintain sufficient records to demonstrate compliance with all covenants set forth herein and in the Project Certificate, to support the continued exclusion of interest paid on the Bonds from federal income taxation and to show that all tax returns related to the Bonds submitted or required to be submitted to the Internal Revenue Service are correct and timely filed. The Issuer will keep and maintain records to the extent the Issuer has possession of such records. Such records shall include but are not limited to: basic records relating to the Bond transaction (including this Tax Agreement, the Project Certificate, the Resolution, the Indenture and the Bond Counsel opinion); documentation evidencing the expenditure of Bond proceeds; documentation evidencing the use of Bond-financed property; and documentation pertaining to any investment of Bond proceeds (including the information required under Section 4.3 and Section 4.4 hereof and in particular information related to the purchase and sale of securities, SLGS subscriptions, yield calculations for each class of investments if any, actual investment income received from the investment of proceeds, guaranteed investment contracts and documentation of any bidding procedure related thereto and any fees paid for the acquisition or management of investments and any rebate calculations). Such records shall be kept for at least as long as the Bonds are outstanding, plus the period ending three years after the latest of the final payment date of the Bonds or the final payment date of any obligations or series of obligations issued to refund directly or indirectly all or any portion of the Bonds or for such longer period as may be required by this Tax Agreement.

*Section 6.12. Severability.* If any clause, provision or section of this Tax Agreement is ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or section shall not affect any of the remaining clauses, sections or provisions hereof.

*Section 6.13. Counterparts.* This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

*Section 6.14. Notices.* All notices, demands, communications and requests which may or are required to be given hereunder or by any party hereto shall be deemed given on the date on which the same shall have been mailed to the addresses and by the methods set forth in the Indenture.

*Section 6.15. Successors and Assigns.* The terms, provisions, covenants and conditions of this Tax Agreement shall bind and inure to the benefit of the respective successors and assigns of the parties to the Tax Agreement.

*Section 6.16. Headings.* The headings of this Tax Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Tax Agreement.

*Section 6.17. Governing Law.* This Tax Agreement shall be governed by and construed in accordance with the laws of the State of Wyoming.

*Section 6.18. Volume Cap.* The Issuer obtained an allocation of Wyoming volume cap available under Section 146 of the Code, valid under applicable Wyoming law, in connection with the issuance of the Series 1994A Bonds and the Series 1994B Bonds. Additional volume cap for the Bonds is not necessary under Section 146 of the Code because the amount of the Bonds does not exceed the outstanding amount of the Prior Bonds.

*Section 6.19. Expectations.* The undersigned have reviewed the facts, estimates and circumstances presented by the Company and other persons in existence on the date of issuance of the Bonds. Such facts, estimates and circumstances, together with the expectations of the Issuer and the Company as to future events, are set forth in summary form in this Tax Agreement. Such facts and estimates are true and are not incomplete in any material respect. On the basis of the facts and estimates contained herein and in the Project Certificate, the undersigned have adopted the expectations contained herein. On the basis of such facts, estimates, circumstances and expectations, it is not expected that Sale Proceeds, investment earnings thereon or any other moneys or property will be used in a manner that will cause the Bonds to be arbitrage bonds within the meaning of the Rebate Provisions and the Regulations. Such expectations are reasonable and there are no other facts, estimates and circumstances that would materially change such expectations. To the extent the Issuer is relying on the representations, expectations and covenants of the Company, it is reasonable and prudent for the Issuer to do so.

*Section 6.20. Limitation of Liability of Issuer.* Any liability of the Issuer hereunder shall be limited to the Revenues and any other amounts pledged to the payment of the Bonds pursuant to the Indenture.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK. SIGNATURES FOLLOW.]

DATED as of the date first written above.

SWEETWATER COUNTY, WYOMING

By: \_\_\_\_\_  
Chairman  
Board of County Commissioners

(SEAL)

ATTEST

By: \_\_\_\_\_  
County Clerk

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

By: \_\_\_\_\_  
Name \_\_\_\_\_  
Its \_\_\_\_\_

FMC CORPORATION

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

**EXHIBIT A**

**ESTIMATED SOURCES AND USES OF FUNDS\***

SOURCES:

Sale Proceeds of Bonds	<u>\$90,000,000</u>
TOTAL	<u>\$90,000,000</u>

USES:

Currently Refund the Prior Bonds	<u>\$90,000,000</u>
TOTAL	<u>\$90,000,000</u>

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\* Accrued interest, if any, is excluded. There are no investment earnings. Costs of Issuance will be paid from equity of the Company.

## EXHIBIT B

### CERTIFICATE OF MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED

This Certificate is furnished by Merrill Lynch, Pierce, Fenner & Smith Incorporated as the underwriter (the "*Underwriter*") in connection with the sale and issuance by Sweetwater County, Wyoming, a political subdivision of the State of Wyoming (the "*Issuer*"), of its \$90,000,000 aggregate principal amount of Solid Waste Disposal Refunding Revenue Bonds (FMC Corporation Project) Series 2016 (the "*Bonds*") issued [\_\_\_\_], 2016, and the Underwriter hereby certifies and represents the following, based upon information available to us:

1. Based on our assessment of the then prevailing market conditions, the Underwriter reasonably expected when it agreed to purchase the Bonds (the "*Sale Date*") that the first prices at which at least the first 10% of each maturity of the Bonds would be sold by the Underwriter to the general public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters, placement agents or wholesalers) (the "*Public*") would be prices not higher than, or, in the case of obligations sold on a yield basis, at yields not lower than, those listed for each maturity on Schedule A hereto (the "*Initial Offering Prices*").

2. All of the Bonds have actually been offered to the Public in a bona fide public offering at prices not higher than, or, in the case of obligations sold on a yield basis, at yields not lower than, the Initial Offering Prices.

3. The first price, or yield in the case of obligations sold on a yield basis, at which at least the first 10% of each maturity of the Bonds has been sold to the Public was at a price not higher than, or, in the case of obligations sold on a yield basis, at a yield not lower than, the Initial Offering Prices [except for the Bonds with the following maturities:].

4. The bond purchase agreement executed by the Underwriter, the Issuer and FMC Corporation in connection with the Bonds has not been modified by the Underwriter since its execution on the Sale Date.

We understand that the foregoing information will be relied upon by the Issuer and FMC Corporation with respect to certain of the representations set forth in the Tax Agreement and by Chapman and Cutler LLP, in connection with rendering its opinion to the Issuer that the interest on the Bonds is not includable in gross income of the owners thereof for federal income tax purposes. The undersigned is certifying only as to facts in existence on the date hereof. Nothing herein represents the undersigned's interpretation of any laws; in particular the regulations under the Internal Revenue Code of 1986, or the application of any laws to these facts. The certifications contained herein are not necessarily based on personal knowledge, but may instead be based on either inquiry deemed adequate by the undersigned or institutional knowledge (or both) regarding the matters set forth herein. Although certain information furnished in this Certificate has been derived from other purchasers, bond houses and brokers and cannot be independently verified by us, we have no reason to believe it to be untrue in any material respect.

All terms not defined herein shall have the same meanings as in the Tax Exemption Certificate and Agreement with respect to the Bonds, to which this Certificate of Merrill Lynch, Pierce, Fenner & Smith Incorporated is attached.

Dated: November 30, 2016

Very truly yours,

MERRILL LYNCH, PIERCE, FENNER & SMITH  
INCORPORATED

By \_\_\_\_\_  
Its \_\_\_\_\_

MEMORANDUM

EXHIBIT C

To: Sweetwater County, Wyoming  
FMC Corporation  
The Bank of New York Mellon Trust Company, N.A.

DATE: November 30, 2016

Re: \$90,000,000  
Sweetwater County, Wyoming  
Solid Waste Disposal Refunding Revenue Bonds  
(FMC Corporation Project) Series 2016

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We have acted as Bond Counsel in connection with the issuance on this date of the Bonds. In a Tax Exemption Certificate and Agreement delivered by you on this date (the "*Tax Agreement*"), you have agreed to comply with the arbitrage rebate requirements (or, in the case of The Bank of New York Mellon Trust Company, N.A., as Trustee, certain of such requirements) of Section 148 of the Internal Revenue Code of 1986. The purpose of this memorandum is to set out generally the rules that you must follow to comply with the Tax Agreement. This memorandum does not describe how to compute the amount to be rebated to the United States, and due to the complexity involved, the computation will, in all likelihood, require consultation with an expert.

The Internal Revenue Service has issued regulations relating to arbitrage and rebate matters. This memorandum is based upon these regulations, which are subject to change in the future. Such changes may require future recalculation of rebate amounts. For these reasons, it is very important for you and your tax advisors to keep abreast of developments in this area.

The following advice is based on factual information contained in the Tax Agreement. If the facts or expectations stated therein change, please call us to determine whether this results in a change in the following rules. Please note that the rules governing permissible Yield on investments set forth in the Tax Agreement are in addition to the rebate rules and, although you might be allowed to earn a Yield in excess of Bond Yield under the Yield rules, such excess may still be required to be rebated. In some cases, the payment of rebate may assist in compliance with the Yield restriction requirements. Thus, rebate compliance and Yield restriction compliance may operate together rather than independently. In any case, rebate compliance is essential to the maintenance of tax exemption of the Bonds even if no amounts are subject to Yield restriction. Terms not defined herein shall have the meanings set forth in the Tax Agreement.

*General Rule.* Except in the case of certain exceptions and elections as summarized below, every five years and at the final retirement of all of the Bonds you must compute and pay

(as described below) to the United States the difference (the “*Excess Earnings*”) between the amount earned on all investments and reinvestments of “gross proceeds” (as listed on *Exhibit D* to the Tax Agreement) of the Bonds (“*Actual Earnings*”) and the amount that would have been earned if gross proceeds of the Bonds had been invested at Bond Yield (the “*Allowable Earnings*”). Earnings to be taken into account are *not* determined under normal tax accounting principles. In addition to taking into account earnings received (either actually or constructively), receipts with respect to investments that have not been liquidated are computed by assuming that such investments are, in essence, converted to cash as of each computation date (as such dates are described below). The “cash value” of investments determined in this manner is subject to many special rules. Under many circumstances, the “market value” of an investment may be used. The application of these rules is complex and requires a comprehensive understanding of the rebate regulations.

To properly plan for the eventual payment of rebate to the United States, we suggest that you make annual calculations estimating rebate liability. The Tax Agreement refers to a “rebate fund” which may be created and into which you may also wish to deposit annual estimates of rebate liability so that the payment to the United States may be made from amounts set aside. Federal tax law does *not*, however, require such set asides. In any event, we strongly encourage you to make an annual estimate of the rebate liability. The calculations can be lengthy and often produce surprising results. Experience in operating our rebate calculation service indicates that the calculation is far more difficult as the period of time for which the calculation is being performed increases.

*Phantom Income.* With certain exceptions, amounts paid for administrative costs are not treated as increasing earnings for purposes of rebate calculations. Administrative costs that do not increase earnings are reasonable, direct administrative costs, other than carrying costs, and generally include brokerage commissions for the purchase of investment agreements and separately stated brokerage or selling commissions, but not legal and accounting fees, record keeping, custody, and similar costs and expenses. The Regulations provide a safe harbor for determining that a broker’s fee for the purchase of an investment agreement is reasonable.

*Computation Dates.* Each calculation of Excess Earnings should be made as of a “Computation Date.” The Computation Date should be the same date in each calendar year (except that the final Computation Date should be the date on which all of the Bonds are actually retired). As indicated above, a Computation Date is required at least every five years. The first Computation Date must be on or before the fifth anniversary of the issuance of the Bonds. Each Computation Date, other than the final Computation Date, is the end of a bond year. A bond year ends on any date within one year of the issuance of the Bonds that you choose. If you do not choose an ending date for a bond year, it will be the anniversary date of the issuance of the Bonds.

Excess Earnings on a fixed Yield issue are determined by comparing Actual Earnings as of a Computation Date with Allowable Earnings as of the same date. Allowable Earnings are based on the Bond Yield as of such Computation Date. Bond Yield may change, but for reasons described below under “Bond Yield” it is unlikely to change over the life of the Bonds. If Bond

Yield decreases as of a particular Computation Date, rebate (or additional rebate) may be due with respect to investments that have previously matured and the proceeds thereof spent.

*Bond Yield.* For fixed Yield issues, generally Bond Yield is calculated based upon expected payments of principal of and interest on the Bonds (including amounts treated as interest). Bond Yield on a fixed Yield issue is generally not required to be recalculated after the date of issuance except under certain limited circumstances. Generally, recomputation is required upon changes in hedging transactions (e.g., purchase or termination of a swap or cap agreement associated with the Bonds) or the transfer of rights associated with the Bonds (e.g., sale of a call option). The actual rules for computing Bond Yield are quite complex, and if Bond Yield must be calculated or recalculated, an expert should be consulted.

*Gross Proceeds.* Based upon the facts and expectations presented in the Tax Agreement, the gross proceeds of the Bonds are all moneys and investments in the funds and accounts (regardless of where held) listed on *Exhibit D* to the Tax Agreement. If, contrary to the expectations described in the Tax Agreement, moneys or investments are pledged or otherwise set aside for payment of principal of or interest on the Bonds, such amounts may also constitute gross proceeds.

*Universal Cap.* Gross proceeds will cease to be allocated to the Bonds (and will therefore be treated as if spent) to the extent that the amount of gross proceeds exceeds the outstanding amount of the Bonds (the “*Universal Cap*”). Although special rules are applicable in the case of discount bonds, the outstanding amount of bonds is roughly equal to the outstanding principal amount. Generally, but not always, the market value of investments is used to test the amount of gross proceeds. The Universal Cap may cause allocations on the second anniversary of the issue date and as of the first day of each bond year thereafter.

*Commingled Funds.* Funds allocated to two or more issues, or containing amounts that are not gross proceeds of the Bonds and amounts that are gross proceeds of the Bonds (including, for example, parity reserve funds) in which amounts are invested collectively without regard to source of funds must be treated as commingled funds. Investment earnings on commingled funds must be allocated to the gross proceeds of the Bonds according to a consistently applied reasonable ratable allocation method. Such method, for example, may be based on average daily balances. Investments in commingled funds must be valued annually to properly allocate unrealized gain or loss to the gross proceeds of the Bonds. This mark to market requirement will not apply if the weighted average maturity of all investments held in the commingled fund during a particular fiscal year does not exceed 18 months and does not apply to commingled debt service and debt service reserve funds.

*Bona Fide Debt Service Fund Exception to the General Rule.* Based upon the information in the Tax Agreement, the Bond Fund is a bona fide debt service fund. If earnings in the Bond Fund in a bond year (as described above under “*Computation Dates*”) are less than \$100,000, they will not be subject to the rebate requirement and you may keep such earnings for that year. If during such period earnings in the Bond Fund are \$100,000 or greater, all such earnings will be subject to rebate. However, if the average annual debt service on the Bonds is no more than \$2,500,000, then you may treat the Bond Fund as satisfying the \$100,000

limitation in each bond year. In addition, the Bond Fund will be exempt from rebate if it qualifies as a bona fide debt service fund and one of the spending exceptions described below is satisfied. To the extent that the Bond Fund ceases to be a “bona fide debt service fund” as described in Section 3.2 of the Tax Agreement, some Bond Fund moneys may be subject to the rebate requirement.

*Six-Month Exception to the General Rule.* If all gross proceeds of the Bonds (including earnings thereon) are spent within six months of the date the Bonds are issued, other than amounts deposited in a reasonably required reserve fund or a bona fide debt service fund, no rebate is required except as described below in the case of an issue secured by a reasonably required reserve fund or in the case of unexpected gross proceeds arising after the date of Closing. If the Bonds are secured by a reasonably required reserve fund, rebate is required on the reserve fund from the date the Bonds are issued, but not on other funds. To qualify for the six-month exception, there must be no other amounts that are treated as Gross Proceeds of the Bonds, other than a reasonably required reserve or replacement fund or a bona fide debt service fund. Even if you qualify for this exception, you may have to rebate with respect to any amounts that arise or are pledged to the payment of the Bonds at a later date.

*Qualified Tax- Exempt Obligation Exception to the General Rule.* To the extent that any gross proceeds are invested in Qualified Tax Exempt Obligations (as defined in Article I of the Tax Agreement), the earnings thereon would not be considered when calculating Excess Earnings. To the extent that 100% of gross proceeds are continually invested in Qualified Tax Exempt Obligations, there would be no rebate requirement.

*Investment of Rebate Fund and Other Funds.* Investments of moneys in the Rebate Fund and any other fund must be made in arm’s-length transactions in a manner that does not reduce the amount to be rebated to the United States. Investment decisions (other than the decision to invest in Qualified Tax Exempt Obligations to avoid rebate) must be made on the basis of normal investment criteria of safety, Yield, and when the money will be needed. All interest rates and Yields must be market rates and Yields. Money must not be allowed to remain uninvested except for small amounts or for short periods of time, as provided in Section 4.4 of the Tax Agreement. Specific rules exist for certificates of deposit and investment agreements (including repurchase agreements) as set forth in Section 4.4 of the Tax Agreement.

*Rebate Payments.* Within 60 days after the Computation Date that is the end of the fifth bond year and every fifth bond year thereafter, at least 90% of the Excess Earnings and all earnings on the Excess Earnings (net of an appropriate credit depending on whether unexpended gross proceeds continue to exist) must be paid to the United States. Within 60 days of final payment of all principal and interest on the Bonds to the owners of the Bonds, all Excess Earnings and all earnings on the Excess Earnings (net of the credit) must be paid to the United States. All payments to the United States must be mailed to the address provided in the instructions to Form 8038-T or such other form specified by the Internal Revenue Service. Form 8038-T or such other form specified by the Internal Revenue Service must be signed by the Issuer.