

DELAWARE VALLEY REGIONAL FINANCE AUTHORITY  
(Bucks, Chester, Delaware and Montgomery Counties, Pennsylvania)

TO

TD BANK, N.A.

(as successor to COMMERCE BANK, N.A.)

AS TRUSTEE

MASTER TRUST INDENTURE

Dated as of June 28, 2007,  
Amended as of June 28, 2007,  
Amended as of August 1, 2009,  
Amended and restated as of August 3, 2009,  
Amended and restated as of September 12, 2011,  
Amended and restated as of April 9, 2012,  
Amended and restated as of June 9, 2014,  
Amended and restated as of December 8, 2014, and  
Amended and restated as of August 13, 2018

DELAWARE VALLEY REGIONAL FINANCE AUTHORITY  
(Bucks, Chester, Delaware and Montgomery Counties, Pennsylvania)  
Local Government Revenue Bonds

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## MASTER TRUST INDENTURE

THIS MASTER TRUST INDENTURE (the “Indenture”) is dated as of June 28, 2007, amended pursuant to a First Supplemental Indenture as of June 28, 2007, amended pursuant to a Second Supplemental Indenture as of August 1, 2009, amended and restated as of August 3, 2009, amended and restated as of September 12, 2011, amended and restated as of April 9, 2012, amended and restated as of June 9, 2014, amended and restated as of December 8, 2014, and amended and restated as of August 13, 2018, by and between the DELAWARE VALLEY REGIONAL FINANCE AUTHORITY (the “DelVal”), a body corporate and politic organized and existing under the laws of the Commonwealth of Pennsylvania, and TD BANK, N.A. (as successor to Commerce Bank, N.A.), a national banking association, and any Co-Trustee appointed by the Trustee or DelVal under Section 11.10 herein, as trustee (the “Trustee”).

### **Background**

A. DelVal is a body corporate and politic organized and existing under the laws of the Commonwealth of Pennsylvania pursuant to the *Municipality Authorities Act, 53 Pa. C.S. Ch. 56*, (the “*Authorities Act*”), having been duly organized by the Council of Delaware County and the Boards of County Commissioners of Bucks, Chester and Montgomery Counties (collectively, the “Counties”), all in the Commonwealth of Pennsylvania.

B. DelVal was formed to undertake projects for (i) “Local Government Units,” as such term is defined in the *Local Government Unit Debt Act*, approved July 12, 1972, P.L. 781, as re-enacted on April 28, 1978, P.L. 124 and December 19, 1996, P.L. 1158 (the “*Debt Act*”), or (ii) other political subdivisions whose obligations to DelVal are guaranteed by a Local Government Unit ((i) and (ii) each herein, a “Participant”), any such project undertaken by DelVal to constitute a “Project” as such term is defined herein and in the *Debt Act*.

C. Pursuant to the *Authorities Act*, DelVal may issue its bonds in furtherance of projects for, on behalf of, or guaranteed by, Participants, and, as security for the payment of the principal of, and the interest on any such bonds so issued, to pledge the revenues from any such Projects or from any loans made by DelVal.

D. In order to establish a program (the “Pooled Loan Program” or “Program”) to assist Participants in financing or refinancing the acquisition, erecting, extending, improving, equipping or repairing of Projects, DelVal is entering into this Indenture which shall be for equal benefit, protection and security of Bondholders of any and all Bonds from time to time issued pursuant to the terms of this Indenture, all of which, without regard to the time or times of their issuance or maturity, shall be of equal rank without preference, priority or distinction of any Series of Bonds over any other Series thereof, except as otherwise expressly provided in or permitted by this Indenture or any Supplemental Indenture.

E. The proceeds of the sale of any Series of Bonds shall be used, as provided in a Supplemental Indenture with respect to such Series to, inter alia: (i) provide funds for Loans to Participants for the purpose of, and in order to assist the Participants in, financing or refinancing the acquisition, erecting, extending, improving, equipping or repairing of Projects; (ii) refund any

prior series of Bonds issued under this Indenture or any other outstanding bonds issued by DelVal under any other indenture; (iii) fund a portion of the Debt Service Reserve Fund; and (iv) pay certain fees and costs incurred in connection with the foregoing and the issuance of the Series of Bonds.

F. DelVal has determined that in order to achieve the lowest borrowing costs for Participants and to meet the management objectives of the Participants, the Loans may be either Variable Rate Loans or Fixed Rate Loans.

G. In order to achieve its programmatic objects of providing variable interest rate and fixed interest rate loans to Participants at the lowest possible cost, DelVal may, on such dates as is designated by DelVal, enter into one or more Swap Agreements with a Swap Counterparty.

H. Until the proceeds of any Series of Bonds deposited with the Trustee for the purpose of acquiring Loans are disbursed for such purposes, such proceeds shall be invested as directed herein or by a Supplemental Indenture.

I. All Bonds shall be issued under and secured by this Indenture, and DelVal is empowered to execute and deliver this Indenture, all Supplemental Indentures and the Loan Agreements.

J. Bonds and the authentication certificates thereon shall be in such forms as are set forth in each Supplemental Indenture executed in connection with the issuance of a Series of Bonds.

K. All things necessary to make Bonds, when authenticated by the Trustee and issued as provided in this Indenture, the valid, binding and legal obligations of DelVal according to the terms thereof, and to constitute this Indenture a valid assignment and pledge of the Revenues (as hereinafter defined) pledged to the payment of the principal and redemption price of and interest on Bonds and a valid assignment and pledge of the rights of DelVal in the Swap Agreements, the Investment Agreements, and the Loan Agreements, and the creation, execution and delivery of this Indenture, and the creation, execution and issuance of Bonds, subject to the terms hereof, have in all respects been duly authorized.

**NOW, THEREFORE, THIS INDENTURE OF TRUST WITNESSETH:**

## **GRANTING CLAUSES**

DelVal, intending to be legally bound hereby, in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance from time to time of Bonds by the Bondholders thereof, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, in order to secure (i) equally and ratably, the payment by DelVal of the principal and redemption price of and interest on Bonds according to their tenor and effect, all obligations owing to any Credit Facility Provider under a Credit Facility Agreement and the Swap Payments by the DelVal; (ii) the performance and observance by DelVal of all the covenants expressed or implied herein and in Bonds; and (iii) payment by DelVal of Termination Payments from the Discretionary Fund, as provided herein, subject and subordinate to the payments of (i) and (ii) hereof, does hereby grant, bargain, sell, convey, assign and pledge unto the Trustee, and its respective successors in trust and assigns forever, a security interest in and lien upon, the property and interests recited in the following granting clauses (the "Trust Estate"), subject in all cases to the provisions of this Indenture or a Supplemental Indenture permitting the application thereof for the purposes and on the terms set forth in this Indenture:

### **GRANTING CLAUSE FIRST**

All right, title and interest of DelVal in the Revenues, the Participant Notes and the Loan Agreements, including all extensions and renewals of any of the terms of the Loan Agreements, if any, including, but without limiting the generality of the foregoing, the present and continuing right to make claim for, collect and receive all payments of principal, interest, and other sums payable to or receivable by DelVal under or due to its ownership of any interest in the Participant Notes and the Loan Agreements, all rights to bring actions and proceedings under the Loan Agreements or for the enforcement thereof or of the Participant Notes, and all rights to do any and all things which DelVal is or may become entitled to do under or due to its ownership of the Loan Agreements, other than the rights of DelVal to indemnification or payment of expenses under Section 5.11 of the Loan Agreements; and

### **GRANTING CLAUSE SECOND**

All right, title and interest of DelVal in and under the Swap Agreements and the Swap Receipts and all extensions and renewals thereof, other than the rights of DelVal to indemnification or payment of expenses under the Swap Agreements; and

### **GRANTING CLAUSE THIRD**

All right, title and interest of DelVal in and under the Investment Agreements, including, but without limiting the generality of the foregoing, the present and continuing right to make claim for, collect and receive all payments therein and other sums payable to or receivable by DelVal under or due to its ownership of any interest in the Investment Agreements, all rights to bring actions and proceedings under the Investment Agreements or for the enforcement thereof, and all rights to do any and all things which DelVal is or may become entitled to do under or due to its



ownership of the Investment Agreements, other than the rights of DelVal to indemnification or payment of expenses under the Investment Agreement; and

**GRANTING CLAUSE FOURTH**

All right, title and interest of DelVal in the Participant Credit Enhancement;

**GRANTING CLAUSE FIFTH**

All moneys and securities (including the investment income therefrom) and all other property of every kind and of every name and nature which are now or from time to time hereafter, by delivery or by writing of any kind, pledged, assigned or transferred as and for security hereunder to the Trustee by DelVal or by anyone on its behalf, or with its written consent or as otherwise permitted hereunder, and all cash and securities now or hereafter held in the Funds (excluding the Rebate Fund and the Discretionary Fund to the extent provided in the Covenant Agreement) created or established under this Indenture, and all investment earnings thereon; and

**GRANTING CLAUSE SIXTH**

All right, title and interest of DelVal in all Credit Facilities.

**TO HAVE AND TO HOLD** all and singular the Trust Estate, whether now owned or hereafter acquired, unto the Trustee and its respective successors in trust and assigns forever, such Trust Estate to be held by the Trustee as provided in this Indenture; subject, however, to the terms and provisions of this Indenture and the Loan Agreements permitting the application thereof for the purposes provided herein and therein, for (i) the equal and pro rata benefit and security of each and every Bondholder, Credit Facility Provider and the Swap Counterparty for the payment by DelVal of Swap Payments without preference, priority or distinction as to participation in the lien, benefit and protection hereof for any other reason whatsoever, except as herein otherwise expressly provided or as provided in a Supplemental Indenture, so that each and all of such Bonds and Swap Payments shall have the same right, lien and privilege under this Indenture and shall be equally secured hereby with the same effect as if the same had all been made, issued and negotiated simultaneously with the delivery hereof; (ii) the payment of the fees and expenses of the Trustee, the Administrator and DelVal; and (iii) the payment of Termination Payments from moneys from time to time in the Discretionary Fund, subject and subordinate to the payment of (i) and (ii) hereof.

**AND IN FURTHERANCE OF THE FOREGOING**, but subject to the foregoing provisions of these granting clauses and the further provisions of this Indenture, DelVal hereby unequivocally authorizes and empowers the Trustee, as appropriate, in its own name, or in the name of its nominee, or in the name of, or as attorney-in-fact for, DelVal, to ask, demand, sue for, collect and receive any and all payments to which DelVal is or may become entitled under any of the Loan Agreements, or other collateral, and to ensure compliance by each and every party to each and every such agreement or contract with all or any of the terms and provisions thereof to which such person is a party;

**AND PROVIDED, FURTHER**, the Trustee agrees to accept receipt of and hold subject to the provisions hereof each executed Loan Agreement and declares and agrees that it holds and

shall hold as fiduciary for the sole benefit of the Bondholders, the Trustee, the Credit Facility Provider, the Swap Counterparty, if any, and the others entitled to the benefits thereof, such Loan Agreements;

**PROVIDED, HOWEVER,** that if (i) DelVal shall pay or cause to be paid the principal of and interest on all of Bonds at the times and in the manner provided in the Bonds, or shall provide for the payment thereof in accordance with Article IX hereof, and shall otherwise comply with Article IX hereof, and all amounts owing to Credit Facility Providers and all Swap Payments and Termination Payments have been made by DelVal to the Swap Counterparty, if any, and (ii) all amounts due to the Trustee have been paid or provision for payment thereof satisfactory to the Trustee shall have been made, then the lien of this Indenture shall cease, terminate and be void as provided in Article IX hereof, otherwise this Indenture shall be and remain in full force and effect; and

**THIS TRUST INDENTURE FURTHER WITNESSETH,** and it is expressly declared that all Bonds issued and secured hereunder are to be issued, authenticated and delivered, and all said property, rights and interest, including, without limitation, the amounts hereby assigned and pledged, are to be dealt with and disposed of, under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes hereinafter expressed, and DelVal has agreed and covenanted, and does hereby agree and covenant, with the Trustee and the respective Bondholders, from time to time, of Bonds, as follows:

**ARTICLE I  
DEFINITIONS AND RULES OF INTERPRETATION**

**Section 1.01 Definitions.**

Terms defined in the recitals shall have the meanings set forth therein. The following words and phrases shall have the following meanings, unless the context otherwise requires.

**“Accountant” or “Accountants”** means an independent certified public accountant or a firm of independent certified public accountants to whom the Trustee makes no objection.

**“Acquisition Fund”** means the fund by that name created pursuant to Section 5.02 hereof.

**“Acquisition Fund Termination Date”** means, with respect to a Series of Bonds, (i) the date set forth in the Supplemental Indenture executed in connection with the issuance of such Series of Bonds, unless extended as a result of DelVal’s receipt of a Favorable Opinion of Bond Counsel or (ii) the date that DelVal determines that the proceeds deposited in the Acquisition Fund are no longer reasonably expected to be required for the Loan Program.

**“Administrative Expenses”** means any expenditures of DelVal reasonably and necessarily incurred by DelVal by reason of its issuance of Bonds or for the Program, as determined by the Administrator, including, without limitation, Compliance Charges, auditing fees and expenses, Extraordinary Payments, non-asset bond costs, costs associated with rebate compliance, the fees and expenses of the Trustee, the Administrator and the Rebate Analyst, all other legal, financing and administrative expenses incurred by DelVal with respect to the Program, including the fees, costs and expenses of any Credit Facility Provider and/or Participant Credit Enhancer, the maintenance of prudent levels of liquidity to provide sufficient levels of operating cash flow, as determined by the Administrator and any expenses incurred by DelVal or the Trustee to compel full and punctual performance of all the provisions of this Indenture, the Loan Agreements or the Participant Notes.

**“Administrator”** means the Program Administrator, initially Calhoun, Baker Inc., and any successor Administrator (which may include DelVal) duly appointed by DelVal and acting as Administrator hereunder; provided, however if DelVal is the Administrator, it may hereafter delegate to any person, firm or corporation qualified to do business in the Commonwealth of Pennsylvania as servicing agent, any of the duties and responsibilities of the Administrator hereunder, upon written notice thereof to the Trustee.

**“Agency Obligations”** means direct obligations (including bonds, notes or certificates of participation) of, or obligations the timely payment of the principal of and the interest on which are unconditionally guaranteed by, any agency or instrumentality of the United States of America.

**“Authorized Denomination”** means the denominations for a Series of Bonds as set forth in a Supplemental Indenture.

**“Authorities Act”** means the Pennsylvania *Municipality Authorities Act, 53 Pa. C.S. Ch. 56.*

**“Authorized Officer”** means (a) in the case of DelVal, any person or persons designated to act on behalf of DelVal, and when used with reference to any act or document also means any officer of DelVal authorized by resolution of DelVal to perform such act or execute such document; (b) in the case of the Administrator, shall mean the person or firm designated in an instrument executed by DelVal and the Administrator and filed with the Trustee specifying the authority and scope of authorization for such person to act and to execute documents on behalf of the Administrator; (c) in the case of a Participant, any person or persons authorized pursuant to the charter, an ordinance, or a resolution of the governing body of such Participant to perform such act or execute such document; and (d) in the case of the Trustee, any President, Vice President, any Assistant Vice President, any Trust Officer or any Assistant Trust Officer thereof, and when used with reference to any act or document also means any other person authorized to perform such act or execute such document by or pursuant to the charter, by-laws or a resolution of the governing board thereof.

**“Bankruptcy Code”** means the *United States Bankruptcy Code*, Title 11 of the *United States Code*, or similar bankruptcy or insolvency act.

**“Bankruptcy Counsel”** means any counsel nationally recognized in bankruptcy matters that is independent of DelVal and the Participants and is reasonably acceptable to the Trustee.

**“Bond” or “Bonds”** means all Bonds issued under and secured by this Indenture.

**“Bond Counsel”** means Eckert Seamans Cherin & Mellott, LLC or any law firm subsequently designated by DelVal having a reputation in the field of municipal law whose opinions are generally accepted by purchasers of municipal bonds and which is reasonably acceptable to the Trustee.

**“Bondholder” or “holder of Bonds” or “Holder” or “Owner” or “Owner of Bonds”** means, except for certain purposes described in Section 12.02 hereof, (i) in the event that the book-entry system of evidence and transfer of ownership is employed pursuant to Section 2.07, Cede & Co., as nominee for DTC, or its successors, and (ii) in all other cases, the registered owner of any Bond.

**“Bond Purchase Agreement”** means an agreement between DelVal and an Underwriter providing for the purchase by the Underwriter of a Series of Bonds upon payment of the purchase price and satisfaction of the conditions set forth therein for the initial issuance thereof, as set forth in a Supplemental Indenture.

**“Bond Year”** means, when used in the context of the rebate requirement imposed under Section 148(f) of the *Code* with respect to a Series of Bonds, each one-year period beginning on the day after the expiration of the preceding Bond Year (except that the last Bond Year shall end on the date on which a particular Series of Bonds mature). The first Bond Year shall be the period beginning on the date on which a Series of Bonds is issued and ending on the one-year anniversary date of the Closing of a Series of Bonds.

**“Business Day”** means (i) any day other than (a) a Saturday or Sunday, (b) a day on which commercial banks in New York, New York, or the city or cities in which the corporate trust office

of the Trustee is authorized by law or executive order to close or (c) a day on which the New York Stock Exchange is closed or (ii) as determined in a Supplemental Indenture.

**“Cede & Co.”** means Cede & Co., the nominee of DTC or any successor nominee of DTC with respect to the Bonds.

**“Certificate,” “statement,” “request,” “requisition” and “order”** mean, respectively, a written certificate, statement, request, requisition or order signed in the name of DelVal, the Trustee or a Participant by an Authorized Officer of DelVal, the Trustee or such Participant, respectively. 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 instruments so combined shall be read and construed as a single instrument.

**“Closing”** means the date on which a Participant executes and delivers a Loan Agreement and proceeds of Bonds are transferred from the Acquisition Fund.

**“Code”** means the *Internal Revenue Code of 1986*, as amended, and the regulations promulgated or proposed thereunder.

**“Commencement Date”** means the date when the term of a Loan Agreement begins and the obligation of the Participant thereunder to make Repayments begins to accrue. A Loan Agreement shall begin on the date that the proceeds thereof are disbursed to the Participant.

**“Commonwealth”** means the Commonwealth of Pennsylvania.

**“Compliance Charges”** mean amounts payable by the Participants under the Loan Agreements and Participant Notes in respect of compliance with the disclosure requirements of Rules 10b-5 and 15c2-12 of the Securities and Exchange Commission.

**“Continuing Disclosure Agreement”** means any agreement under which DelVal agrees to provide annual financial information to the municipal markets in accordance with the requirements of Rule 15c2-12 promulgated under the *Securities and Exchange Commission Act of 1934*, as amended and supplemented from time to time.

**“Cost”** means cost, as defined in the *Debt Act* and herein, including but not limited to cost of the acquisition of all lands, structures, rights-of-way, franchises, easements and other property rights and interests acquired by DelVal or a Participant for a Project; the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated; the cost of all labor, materials, machinery and equipment, financing charges, interest prior to and during construction and for such a limited period after completion of such construction as may be approved by DelVal (not to exceed one year after completion of the Project); the cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of costs and revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing a Project, Administrative Expenses; DelVal fees and such other expenses as may be necessary or incident to the construction of a Project, the financing of such construction and the placing of such Project in operation.

**“Cost of Issuance Fund”** means the fund by that name created by Section 5.02 hereof.

**“Counsel”** means (a) an attorney at law or firm of attorneys at law (who may be, without limitation, of counsel to or an employee of, DelVal, the Trustee, or any Participant) duly admitted to practice law before the highest court of any state or (b) any other counsel satisfactory to DelVal and the Administrator.

**“Covenant Agreement”** means that certain undertaking by DelVal for the benefit of all present and future outstanding bond and swap obligations of DelVal dated April 9, 2001, and amended and restated as of April 23, 2002, April 12, 2004, June 28, 2007, and August 3, 2009.

**“Credit Facility”** means individually and collectively, any letter of credit, standby bond purchase agreement, municipal bond insurance policy, financial guaranty policy, or similar instrument provided in connection with the issuance of any Series of Bonds to guarantee the timely payment of principal of and interest on and, if required, tender purchase price of such Series of Bonds optionally or mandatorily tendered for purchase as provided in the Supplemental Indenture authorizing such Series of Bonds.

**“Credit Facility Agreement”** means any agreement with a Credit Facility Provider pursuant to which an Credit Facility is issued.

**“Credit Facility Provider”** means any bank or financial institution that provides a Credit Facility for the Bonds.

**“DCED”** means the Pennsylvania Department of Community and Economic Development.

**“Debt Act”** means the Pennsylvania *Local Government Unit Debt Act*, 53 Pa. C.S. §§ 8001 et seq.

**“Debt Service Reserve Fund”** means the fund by that name created pursuant to Section 5.02 hereof.

**“Discretionary Fund”** means the fund by that name created pursuant to Section 5.02 hereof.

**“DTC” or “Securities Depository”** means The Depository Trust Company, a limited purpose company organized under the laws of the State of New York, and its successors and assigns.

**“DTC Participant” or “DTC Participants”** means securities brokers and dealers, banks, trust companies and clearing corporations that have access to the DTC system.

**“DelVal”** means the Delaware Valley Regional Finance Authority.

**“Eligible Investment”** means, at the time of the making or purchase thereof, (i) for investments with a maturity or option to tender of 360 days or less, a rating of “A-1” or “A-1+”

by S&P, “P-1” or “VMIG 1” by Moody’s, “F1” or “F1+” by Fitch Ratings, or an equivalent rating by any other NRSRO with a published rating on the Bonds and (ii) for investments with a maturity or option to tender of more than 360 days, counterparty or equivalent ratings of “Aa3” or higher by Moody’s, “AA-” or higher by S&P or Fitch, or an equivalent rating by any other NRSRO with a published rating on the Bonds.

(a) The following are permitted for all purposes, including defeasance investments in refunding escrow accounts:

- (i) Cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in Paragraph (b) below), or
- (ii) Direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America.

(b) The following are permitted for all purposes other than defeasance investments in refunding escrow accounts:

- (i) U.S. dollar denominated deposit accounts, federal funds and bankers’ acceptances with domestic commercial banks;
- (ii) Commercial paper;
- (iii) Investments in a money market fund rated “AAAm” or “AAAm-G” or better by S&P, “Aaa-mf” by Moody’s, “AAAmmf” by Fitch, or an equivalent rating by any other NRSRO with a published rating on the Bonds (without regard to whether the Trustee controls such money market fund);
- (iv) Bonds or notes issued by federal agencies, state or local governments, or financial institutions or other corporations;
- (v) Investment agreements with an Investment Agreement Provider, approved in writing by the Administrator, supported by appropriate opinions of Counsel; and
- (vi) Other forms of investments, including repurchase agreements, approved in writing by the Administrator.

(c) The value of the above investments shall be determined by the Trustee or by a pricing service selected by the Trustee as of the end of each month,

“**Event of Default**” shall have (i) the meaning set forth in Section 10.01 hereof or (ii) as set forth in a Supplemental Indenture with respect to a Series of Bonds secured by a Credit Facility.

**“Extraordinary Payment”** means (a) any arbitrage rebate payments that may be required in connection with a subsequent change in the interpretation or application of federal tax law to Bonds or (b) payments made pursuant to a negotiated closing agreement reached with the Internal Revenue Service in order to maintain the tax-exempt status of interest on Bonds.

**“Favorable Opinion of Bond Counsel”** means, when used with respect to or in connection with any action, a written opinion of Bond Counsel or Special Tax Counsel to the effect that such action or failure to take action shall not adversely affect the excludability of interest paid on Bonds or a Series of Bonds from gross income for federal or Commonwealth income tax purposes.

**“Fitch”** means Fitch Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, Fitch shall be deemed to refer to any other NRSRO designated by DelVal, by notice to the Trustee.

**“Fixed Rate Loan”** means Loans that bear interest at a fixed rate as calculated by the Administrator.

**“Funds”** means the funds and accounts created pursuant to Article V hereof.

**“Government Obligations”** means any of the following which at the time of investment are legal investments under the laws of the Commonwealth for the moneys proposed to be invested therein: direct general obligations of, or obligations the timely payment of the principal of and interest on which is unconditionally guaranteed by, the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America).

**“Gross Proceeds”** shall have the meaning set forth in Section 148 of the *Code*.

**“Guarantee”** means a guarantee of timely Repayments of a Participant executed by a Guarantor.

**“Guarantor”** means a Local Government Unit that pledges its full faith, credit and taxing power to guarantee the Repayments of a Participant.

**“Indenture”** means this Trust Indenture, including the Exhibits hereto, and all Supplemental Indentures.

**“Initial Amount”** means the initial principal amount of a Loan.

**“Interest Payment Date”** means each date for the payment of interest on a Series of Bonds as set forth in any Supplemental Indenture with respect to the issuance of a series of Bonds.

**“Interest Rate Management Plan”** means the plan that analyzes the benefits and risks of interest rate swap agreements, as such term is defined in the *Debt Act*.



**“Investment Agreement”** or **“Investment Agreements”** means initially, the Investment Agreement or Investment Agreements entered into on the date of issuance of any Series of Bonds, and any written investment agreement or repurchase agreement relating to a Series of Bonds thereafter entered into by the Trustee at the written direction of DelVal for the purpose of investing moneys deposited in certain of the Funds, which investment agreement or repurchase agreement, and any amendments thereto or replacements thereof, is subject to the approval of DelVal.

**“Investment Agreement Default”** means the failure of the provider of the Investment Agreement to make the payments required thereunder when due.

**“Investment Agreement Guarantor”** means a financial institution with long-term, senior, unsecured debt ratings (or equivalent ratings) of “Aa3” or higher by Moody’s, “AA–” or higher by S&P or Fitch, or an equivalent rating by any other NRSRO with a published rating on the Bonds, that guarantees the obligations of the Investment Agreement Provider.

**“Investment Agreement Provider”** means a financial institution with long-term, senior, unsecured debt ratings (or equivalent ratings) of “Aa3” or higher by Moody’s, “AA–” or higher by S&P or Fitch, or an equivalent rating by any other NRSRO with a published rating on the Bonds, or with a guaranty from an Investment Agreement Guarantor, which provides an Investment Agreement.

**“Liquidation Proceeds”** means amounts received by the Trustee or DelVal in connection with enforcement of any of the remedies under a Loan Agreement after the occurrence of a Loan Agreement Default which has not been waived or cured.

**“Loan”** means a loan of a portion of the proceeds of Bonds to a Participant pursuant to the terms of a Loan Agreement, through the purchase by DelVal of the Participant Note evidencing the Participant’s obligations to repay principal and interest on such loan.

**“Loan Agreement”** means an agreement which is entered into by DelVal and a Participant pursuant to this Indenture, and which is in form and substance similar to the form set forth as “Exhibit A” hereto, except to the extent modified pursuant to Section 6.08 and Article XIII hereof or pursuant to a Supplemental Indenture, and any loan agreement originated by DelVal under any other Indenture and purchased by the Trustee.

**“Loan Agreement Default”** means any event of default, as therein defined, under a Loan Agreement.

**“Loan Agreement Term”** means the term of a Loan Agreement provided for in such Agreement.

**“Loan Documents”** means all of the approvals, agreements, certificates, and schedules required for the closing of a Loan, including the (i) the approvals of the Administrator, DelVal Board, DCED, Participant Credit Enhancer (if any), Swap Counterparty (if required), and Credit Facility Provider (if any); (ii) the Participant Ordinance or Participant Resolution; (iii) the Loan Agreement, Participant Note, Participant Continuing Disclosure Agreement, and Participant Tax Compliance Agreement; (iv) Favorable Opinion of Bond Counsel, opinion of DelVal solicitor,

opinion of the Participant's solicitor, and, if applicable, opinion of the Guarantor's solicitor and (v) any other certificates or schedules required by the Administrator or Bond Counsel or required under a Supplemental Indenture.

**“Loan Payment Date”** means the 25<sup>th</sup> day of the month or, if that date is not a Business Day, the next succeeding Business Day.

**“Loan Payment Period”** means, for portions of a Variable Rate Loan, the period beginning on the first Thursday of the month (except for the first Loan Payment Period which shall begin on the date of the closing of the Loan) and ending on the first Wednesday of the subsequent month and shall mean, for portions of a Fixed Rate Loan, the period beginning on the 25<sup>th</sup> day of the month (except for the first Loan Payment Period which shall begin on the day of the closing of the Loan) and ending on, and including, the 24<sup>th</sup> day of the subsequent month.

**“Loan Prepayment Date”** means the date that the prepayment of all or a portion of a Loan is received.

**“Loan Principal”** means the principal amount of the Loan payable in the amounts and on the dates set forth in the Participant Note.

**“Loan Program”** means the program established by DelVal for financing the Projects of Local Government Units in the Counties by the issuance of the Bonds.

**“Maximum Rate”** means the lesser of (a) the highest interest rate that may be borne by the Loans under Commonwealth law, and (b) 15% per annum.

**“Monthly Finance Charge”** means the rate, determined by the Administrator, representing each Participant's allocable share of the Administrative Expenses.

**“Moody's”** means Moody's Investors Service, a corporation organized and existing under the laws of the State of Delaware, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, Moody's shall be deemed to refer to any other NRSRO designated by DelVal, by notice to the Trustee.

**“Municipal Obligations”** means obligations of state or local governments, the interest on which is excluded from gross income for federal income tax purposes under the provisions of Section 103 of the Code, which are not private activity bonds under the Code, and which are either not callable or redeemable prior to maturity or are pre-refunded pursuant to an irrevocable agreement providing for payment thereof at maturity or at a redemption date as to which irrevocable instructions have been given for redemption thereof on such date.

**“Municipal Swap Index”** means the rate of interest established as the weekly high grade market index comprised of 7-day tax-exempt variable rate demand obligations, published weekly and reset each Thursday by the Securities Industry and Financial Markets Association (“SIFMA”) as the Municipal Swap Index, and in the event such rate is no longer determined, any replacement thereof established in the Swap Agreements or approved by the Administrator.

**“Nationally Recognized Statistical Rating Organization”** or **“NRSRO”** means a rating agency that meets professional requirements of and is registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization.

**“Net Proceeds”** shall have the meaning set forth in and the amount determined pursuant to § 149(f)(2)(c) of the *Code* to which amount so determined shall be added earnings on the Net Proceeds to any applicable calculation date.

**“Opinion of Counsel”** means an opinion in writing of Counsel.

**“Optional Prepayment Price”** means the principal amount of a Participant Note plus accrued interest thereon to the date of prepayment, plus premium, if any, and any Termination Charge in connection with such optional prepayment, pursuant to the provisions of Section 6.01 of a Loan Agreement which a Participant may pay the Trustee in order to prepay in whole or in part its Repayments and Termination Charges. Payment of the Optional Prepayment Price shall not discharge the Participant from its obligations to make payments of any Administrative Expenses or Compliance Charges which are accrued and unpaid as of the date of such prepayment.

**“Outstanding”** or **“Bonds Outstanding”** means the sum of the principal amount of Bonds or a Series thereof which have been authenticated and delivered by the Trustee under this Indenture except: (a) Bonds or a Series thereof canceled or purchased by or delivered to the Trustee for cancellation pursuant to the provisions of this Indenture; (b) Bonds or a Series thereof that have become due (at maturity or on redemption, acceleration or otherwise) and for the payment, including interest accrued to the due date, of which sufficient moneys are held by the Trustee; (c) Bonds or a Series thereof deemed paid by Section 9.01 hereof; and (d) Bonds or a Series thereof in lieu of which others have been authenticated under Section 2.07 hereof (relating to registration and exchange of Bonds) or Section 2.06 hereof (relating to mutilated, lost, stolen or destroyed Bonds).

**“Outstanding Balance”** means the outstanding and unpaid principal balance of a Participant Note on a Loan.

**“Participant”** means and includes (i) a Local Government Unit located in the Commonwealth, that is legally authorized to borrow money for a Project under the provisions of the *Debt Act*, that executes a Loan Agreement and Participant Note pursuant to this Indenture and that pledges its full faith, credit and taxing power to guarantee payments of Loan Principal and Participant Interest under the Participant Note and Loan Agreement in accordance with the provisions of the *Debt Act* and otherwise covenants to pay amounts due under a Loan Agreement and a Participant Note, (ii) a political subdivision located in the Commonwealth, that is legally authorized to borrow money for a Project under the provisions of the *Debt Act* or *Authorities Act*, and that executes a Loan Agreement and Participant Note pursuant to this Indenture which Loan Agreement and Participant Note are guaranteed by a Guarantor, in accordance with the provisions of the *Debt Act*, and (iii) a political subdivision located in the Commonwealth, that is legally authorized to borrow money for a Project under the provisions of the *Debt Act* or *Authorities Act*, that executes a Loan Agreement and Participant Note pursuant to this Indenture, and that has a written agreement with a Local Government Unit that will remain in effect for the term of the Loan

Agreement and Participant Note and pursuant to which such Local Government Unit has agreed to pay on a current obligation basis, or otherwise, all amounts necessary to enable such entity to pay, *inter alia*, in each fiscal year thereof all debt service on indebtedness incurred in connection with a Project.

**“Participant Continuing Disclosure Agreement”** means the agreement under which a Participant and its Guarantor, if any, agrees to provide annual financial information to the municipal markets in accordance with the requirements of Rule 15c2-12 promulgated under the *Securities and Exchange Commission Act of 1934*, as amended and supplemented from time to time.

**“Participant Credit Enhancement”** means a municipal bond insurance policy, financial guaranty policy, letter of credit, or other enhancement issued by a Participant Credit Enhancer to secure all or a portion of the Repayments of the Participant under this Loan Agreement and the Participant Note.

**“Participant Credit Enhancer”** means a municipal bond insurer or other financial institution, with at least one claims paying ability rating (or equivalent rating) of “Aa3” or higher from Moody’s, “AA-” or higher from S&P, or the equivalent rating from any other NRSRO.

**“Participant Interest”** means the rate of interest to be paid by the Participant on a Loan, as set forth in a Loan Agreement and a Participant Note.

**“Participant Note”** means the note executed and delivered by each Participant to evidence its obligation to make all payments under a Loan Agreement.

**“Participant Ordinance”** or **“Participant Resolution”** means the ordinance enacted or the resolution adopted by a Participant, in accordance with the provisions of the *Debt Act* or the *Authorities Act*, authorizing the issuance of the Participant Note and the sale thereof to DelVal, and approving the execution and delivery of the Participant’s Loan Agreement.

**“Participant Tax Compliance Agreement”** means a Tax Compliance Agreement between DelVal and a Participant (new money project, refunding project, recycling project or combined new money project and refunding project, as applicable) concerning compliance with the provisions of Section 103(a) of the Code, executed by a Participant in connection with its execution of a Loan Agreement.

**“Paying Agent”** means the Trustee as paying agent for Bonds, or any successor thereto named by DelVal to act as Paying Agent or any paying agent named for a Series of Bonds in a Supplemental Indenture.

**“Payment Date”** means each date upon which a payment is due for principal, interest, or redemption price of a Series of Bonds, and each date upon which a Swap Payment or Termination Payment is due under any Swap Agreements.

**“Permitted Investment Rate”** means that rate determined from time to time by the Rebate Analyst or Bond Counsel to be the permitted arbitrage yield on Bonds or a Series thereof under Section 148 of the Code.

**“Person”** means (a) any individual, (b) any corporation, partnership, limited liability company, joint venture, association, joint-stock company, business trust or unincorporated organization or grouping of any such entities, in each case formed or organized under the laws of the United States of America, any state thereof or the District of Columbia or (c) the United States of America, any state thereof or the District of Columbia, or any political subdivision of any thereof, or any agency, authority or other instrumentality of any of the foregoing.

**“Principal Payment Date”** means each date set forth in a Supplemental Indenture that payment of principal of a Series of Bonds is due and payable, whether at scheduled maturity, upon mandatory sinking fund redemption or upon optional or extraordinary mandatory redemption.

**“Project”** means a project, as defined in the *Debt Act*, and which constitutes the acquisition, extension, erection, improvement, equipping or repair of any buildings, structures, equipment and improvements constituting a capital project of a Participant, all or a portion of the Cost of which is financed or refinanced by DeVal pursuant to this Indenture and a Loan Agreement.

**“Qualified Interest Rate Management Agreement”** shall have the meaning set forth in the *Debt Act*.

**“Rating Agency”** means Moody’s, S&P, Fitch, or any other NRSRO, and their respective successors and assigns, if such agency’s ratings are in effect with respect to the Bonds.

**“Rebate Amount”** means 100% of the amount required to be rebated on Gross Proceeds to the United States Treasury pursuant to Section 148(f)(2) of the Code.

**“Rebate Analyst”** means Calhoun, Baker Inc., or such other law firm or accounting firm appointed by DeVal specializing in federal arbitrage “rebate” matters under Section 148(f) of the Code.

**“Rebate Fund”** means the fund of that name created by Section 5.02 hereof.

**“Record Date”** means dates established for the determination of payment of interest and principal for a Series of Bonds as set forth in a Supplemental Indenture authorizing the issuance of a Series of Bonds.

**“Recycling Fund”** means the fund of that name created pursuant to Section 5.02 hereof.

**“Recycling Fund Termination Date”** means, as set forth in a Supplemental Indenture with respect to the issuance of a Series of Bonds, as to each receipt of Loan Principal of a Loan, (i) the date that DeVal determines that the proceeds deposited in the Recycling Fund are no longer reasonably expected to be required for the Loan Program or (ii) a period of one year following

each repayment of Loan Principal, beginning on the date set forth in such Supplemental Resolution.

**“Redemption Fund”** means the fund created by Section 5.02 hereof.

**“Refunding Bonds”** means any Series of Bonds issued pursuant to Section 2.03 hereof.

**“Repayments”** means the payments of Loan Principal of and Participant Interest on the Participant Notes.

**“Reserve Requirement”** means, as of any date of calculation, the aggregate of all amounts required to be deposited and maintained in the Debt Service Reserve Fund, as set forth in each Supplemental Indenture authorizing the issuance of a Series of Bonds.

**“Revenue Fund”** means the fund of that name created by Section 5.02 hereof.

**“Revenues”** means any Subsidy Payments and all income, revenues, issues, profits and other sums of money received by DelVal from the Loan Agreements, Participant Notes, Guarantees, Swap Agreements and Participant Credit Enhancement, including, without limitation, all Repayments, Termination Charges, Liquidation Proceeds, Optional Prepayment Prices and Swap Receipts.

**“S&P”** means Standard & Poor’s, a division of The McGraw-Hill Companies, Inc., its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, S&P shall be deemed to refer to any other NRSRO designated by DelVal, by notice to the Trustee.

**“Series”** means each series of Bonds authorized to be issued by a Supplemental Indenture.

**“Special Tax Counsel”** means a law firm, if any, subsequently designated by DelVal having a national reputation in the field of federal taxation of municipal obligations, whose opinions are generally accepted by purchasers of municipal bonds and which is reasonably acceptable to the Trustee.

**“Subsidy Payments”** means all payments or refundable tax credits received by DelVal from the United States of America or any agency or department thereof in connection with any particular Series of Bonds issued hereunder.

**“Supplemental Indenture”** means any supplements or amendments to this Indenture from time to time adopted by DelVal (i) in connection with the issuance of a Series of Bonds or (ii) pursuant to Article XII hereof.

**“Swap Agreements”** means interest rate swap agreements which DelVal may execute, from time to time, with a Swap Counterparty in order to reduce the interest costs of Participants, provide for diversification of risks, or to enhance the ability of Participants to manage their liabilities, approved as to form and substance by (i) the Administrator and (ii) the Credit Facility Provider, if applicable, under the Supplemental Indenture.

**“Swap Counterparty”** means (i) individually and collectively, one or more financial institutions which execute a Swap Agreement and which, at the time of execution of the Swap Agreement, by itself or as a result of a guarantee of a Swap Guarantor, has long-term, senior, unsecured debt ratings from two or more Rating Agencies in the “AA” category (or equivalent ratings) or higher or (ii) any financial institution which (a) replaces an existing Swap Counterparty or (b) is added as an additional Swap Counterparty where the existing Swap Counterparty is not replaced, in either event, under circumstances where any existing Swap Counterparty, whether or not replaced, is unwilling or unable to execute any new Swap Transactions or in the case of (b) is added as an additional Swap Counterparty to, as determined by the Administrator, mitigate counterparty risk by limiting the exposure of DelVal to the Swap Counterparties, which in either case would affect the ability of DelVal to achieve its programmatic objectives of providing variable interest rate and fixed interest rate loans to Participants at the lowest possible cost, which additional Swap Counterparty, at the time of execution of the initial Swap Agreement between such additional Swap Counterparty and DelVal, has long term, senior unsecured debt ratings (or equivalent ratings) from the Rating Agencies which are no lower than the unsecured debt ratings on an existing Swap Counterparty (or its Swap Guarantor).

**“Swap Guarantor”** means (i) a financial institution, which guarantees the obligations of a Swap Counterparty under a Swap Agreement, with long-term, senior, unsecured debt ratings from two or more Rating Agencies in the “AA” category (or equivalent ratings) or higher, at the time of execution of such Swap Agreement and (ii) a financial institution, which guarantees the obligations of a replacement Swap Counterparty or an additional Swap Counterparty described in clause (ii) of the definition of Swap Counterparty, and which, at the time of execution of the replacement or additional Swap Agreement, has long term, senior unsecured debt ratings (or equivalent ratings) from the Rating Agencies which are no lower than the unsecured debt ratings on the Swap Counterparty (or its Swap Guarantor) being replaced or augmented.

**“Swap Payment”** means, under a Swap Agreement, an amount payable to a Swap Counterparty or by a Swap Counterparty equal to the periodic scheduled payments accruing on the notional amount specified in such Swap Agreement at a variable rate or a fixed rate computed in accordance with such Swap Agreement.

**“Swap Payment Date”** means the date on which any payments or receipts are due under any Swap Agreements.

**“Swap Rate”** means the rate based upon which amounts payable by DelVal are determined by or with respect to a Swap Agreement, which rate shall not exceed the Maximum Rate.

**“Swap Receipts”** means, under a Swap Agreement, the amounts payable by a Swap Counterparty as Swap Payments and as Termination Payments in respect of the notional amount specified in such Swap Agreement, at a variable rate or a fixed rate computed in accordance with such Swap Agreement.

**“Swap Transaction”** means an interest rate swap transaction related to the Bonds or a Loan executed by DelVal under a Swap Agreement to (i) hedge DelVal’s exposure to future changes in long term fixed interest rates, (ii) reduce the interest costs and costs of issuance of the

Loan Program, and (iii) enhance the ability of a Participant to manage its liabilities and diversify its risks by converting all or portions of its Loan to a fixed interest rate or a variable interest rate.

**“Tax Compliance Certificate”** means the Tax Compliance Certificate and Agreement of DelVal dated the date of delivery of each Series of Bonds.

**“Termination Charge”** means the rate or charge, determined by the Administrator, representing a Participant’s allocable share of any Termination Payment paid by DelVal to a Swap Counterparty.

**“Termination Payment”** means an amount payable by DelVal or the Swap Counterparty upon the early termination of a Swap Agreement.

**“Underwriter”** means, individually and collectively, the purchasers of a Series of Bonds pursuant to a Bond Purchase Agreement.

**“Variable Rate Loan”** means Loans which bear interest at a variable rate, as calculated by the Administrator.

**“Yield Reduction Payment” or “Yield Reduction Amount”** means any amount paid to the United States to reduce the yield on Investment Property (as defined in the *Code*) for yield restriction purposes pursuant to Treas. Reg. § 1.148-5(c).



## **Section 1.02 Rules of Interpretation.**

For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(a) This Indenture means this instrument as originally executed and as it may from time to time be supplemented or amended pursuant to the applicable provisions hereof.

(b) All references in this instrument to designated articles, sections and other subdivisions are to the designated articles, sections and other subdivisions of this instrument as originally executed, and as supplemented or amended. The words herein, hereof, hereunder, and herewith and other words of similar import refer to this Indenture as a whole and not to any particular article, section or other subdivision.

(c) The terms defined in Article I have the meanings assigned to them in this Article and include the plural as well as the singular.

(d) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles.

(e) The terms defined elsewhere in this Indenture have the meanings therein ascribed to them.

(f) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(g) The headings used in this Indenture are for convenience of reference only and shall not define or limit the provisions hereof.

(h) Terms in the singular include the plural and vice-versa.

(i) All references herein to time shall be time at the location of the designated corporate trust office of the Trustee, unless otherwise expressly stated and all references to time shall refer to prevailing Eastern Time.

(j) Except as expressly so stated in a Supplemental Indenture, all definitions set forth in this Indenture shall be applicable to such Supplemental Indenture.

**ARTICLE II  
AUTHORIZATION AND ISSUANCE OF BONDS**

**Section 2.01 Authorization and Provisions for Issuance of Bonds**

This Indenture and the issuance of Bonds hereunder have been duly authorized by DelVal and the principal amount of Bonds that may be issued hereunder is not limited, except as provided by law. Series of Bonds issued hereunder shall be known and designated as “Delaware Valley Regional Finance Authority Local Government Revenue Bonds, Series \_\_\_\_\_.” The issuance and sale of a Series of Bonds shall be provided in a Supplemental Indenture.

Before any Series of Bonds (other than Refunding Bonds, which shall be issued pursuant to Section 2.03 of this Indenture) shall be authenticated and delivered by the Trustee, there shall be on file with the Trustee the following:

- (a) A copy, duly certified by an Authorized Officer, of this Indenture;
- (b) An Opinion of Bond Counsel stating that (i) the issuance of such Series of Bonds has been duly and validly authorized by DelVal, (ii) this Indenture, as supplemented by the applicable Supplemental Indenture, has been duly adopted and is in full force and effect, (iii) all conditions precedent to the delivery of such Series of Bonds contained in this Indenture have been fulfilled, and (iv) such Series of Bonds and this Indenture and such Supplemental Indenture are valid and binding obligations of DelVal;
- (c) A request and authorization to the Trustee on behalf of DelVal, signed by an Authorized Officer, to authenticate and deliver such Series of Bonds to the purchaser or purchasers, therein identified, upon payment to the Trustee for the account of DelVal of the purchase price therefor;
- (d) A copy of the Supplemental Indenture authorizing such Series of Bonds including, if provided for in such Supplemental Indenture:
  - (i) The aggregate principal amount and the designation and the Series of such Bonds;
  - (ii) The dated date of such Series of Bonds;
  - (iii) The designation of serial or term Bonds or the methodology for making such designation;
  - (iv) The Record Date for such Series of Bonds;
  - (v) The designation of such Bonds as taxable Bonds or tax-exempt Bonds;
  - (vi) If such Bonds are tax-exempt Bonds, the designation of the Bond Year;

- (vii) The amounts and years in which the Bonds of such Series shall mature;
- (viii) The Authorized Denominations of such Series of Bonds;
- (ix) The redemption price of prices, if any, and, the redemption terms for the Bonds of such Series;
- (x) The sinking fund requirements for any term Bonds;
- (xi) The interest rate or rates of the Bonds of such Series or the method of determining such interest rate or rates;
- (xii) The Credit Facility, if any, and provisions relating thereto, for such Series;
- (xiii) The amounts to be deposited from the proceeds of such Series of Bonds in the Funds and accounts, created and established by this Indenture and the Supplemental Indenture, including the amount of the Debt Service Reserve Fund Requirement, if any, for such Series of Bonds and whether such amount is to be funded other than by cash;
- (xiv) The Reserve Requirement for Bonds; and
- (xv) Other terms and conditions, if any, of the Series Bonds deemed advisable by DeVal.

(e) Such amounts to be deposited in the Funds and accounts held by the Trustee as shall be specified in the Supplemental Indenture authorizing such Series of Bonds;

(f) A Certificate of DeVal stating that DeVal is not in default in the performance of any of the covenants, conditions, agreements or provisions contained in this Indenture;

(g) Written confirmation from the Rating Agency that the issuance of such Series of Bonds will not adversely affect the then existing ratings of any Outstanding Bonds previously issued under this Indenture;

(h) Such further documents and moneys as are required by the provisions of the Supplemental Indenture authorizing such Series of Bonds.

When the documents set forth in this Section 2.01 shall have been filed with the Trustee and when the Bonds described in the Supplemental Indenture mentioned in clause 2.01(d) herein shall have been executed and authenticated as required by this Indenture, the Trustee shall deliver such Bonds at one time to or upon the order of the purchaser or purchasers or designees named in the request and authorization mentioned in clause 2.01(c), but only upon payment to the

Trustee of the purchase price of the Series of Bonds. The Trustee shall be entitled to rely upon such request and authorization as to the amount of such purchase price.

Simultaneously with the delivery of Bonds, the Trustee shall deposit or credit the proceeds of the Bonds into the Funds as directed herein or in the applicable Supplemental Indenture.

## **Section 2.02 Issuance of the Bonds.**

The Bonds shall be issuable only as fully-registered bonds, without coupons, in Authorized Denominations.

The principal amount or the redemption price of Bonds, as the case may be, shall be payable at the principal corporate trust office of the Trustee or its successor, upon presentation and surrender of the Bonds. Payments of interest on the Bonds shall be mailed to the persons in whose names the Bonds are registered on the books of the Trustee at the close of business on the Record Date next preceding each Interest Payment Date; provided that a Bondholder in an aggregate principal amount of at least \$1,000,000 may, by prior written instructions filed with the Trustee (which instructions shall include an agreement to pay the Trustee's reasonable charges in connection therewith, and which instructions shall remain in effect until revoked by subsequent written instructions), direct that interest payments for any period be made by wire transfer to an account in the continental United States or other means acceptable to the Trustee.

If the date for payment of the principal of, premium, if any, or interest on Bonds shall not be a Business Day, then the date for such payment shall be the next succeeding day which is a Business Day, and payment on such date shall have the same force and effect as if made on the nominal date of payment.

## **Section 2.03 Refunding Bonds.**

Refunding Bonds may be issued under and secured by this Indenture, subject to the conditions hereinafter provided in this Section 2.03, from time to time, for the purpose of providing funds, together with any other available funds, for (i) redeeming (or purchasing in lieu of redemption) prior to their maturity or maturities, or retiring at their maturity or maturities, all or any part of the Outstanding Bonds of any Series, including the payment of any redemption premium thereon (or premium, to the extent permitted by law, included in the purchase price if purchased in lieu of redemption), refunding or defeasing any other obligations issued by DelVal, including any or all interest and redemption premium thereon; (ii) making any required deposits to the Debt Service Reserve Fund; (iii) if deemed necessary by DelVal, paying the interest to accrue on the Refunding Bonds or other obligations of DelVal being refunded; and (iv) paying any expenses in connection with such refunding. Before any Refunding Bonds shall be issued and authenticated by the Trustee under the provisions of this Section 2.03, there shall be delivered to the Trustee:

- (a) all of the documents and moneys referred to in Section 2.01;

(b) if all or part of Bonds to be refunded or the other obligations of DelVal to be refunded are to be redeemed prior to maturity, irrevocable instructions from an Authorized Officer of DelVal to the Trustee to redeem the applicable Bonds or applicable other obligations of DelVal;

(c) if the Bonds or other obligations of DelVal to be refunded are not to be redeemed within the next succeeding ninety (90) days after delivery of the Refunding Bonds, irrevocable instructions to the Trustee to duly mail notice that such Bonds or other obligations of DelVal to be refunded, have been refunded, to those persons listed in and in the manner provided for in Section 3.03 hereof or as provided in a Supplemental Indenture;

(d) either (i) moneys in an amount sufficient to effect payment at the applicable redemption price of Bonds or other obligations of DelVal to be refunded, together with accrued interest on such Bonds or other obligations to be refunded to the date fixed for their redemption, which moneys shall be held by the Trustee in a separate account irrevocably in trust for and assigned to the respective Bondholders of the Bonds or other obligations to be refunded, or (ii) Eligible Investments listed in clause (a) of the definition thereof in such principal amounts, of such maturities, bearing such interest, and otherwise having such terms and qualifications, as shall be necessary to comply with the provisions of Section 9.01(b) and any moneys required pursuant to said section, which Eligible Investments and moneys shall be held in trust and used only as provided in said section; and

(e) such further documents and moneys as are required by the provisions of the Supplemental Indenture authorizing the Refunding Bonds.

When the documents set forth in this Section shall have been filed with the Trustee and when the Refunding Bonds described in the Supplemental Indenture mentioned in clause 2.01.(d) hereof shall have been executed and authenticated as required by this Indenture, the Trustee shall deliver such Refunding Bonds at one time to or upon the order of the purchaser or purchasers named in the request and authorization mentioned in clause 2.01(c) hereof, but only upon payment to the Trustee of the purchase price of such Refunding Bonds. The Trustee shall be entitled to rely upon such request and authentication as to the amount of such purchase price.

The proceeds of such Refunding Bonds shall, to the extent practicable, be invested and reinvested by the Trustee, with the approval of DelVal, in Eligible Investments, and the moneys so invested shall be available for use when required. The income derived from such investments shall be added to such proceeds and applied in accordance with the provisions of this Section 2.03.

#### **Section 2.04 Execution.**

Bonds shall be executed on behalf of DelVal with the manual or facsimile signature of the Chairman or Vice-Chairman, and shall have impressed or imprinted thereon, by facsimile or otherwise, the official seal of DelVal and shall be attested with the manual or facsimile signature of DelVal's Secretary or Assistant Secretary. In case any officer of DelVal whose signature or whose facsimile signature shall appear on Bonds shall cease to be such officer before the delivery

of such Bonds, such signature or facsimile signature shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery.

**Section 2.05 Authentication.**

No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Indenture unless and until a certificate of authentication on such Bond, substantially in the form set forth in the Supplemental Indenture authorizing such Bond, has been duly executed and dated by the Trustee, and such executed certificate of the Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Indenture as of the date of authentication shown thereon. The Trustee's certificate of authentication on any Bond shall be deemed to have been executed by it if signed and dated by an authorized officer or signatory of the Trustee, but it shall not be necessary that the same officer or signatory sign and date the certificate of authentication on all of the Bonds.

**Section 2.06 Mutilated, Lost, Stolen or Destroyed Bonds; Undelivered Bonds.**

(a) If any Bond is mutilated, lost, stolen or destroyed, DeVal shall execute and the Trustee shall authenticate a new Bond of the same maturity and denomination as that Bond mutilated, lost, stolen or destroyed; provided that in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to DeVal and the Trustee evidence of such loss, theft or destruction satisfactory to DeVal and the Trustee, together with an indemnity satisfactory to them. In the event any such Bond shall have matured or been called for redemption, instead of issuing a duplicate Bond, DeVal may pay or cause to be paid the same upon receipt of the aforesaid indemnity. DeVal and the Trustee may charge the owner of such Bond for their reasonable fees and expenses in connection with replacing any Bond mutilated, lost, stolen or destroyed.

(b) Every new Bond issued pursuant to this Section shall (i) constitute the same contractual obligation of DeVal as the mutilated, lost, stolen or destroyed Bond, and (ii) be entitled to all of the benefits of this Indenture, equally and proportionally with any and all other Bonds issued and outstanding hereunder.

(c) All Bonds shall be held and owned on the express condition that the foregoing provisions of this Section are exclusive with respect to the replacement or payment of mutilated, lost, stolen or destroyed Bonds and, to the extent permitted by law, shall preclude any and all other rights and remedies with respect to the replacement or payment of negotiable instruments or other investment securities without their surrender, notwithstanding any law or statute to the contrary now existing or enacted hereafter.

## **Section 2.07 Transfer and Exchange of the Bonds; Persons Treated as Bondholders; Book Entry System.**

(a) DelVal shall cause to be kept at the corporate trust office of the Trustee a register for the registration, exchange and transfer of Bonds (the “Bond Register”). DelVal hereby appoints the Trustee its registrar and transfer agent to keep such Bond Register and to make such registrations, exchanges and transfers as set forth herein and in the form of Bonds issued hereunder. DelVal, the Trustee and any other paying agent of DelVal may treat and consider the registered Bondholder of any Bond as the absolute owner thereof for all purposes, any notice to the contrary notwithstanding.

(b) Bonds may be transferred upon delivery to the Trustee of the Bond or Bonds to be transferred, accompanied by a written instrument of transfer in form and with guaranty of signature satisfactory to the Trustee, duly executed by the registered Bondholder of such Bond or Bonds or his duly authorized representative, containing written instructions of transfer. No transfer of any Bond shall be effective until entered in the Bond Register. Bonds may be exchanged for Bonds of the same maturity and of authorized denomination or denominations in the same aggregate principal amount and bearing the same rate of interest. No exchange or transfer shall be required to be made (i) during a period beginning 15 days prior to the date of mailing of any notice of redemption of Bonds and ending on the day of such redemption or (ii) for any Bonds so selected for redemption in whole or in part.

In all cases of the transfer of Bonds, the Trustee shall enter the transfer of ownership in the registration books and shall authenticate and deliver in the name of the transferee or transferees a new fully registered Bond or Bonds of Authorized Denominations of the same maturity and interest rate for the aggregate principal amount which the registered owner is entitled to receive. No transfer of any Bond shall be effective until entered on the registration books.

(c) (i) Notwithstanding the foregoing provisions of this Article II, each Series of Bonds shall initially be issued in the form of one or more fully-registered bonds for the aggregate principal amount of the Bonds of each Series and maturity, which Bonds shall be registered in the name of Cede & Co., as nominee of DTC. Except as provided in Subparagraph (vii) below, all of the Bonds shall be registered in the registration books kept by the Trustee in the name of Cede & Co., as nominee of DTC; provided that if DTC shall request that the Bonds be registered in the name of a different nominee, the Trustee shall exchange all or any portion of the Bonds for an equal aggregate principal amount of Bonds registered in the name of such nominee or nominees of DTC. No person other than DTC or its nominee shall be entitled to receive from DelVal or the Trustee either a Bond or any other evidence of ownership of the Bonds, or any right to receive any payment in respect thereof unless DTC or its nominee shall transfer record ownership of all or any portion of the Bonds on the registration books maintained by the Trustee, in connection with discontinuing the book entry system as provided in Subparagraph (vii) below or otherwise.

(ii) So long as the Bonds or any Series thereof are registered in the name of DTC, the principal or redemption price of and interest on such Bonds shall be paid to DTC or its nominee in accordance with the provisions of DelVal’s “Letter of Representations” on file with

DTC, on the dates provided for such payments under this Indenture. Each such payment to DTC or its nominee shall be valid and effective to fully discharge all liability of DeVal or the Trustee with respect to the principal or redemption price of or interest on the Bonds to the extent of the sum or sums so paid. In the event of the redemption of less than all of the Bonds Outstanding of any Series or maturity, the Trustee shall not require surrender by DTC or its nominee of the Bonds so redeemed, but DTC (or its nominee) may retain such Bonds and make an appropriate notation on the Bond certificates as to the amount of such partial redemption; provided that DTC shall deliver to the Trustee, in each case, a written confirmation of such partial redemption and thereafter the records maintained by the Trustee shall be conclusive as to the amount of the Bonds of such maturity which have been redeemed.

(iii) DeVal and the Trustee shall treat DTC (or its nominee) as the sole and exclusive Bondholder registered in its name for the purposes of payment of the principal or redemption price of or interest on the Bonds, selecting the Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to Bondholders under this Indenture, registering the transfer of Bonds, obtaining any consent or other action to be taken by Bondholders and for all other purposes whatsoever; and neither DeVal nor the Trustee shall be affected by any notice to the contrary. Neither DeVal nor the Trustee shall have any responsibility or obligation to any participant in DTC, any person claiming a beneficial ownership interest in the Bonds under or through DTC or any such participant, or any other person which is not shown on the registration books of the Trustee as being a Bondholder, with respect to: (A) the Bonds; or (B) the accuracy of any records maintained by DTC or any such participants; or (C) the payment by DTC or any such participant of any amount in respect of the principal or redemption price of or interest on the Bonds; or (D) any notice which is permitted or required to be given to Bondholders under this Indenture; or (E) the selection by DTC or any such participant of any person to receive payment in the event of a partial redemption of the Bonds; or (F) any consent given or other action taken by DTC as a Bondholder.

(iv) So long as the Bonds or any portion thereof are registered in the name of DTC or any nominee thereof, all notices required or permitted to be given to the Bondholders under this Indenture shall be given to DTC as provided in the Letter of Representations.

(v) In connection with any notice or other communication to be provided to Bondholders pursuant to this Indenture by DeVal or the Trustee with respect to any consent or other action to be taken by Bondholders, DTC shall consider the date of receipt of notice requesting such consent or other action as the record date for such consent or other action, provided that DeVal or the Trustee may establish a special record date for such consent or other action. DeVal or the Trustee shall give DTC notice of such special record date not less than 15 calendar days in advance of such special record date to the extent possible.

(vi) Any successor Trustee shall, in its written acceptance of its duties under this Indenture, agree to take any actions necessary from time to time to comply with the requirements of the Letter of Representations.



(vii) The book-entry-only system for registration of the ownership of the Bonds or any Series may be discontinued at any time if either: (A) after notice to DelVal and the Trustee, DTC determines to resign as securities depository for the or any Series Bonds; or (B) after notice to DTC and the Trustee, DelVal determines that continuation of the system of book-entry-only transfers through DTC (or through a successor securities depository) for the Bonds or any Series is not in the best interest of DelVal. In either of such events, unless DelVal appoints a successor securities depository, the Bonds or any Series shall be delivered in registered certificate form to such persons, and in such maturities and principal amounts, as may be designated in writing by DTC, but without any liability on the part of DelVal or the Trustee for the accuracy of such designation. Whenever DTC requests DelVal and the Trustee to do so, DelVal and the Trustee shall cooperate with DTC in taking appropriate action after reasonable written notice to arrange for another securities depository to maintain custody of certificates evidencing the Bonds.

### **Section 2.08 Cancellation of the Bonds.**

All Bonds paid, redeemed or purchased, either at or before maturity, shall be delivered to the Trustee when such payment, redemption or purchase is made, and except as otherwise provided herein, shall be canceled. Whenever any Outstanding Bond shall be delivered to the Trustee for cancellation pursuant to this Indenture, upon payment of the principal amount thereof or for replacement pursuant to Section 2.06 or for transfer or exchange pursuant to Section 2.07 the Trustee shall safeguard such Bond for such period of time as may be required by governmental regulations and thereafter promptly cancel the Bond in accordance with the Trustee's customary procedure.

### **Section 2.09 Temporary Bonds.**

Pending the preparation of definitive Bonds, DelVal may execute and the Trustee shall thereupon authenticate and deliver temporary Bonds. Temporary Bonds shall be issuable as registered Bonds of any Authorized Denomination, and substantially in the form of the definitive Bonds but with such omissions, insertions and variations as may be appropriate for temporary Bonds, all as may be determined by DelVal. Every temporary Bond shall be executed by DelVal and authenticated by the Trustee upon the same conditions, and with like effect, as the definitive Bonds. As promptly as practicable, DelVal shall execute and furnish definitive Bonds and thereupon temporary Bonds may be surrendered in exchange therefor without charge at the principal corporate trust office of the Trustee, and the Trustee shall authenticate and deliver in exchange for such temporary Bonds a like aggregate principal amount of definitive Bonds. Until so exchanged the temporary Bonds shall be entitled to the same benefits under this Indenture as definitive Bonds. It shall not be necessary to prepare definitive Bonds so long as all Bonds are held under the book-entry system described in Section 2.07(c).

## **Section 2.10 Nonpresentment of the Bonds.**

In the event any Bond shall not be presented for payment when the principal or redemption price thereof becomes due, either at maturity, at the date fixed for redemption, or otherwise, or if an interest check shall not be cashed, if funds sufficient to pay such Bond or interest shall have been made available to the Trustee for the benefit of the owner thereof, all liability of DelVal to the owner thereof for the payment of the principal or redemption price of or interest on such Bond, as the case may be, shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such funds, without liability to any Bondholder, any beneficial owner, or any other Person for interest thereon, solely for the benefit of the owner of such Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Indenture or on, or with respect to, said Bond, the principal or redemption price thereof or such interest thereon, as the case may be; provided that any money deposited with the Trustee for the payment of the principal or redemption price of or interest on any Bond and remaining unclaimed for 24 months after such principal or redemption price has become due and payable shall, at the written request of DelVal, be paid to DelVal, and the Bondholder of such Bond or interest, as the case may be, shall thereafter look solely to DelVal for the payment of such moneys; and all liability of the Trustee with respect to such trust money shall also thereupon cease.

## **Section 2.11 Bonds Limited Obligations; Source and Security for Payment.**

The Bonds shall be limited and special obligations of DelVal, payable solely from the Trust Estate (and the Covenant Agreement to the extent provided therein), including amounts paid by the Participants pursuant to the Loan Agreements and Participant Notes, Revenues and moneys available under the terms hereof and investments under the Investment Agreements. The Bonds and the payment thereof shall be solely secured, equally and ratably by the pledge of the Trust Estate set forth in the granting clauses hereof, upon the terms and conditions set forth herein. There shall be no other recourse against DelVal or any incorporator, member, director or officer of DelVal, past, present or future, or any other property now or hereafter owned by it, except the Trust Estate. The Bonds are entitled to the benefits of this Trust Indenture equally and ratably both as to principal and interest with all other Bonds issued hereunder.

The obligation of DelVal under the Credit Facility Agreements, if any, and Swap Agreements, if any, to make Swap Payments shall also be secured by a pledge of the Trust Estate, pari-passu with the Bonds.

No recourse shall be had for the payment of the principal, interest or redemption price of Bonds, or for any claim based thereon or on the Swap Agreements, if any, or on this Trust Indenture, against any incorporator, member, officer or employee, past, present or future, of DelVal or of any successor body as such, either directly or through DelVal or any such successor body, under any constitutional provision, statute or rule of law, or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, all such liability being by the acceptance hereof and, as a material part of the consideration for the issuance of Bonds, expressly waived and released.

DelVal shall not be obligated to pay the principal, interest, or redemption price of Bonds except from the Trust Estate in the manner provided herein and to the extent provided in the Covenant Agreement, and neither the faith and credit nor the taxing power of the Commonwealth of Pennsylvania or any political subdivision thereof, including DelVal, is pledged to the payment of the principal amount, interest, or redemption price of the Bonds. Neither the Commonwealth of Pennsylvania nor any political subdivision thereof nor DelVal nor any Participant shall be obligated to (a) exercise its taxing power to pay the principal or interest on Bonds or the redemption price thereof, or other costs incident thereto, or (b) to pay the same from any other funds except from the Trust Estate in the manner provided herein. It is further agreed between DelVal and the registered owner of each Bond that such Bond and the indebtedness evidenced thereby shall not constitute a lien on any property of DelVal but shall constitute a lien only on the Trust Estate in the manner provided in this Trust Indenture. THE BONDS ARE SOLELY AND EXCLUSIVELY LIMITED, SPECIAL OBLIGATIONS OF DELVAL AND DO NOT CREATE AN OBLIGATION OR DEBT OF DELVAL, THE COMMONWEALTH OF PENNSYLVANIA OR ANY POLITICAL SUBDIVISION THEREOF OR GOVERNMENTAL AGENCY EXISTING UNDER THE LAWS THEREOF WITHIN THE MEANING OF ANY STATUTORY OR CONSTITUTIONAL PROVISION WHATSOEVER.

## **ARTICLE III REDEMPTION OF THE BONDS**

**Section 3.01 Privilege of Redemption and Redemption.** Bonds of a Series shall be subject to redemption prior to maturity as provided in the Supplemental Indenture authorizing such Series of Bonds. The provisions of this Article III shall govern each redemption, unless otherwise provided in the Supplemental Resolution authorizing a Series of Bonds.

### **Section 3.02 Provisions Applicable to Redemption of the Bonds.**

In the event of an extraordinary mandatory redemption, moneys in the Acquisition Fund or the Recycling Fund, as applicable, representing proceeds of the Series of Bonds being redeemed, shall be transferred to the Redemption Fund and shall be applied to redeem Bonds of the Series to be redeemed in Authorized Denominations in the largest principal denomination that is less than or equal to the amount of such moneys; provided that the unrefunded amount of such Bonds is less than \$5,000.

Upon deposit of moneys in the Redemption Fund, the Trustee shall provide notice thereof to the Administrator and request that the Administrator determine the redemption price, on the redemption date, of an original principal amount of the Series of Bonds to be redeemed equal to such deposit.

Except as provided in a Supplemental Indenture, if less than all of a Series Bonds are to be redeemed, DeIVal shall determine the maturities of the Series of Bonds to be redeemed, unless applicable law requires a different method of determination in which event such law shall apply to the method of determination.

DeIVal shall provide for a partial termination of the applicable Swap Agreements, if any, in the notional amount equal to the principal amount of a Series of Bonds to be redeemed, and shall apply any Termination Payment received by the Trustee in respect thereto to the extraordinary mandatory redemption of such Series of Bonds on the redemption date.

### **Section 3.03 Notice of Redemption.**

For Bonds being redeemed, upon written direction of DeIVal, the Trustee shall prepare and send notice of each redemption to each Bondholder whose Bonds are being redeemed, and to the Administrator by first-class mail at least 15 days but not more than 30 days before each redemption date. Each notice shall identify the Bonds or portions thereof to be redeemed and shall state (a) the redemption date, (b) the redemption price, (c) that the Bonds called for redemption must be surrendered to collect the redemption price, (d) the address at which the Bonds must be surrendered, (e) that interest on the Bonds called for redemption ceases to accrue on the redemption date, (f) the CUSIP number of the Bonds and (g) any condition to the redemption.

A copy of each notice of redemption shall also be sent by the Trustee by overnight delivery, telecopy, electronic mail, or certified or registered mail to each securities depository (a

“Depository”) registered with the Securities and Exchange Commission under the *Securities Exchange Act of 1934*, as amended, two Business Days prior to mailing notice to other Bondholders, and to two national information services that disseminate redemption notices, provided that the Trustee may, in the alternative, provide for overnight, telecopied or other form of notice to a Depository acceptable to or requested by such Depository; provided further, that any failure to give the notice required by this paragraph shall not affect the validity of any proceeding for the redemption of Bonds.

The particular Bonds to be called for redemption will be selected by DTC in accordance with its Rules of Procedure so long as DTC or its nominee is the sole registered Bondholder, or if DTC, or its nominee, is not the registered owner, by lot or such other method as the Trustee deems fair and appropriate.

With respect to any Bonds to be redeemed that have not been presented for redemption within 60 days after the redemption date, the Trustee shall prepare and the Trustee shall give a second notice of redemption to the Bondholder of any such Bonds that have not been presented for redemption by first class mail, within 30 days of the end of such 60-day period; provided further, that any failure to give the notice required by this paragraph shall not affect the validity of any proceeding for the redemption of Bonds.

Failure by the Trustee to give any notice of redemption as to any particular Bonds shall not affect the validity of the call for redemption of any Bonds in respect of which no such failure has occurred. Any notice mailed as provided in the Bonds shall be conclusively presumed to have been given whether or not actually received by any Bondholder.

In the event that any Bonds are called for redemption and the amounts required for payment of the redemption prices thereof are not on deposit with the Trustee on the date set for redemption, the Trustee shall notify the registered owners of such Bonds that such redemption has been rescinded, and shall return any Bonds surrendered for redemption to the registered owners thereof; and DeVal, the Trustee and the registered owners shall be restored to their prior position.

### **Section 3.04 Bonds Due and Payable on Redemption Date; Interest Ceases to Accrue.**

On the redemption date, the redemption price of each Bond to be redeemed hereof shall become due and payable; and from and after such date, notice having been given and amounts having been made available and set aside for such redemption, notwithstanding that any Bonds called for redemption shall not have been surrendered, no further interest shall accrue on any Bonds called for redemption. From and after such date of redemption (such notice having been given and such amounts having been made available and set aside for such redemption) the Bonds to be redeemed shall no longer be deemed to be Outstanding hereunder, and DeVal shall be under no further liability in respect thereof.

**ARTICLE IV  
[RESERVED]**

## **ARTICLE V REVENUES AND FUNDS**

### **Section 5.01 [Reserved].**

### **Section 5.02 Creation of Funds.**

There are hereby created by DelVal and ordered established the following Funds and accounts to be held by the Trustee: (a) the Revenue Fund and within the Revenue Fund, a Principal Account, an Interest Account, a Program Administration Account and a Clearing Account; (b) the Acquisition Fund; (c) the Recycling Fund and within the Recycling Fund, a New Money Loan Principal Account and a Refunding Loan Principal Account; (d) the Redemption Fund; (e) the Rebate Fund; (f) the Discretionary Fund; (g) the Debt Service Reserve Fund; and (h) the Costs of Issuance Fund. The Trustee is hereby authorized to create accounts and subaccounts in the Funds hereby created (i) at the direction of the Administrator in order to segregate moneys or to accomplish any other administrative purpose and (ii) in compliance with the provisions of any Supplemental Indenture authorizing issuance of a Series of Bonds.

Subject to the provisions of the Tax Compliance Certificate, all funds in the Revenue Fund, the Acquisition Fund, the Recycling Fund, the Discretionary Fund, and the Debt Service Reserve Fund shall be invested by the Trustee, as directed by DelVal, in one (1) or more Investment Agreements. In the event the Investment Agreements are no longer in effect and no replacement Investment Agreement is established for the Trustee, all funds in such accounts and Funds shall be invested in Eligible Investments with maturities as directed by DelVal.

### **Section 5.03 Payments into, and Use of Moneys in, the Acquisition Fund and the Recycling Fund.**

(a) The Trustee shall deposit into: (i) the Acquisition Fund, the portion of the proceeds of a Series of Bonds as determined pursuant to the Supplemental Indenture authorizing such Series of Bonds; and (ii) the Recycling Fund, to the extent described in Subsection 5.03(b)(iv) and Section 5.04 hereof, the portion of the Repayments representing Loan Principal with respect to Loans made with proceeds of such Series of Bonds.

(b) Moneys in the Acquisition Fund and the Recycling Fund shall be used as set forth below:

- (i) At the closing of Participant Notes, moneys in the Acquisition Fund and/or the Recycling Fund shall be used to purchase the Participant Notes at par in a principal amount equal to the Initial Amount. The Trustee shall disburse the proceeds in the amounts and to the parties directed by the Administrator in the Closing Receipts for the Participant Notes. Moneys shall be disbursed from the Acquisition Fund prior to moneys being disbursed from the Recycling Fund.

- (ii) Moneys in the Acquisition Fund and the Recycling Fund shall be transferred to the Rebate Fund as required pursuant to Section 5.07(b) hereof.
- (iii) On each respective Acquisition Fund Termination Date, the amount in the respective sub-account of the Acquisition Fund attributable to such Series of Bonds necessary to redeem the applicable Series of Bonds shall be transferred to the Redemption Fund pursuant to Section 5.06 hereof and held and applied to redeem such Series of Bonds pursuant to Article III hereof and the provisions of the Supplemental Indenture which authorized the issuance of such Series of Bonds.
- (iv) Repayments representing payments of Loan Principal made from the proceeds of a Series of Bonds for new money projects shall be deposited into the New Money Loan Principal Account of the Recycling Fund from the Revenue Fund pursuant to Section 5.04 hereof and Repayments representing Loan Principal on Participant Notes with respect to Loans made from the proceeds of a Series of Bonds made more than ninety (90) days following the issuance of said Series of Bonds to redeem tax exempt obligations, shall be deposited in the Refunding Loan Principal Account of the Recycling Fund pursuant to Section 5.04 hereof. Moneys in the Recycling Fund shall be disbursed in accordance with Subsection 5.03(b)(i) hereof, subject to the provisions of Subsections 5.03(b)(ii), 5.03(b)(v) and 5.03(b)(vi) hereof; provided, however, that moneys in the Refunding Loan Principal Account of the Recycling Account shall only be used to purchase Participant Notes evidencing Loans for new money projects, unless DelVal and the Trustee have received a Favorable Opinion of Bond Counsel to the effect that such moneys can be used to purchase Participant Notes evidencing Loans which constitute refundings.
- (v) On each respective Recycling Fund Termination Date, the amount in the respective sub-account of the Recycling Fund attributable to such Series of Bonds shall be transferred to the Redemption Fund pursuant to Section 5.06 hereof and held and applied to redeem the applicable Series of Bonds pursuant to Article III hereof and the provisions of the Supplemental Indenture which authorized the issuance of such Series of Bonds, unless prior to the date established for such redemption, the Trustee receives a Favorable Opinion of Bond Counsel.
- (vi) On each Principal Payment Date, moneys in the Acquisition Fund or the Recycling Fund shall to the extent necessary, be transferred



to the Principal Account of the Revenue Fund to pay the principal of the Bonds.

**Section 5.04 Payments into, and Use of Moneys in, the Revenue Fund.**

- (a) There shall be deposited into the Revenue Fund, as and when received:
  - (i) all Repayments received from Participants, Guarantors, and Participant Credit Enhancers transferred from the Clearing Account;
  - (ii) all Swap Receipts and Termination Payments received from a Swap Counterparty;
  - (iii) all earnings on Funds invested hereunder;
  - (iv) moneys transferred from other Funds under this Indenture;
  - (v) moneys received in connection with a Participant Default and the exercise of remedies under a Loan Agreement or Guarantee;
  - (vi) all moneys contributed by DeIVal and all moneys transferred pursuant to the Covenant Agreement at the direction of the Administrator;
  - (vii) to the extent and as provided in a Supplemental Indenture, moneys representing a draw on any Credit Facility (the timing of which shall be set forth in a Supplemental Indenture) to make payment of the principal of and interest on any Series of Bonds (other than Bonds pledged to a Credit Facility Provider or Bonds which are otherwise not Eligible Bonds) for which a Credit Facility has been provided, which moneys shall be deposited into a separate subaccount in the Revenue Fund which the Trustee is directed to establish for each Credit Facility, which funds shall not be commingled with any other funds; and
  - (viii) all Subsidy Payments received by DeIVal.

(b) Moneys in the Revenue Fund shall be used for the following payments and transfers on the following dates and in the following order of priority; provided, however, that (A) draws on any Credit Facility to pay principal of or interest on a Series of Bonds secured by such Credit Facility shall be paid directly to the Owner of such Series of Bonds or as provided in a Supplemental Indenture and (B) Subsidy Payments, if any, shall be used solely (i) to pay interest on Bonds, or, (ii) if interest on Bonds has been paid from a draw on a Credit Facility, to reimburse the Credit Facility Provider or (iii) if the Subsidy Payments specifically provide or require, to pay interest on Bonds to which such Subsidy Payments relate or to reimburse a Credit Facility Provider for a draw on a Credit Facility to which such Bonds relate:

- (i) on each Interest Payment Date and each Swap Payment Date (which is an Interest Payment Date), to pay interest on the Bonds or, if interest on the Bonds has been paid from a draw on a Credit Facility, to reimburse the Credit Facility Provider and to make the Swap Payments due under any Swap Agreement;
- (ii) on each Swap Payment Date (which is not an Interest Payment Date), to make the Swap Payments due under any Swap Agreements;
- (iii) on each Principal Payment Date, to pay the principal or redemption price due on the Bonds or, if the principal or redemption price due on the Bonds has been paid from a draw on a Credit Facility, to reimburse the Credit Facility Provider;
- (iv) to make any payments required to be made to a Credit Facility Provider pursuant to a Credit Facility Agreement;
- (v) on each Loan Payment Date and Loan Prepayment Date, to the Recycling Fund (and the applicable sub-account thereof), Repayments (from whomever paid) constituting Loan Principal on Participant Notes pursuant to the Loan Agreements;
- (vi) on each Loan Payment Date and Loan Prepayment Date, to the Discretionary Fund, Termination Charges received;
- (vii) as necessary, to pay Administrative Expenses;
- (viii) as necessary, to the Debt Service Reserve Fund, to the extent required to replenish any deficiency therein;
- (ix) if DelVal shall have received notice of an early termination under any Swap Agreement and notice that a Termination Payment will be due to a Swap Counterparty, the Administrator shall direct the Trustee to transfer to the Discretionary Fund, if necessary, an amount sufficient to make the Termination Payment; and
- (x) from time to time, to the Discretionary Fund in such amounts as may be directed by the Administrator.

(c) The Trustee shall notify DelVal (and the Administrator) by 3:30 p.m. on any day on which a Credit Facility Provider fails to honor a draw on a Credit Facility securing the payment of principal or interest on a Series of Bonds.

(d) The Trustee shall notify DelVal (and the Administrator) on any Interest Payment Date or Principal Payment Date if insufficient moneys are on deposit in the Revenue Fund to make the payments of interest or principal, as the case may be, on Bonds.

### **Section 5.05 Payment of Bonds; Payments to Swap Counterparties.**

The Trustee shall make payments when due of principal of and interest on Bonds, and amounts due as Swap Payments, as follows:

- (a) FIRST, from the Revenue Fund; provided that any payment of principal and interest on Bonds secured by a Credit Facility shall be made first, from the proceeds provided by such Credit Facility and thereafter from other moneys in the Revenue Fund;
  - (b) SECOND, from the Discretionary Fund,
  - (c) THIRD, from moneys provided pursuant to the Covenant Agreement;
  - (d) FOURTH, from any moneys available in the Debt Service Reserve Fund;
- and
- (e) LAST, from any other moneys in the Trust Estate available to the Trustee for such purposes.

Payments of Termination Payments shall be paid only from moneys in the Discretionary Fund or provided pursuant to the Covenant Agreement and only after payment in full of all amounts then due on Bonds and as Swap Payments.

### **Section 5.06 Payments into, and Use of Moneys in, the Redemption Fund.**

Amounts transferred pursuant to Section 5.03(b)(iii) and 5.03(b)(v) hereof shall be promptly deposited in the Redemption Fund and applied to the redemption of the applicable Series of Bonds.

### **Section 5.07 Payments into, and Use of Moneys in, the Rebate Fund.**

(a) Any provision hereof to the contrary notwithstanding, amounts credited to the Rebate Fund shall be free and clear of any lien hereunder. In accordance with Treasury Regulation §1.148-7(b)(6)(ii), DeIVal hereby elects to apply the spending exceptions under Section 148(f)(2) of the *Code* separately to each Loan.

(b) DeIVal shall, at the expense of each Participant, engage and furnish information to the Rebate Analyst to calculate, not later than sixty (60) days after the end of each fifth Bond Year for a Series of Bonds and not later than sixty (60) days after the payment in full of all Outstanding Bonds, the allocable portion of the Rebate Amount and/or Yield Reduction Amount, if any, on a Loan by Loan basis as of the end of each such fifth Bond Year or the date of such final payment. Any Participant exempt from rebate pursuant to Treasury Regulation § 1.148-8 determined by the Administrator shall be excused from the rebate requirements of this paragraph. Based on information available to and provided to the Rebate Analyst, the Rebate Analyst shall notify each Participant, as applicable, in writing of that amount and of the amount then on deposit in the Rebate Fund applicable to each Loan. If the amount then on deposit in the Rebate Fund is less than such Rebate Amount and/or Yield Reduction Amount, if any, allocable to the Participant,

DelVal shall cause the Participant, within five (5) days after receipt of the aforesaid notice from the Rebate Analyst, to pay to the Trustee for deposit in the Rebate Fund an amount sufficient to cause the Rebate Fund to contain an amount equal to such Rebate Amount and/or Yield Reduction Amount, if any, attributable to such Participant. If the Participant does not pay the required amount within five days after receipt of the aforesaid notice from the Rebate Analyst, the Administrator shall direct the Trustee to immediately transfer to the Rebate Fund, that amount, first, from the Discretionary Fund, second, from the Acquisition Fund and third, from the Recycling Fund, to the extent of moneys available therein.

(c) DelVal shall furnish information to the Rebate Analyst to calculate not later than sixty (60) days after the end of each fifth Bond Year for any Series of Bonds and not later than sixty (60) days after the payment in full of all Outstanding Bonds, the Rebate Amount and/or Yield Reduction Amount with respect to amounts not loaned or otherwise attributable to Participants as of the end of such fifth Bond Year or the date of such final payment. Based on information provided by the Rebate Analyst, DelVal shall immediately instruct the Trustee to deposit in the Rebate Fund, such Rebate Amount, first from the Discretionary Fund, second, from the Acquisition fund and third, from the Recycling Fund, to the extent of moneys available therein.

(d) Within 60 days after the end of the fifth Bond Year and every fifth Bond Year thereafter, the Trustee, acting on behalf of, and at the written direction of, DelVal, shall pay to the United States in accordance with § 148(f) of the *Code*, to the extent of moneys then on deposit in the applicable account in the Rebate Fund, an amount equal to 90% of the Rebate Amount and/or Yield Reduction Amount, if any, earned from the date of the original delivery of a Series of Bonds to the end of such fifth Bond Year (less the amount of Rebate Amounts, if any, previously paid to the United States pursuant to this Section). Within 60 days after the payment in full of all Outstanding Bonds, the Trustee shall pay to the United States in accordance with § 148(f) of the *Code*, to the extent of moneys then on deposit in the applicable accounts in the Rebate Fund, at the written direction of DelVal, an amount equal to 100% of the Rebate Amounts and/or Yield Reduction Amount, if any, earned from the date of the original delivery of the Bonds to the date of such payment (less the Rebate Amounts and/or Yield Reduction Amount, if any, previously paid to the United States pursuant to this Section). All computations of Rebate Amounts pursuant to this section shall treat the amount or amounts, if any, previously paid to the United States pursuant to this Section as amounts on deposit in the Rebate Fund.

(e) The Rebate Analyst shall provide DelVal with records of the computations made pursuant to this Section and DelVal shall maintain such records for six (6) years following receipt thereof.

(f) Notwithstanding anything to the contrary contained herein, annually, as of each December 31, the Rebate Analyst shall calculate the estimated amount (the “Annual Rebate Estimate”) that shall be required to be paid to the United States of America in order to preserve the exclusion of interest on Bonds from gross income of the Bondholders thereof for federal income tax purposes. To the extent the Annual Rebate Estimate exceeds the amount then on deposit in the Discretionary Fund, the Administrator, subject to the next sentence, shall transfer from the Revenue Fund amounts constituting Administrative Expenses to the Discretionary Fund sufficient to cure such deficiency.

(g) Neither the Administrator nor the Trustee shall have any duty or responsibility to independently verify any of the calculations or instructions with respect to transfers by the Trustee to the Rebate Fund (or related assessments of the Participants) or withdrawals from the Rebate Fund, and both the Administrator and the Trustee shall be fully protected in relying solely upon the direction of DelVal in this regard. Under no circumstances whatsoever shall the Trustee be liable to DelVal, any Participant, any Bondholder or any other person for any loss of tax-exempt status of the Bonds, or any claims, demands, damages, liabilities, losses, costs or expenses resulting therefrom or in any way connected therewith, so long as the Trustee acts only in accordance with the Indenture and the direction of DelVal.

#### **Section 5.08 Use of Moneys in the Cost of Issuance Fund.**

Moneys in the Cost of Issuance Fund shall be used to pay the costs of issuing a Series of Bonds, including any fees charged by DelVal. Such costs shall be paid on the date of original authentication and delivery of a Series of Bonds or not later than the 180<sup>th</sup> day thereafter, upon the submission of a closing statement or requisitions to the Trustee by an Authorized Officer of DelVal stating the amount to be paid, to whom it is to be paid and the reason for such payment, each such requisition to include a certificate signed by an Authorized Officer of DelVal stating that the amount of such closing statement or requisition is due and owing and has not been the subject of another requisition which was paid and is a proper expense of issuing such Bonds. Moneys in the Cost of Issuance Fund shall be invested in the Investment Agreement and all earnings on moneys in the Cost of Issuance Fund shall be credited to the Revenue Fund as received. Any funds remaining in the Cost of Issuance Fund for more than 180 days following the issuance of a Series of Bonds shall be transferred to the Acquisition Fund.

#### **Section 5.09 Amounts in the Debt Service Reserve Fund.**

(a) DelVal shall direct the Trustee to deposit into the Debt Service Reserve Fund such portions of the proceeds of the sale of a Series of Bonds, if any, as shall be provided in the Supplemental Indenture authorizing the issuance thereof, and any moneys which may be made available to DelVal for the purposes of the Debt Service Reserve Fund from any other sources.

A Supplemental Indenture may provide that the Debt Service Reserve Fund Requirement, if any, may be funded in whole or in part by a letter of credit, insurance policy, surety, guaranty or other security arrangement upon which DelVal may make a draw to provide funds as needed for the Debt Service Reserve Fund.

(b) The amounts in the Debt Service Reserve Fund shall be applied to pay the principal and interest on Bonds (or to reimburse any Credit Facility Provider for payment of principal and interest on Bonds secured by a Credit Facility) and to make Swap Payments as the same become due, only when the amounts available for such purposes in the Revenue Fund in accordance herewith are insufficient to make such payments. If the Debt Service Reserve Fund is funded partly in cash and partly otherwise, as provided above, drawings shall be made as provided in a Supplemental Indenture.

(c) Earnings on the Debt Service Reserve Fund shall be retained therein until the amount on deposit in the Debt Service Reserve Fund is equal to the Reserve Requirement; thereafter, such earnings shall be transferred to the Revenue Fund.

#### **Section 5.10 Payments into, and Use of Moneys in the Discretionary Fund.**

Termination Charges received from a Participant, Guarantor, or Participant Credit Enhancer pursuant to a Loan Agreement, and amounts received pursuant to the Covenant Agreement, shall be deposited in the Discretionary Fund. Termination Payments shall be subject and subordinate to payments of interest, principal or redemption price of Bonds then due and owing, any obligations then due to any Credit Facility Provider and to Swap Payments then due and owing. Amounts in the Discretionary Fund shall be applied to the following, in the following order of priority:

- (i) To make deposits to the Revenue Fund to pay interest, principal, or redemption prices on Bonds then due (or to reimburse the provider of a Credit Facility which secures a Series of Bonds which has made payment thereon) and to make Swap Payments then due, when the other moneys available to the Trustee are insufficient therefor.
- (ii) To pay Termination Payments then due to Swap Counterparties.
- (iii) To make deposits to the Rebate Fund or to make an Extraordinary Payment.
- (iv) To make deposits to the Revenue Fund to pay any Administrative Expenses, to the extent the same are not paid from other sources and available to the Trustee.
- (v) To make deposits to the Revenue Fund to pay the costs or expenses related to the making or funding of any Loan, or the issuance of any Participant Note.
- (vi) To make payments under the Covenant Agreement at the direction of the Administrator provided (A) that a Termination Payment is not then due and owing and (B) that the payments will not cause total liabilities to exceed total assets under the Indenture.
- (vii) To make payments to DelVal; provided that (A) a Favorable Opinion of Bond Counsel is given with respect to such payments; (B) that no payment to DelVal shall be made if a Termination Payment is then due and owing, and (C) that the payments will not cause total liabilities to exceed total assets under the Indenture.

#### **Section 5.11 Application of Bond Proceeds and DelVal Money.**

Promptly upon the issuance, sale and delivery of any Series of Bonds, DelVal shall deposit the proceeds of such Series of Bonds together with any moneys provided by DelVal to the Funds and accounts as determined in the Supplemental Indenture executed in connection with the issuance of such Series of Bonds.

**Section 5.12 [Reserved.]**

**Section 5.13 Moneys to Be Held in Trust.**

All moneys required to be deposited with or paid to the Trustee for the account of any Fund established under any provision of this Indenture shall be held by the Trustee in trust, and except for moneys deposited with or paid to the Trustee for the redemption of Bonds, notice of the redemption of which has been duly given, or held pursuant to Section 2.10, or held in the Rebate Fund, shall, while held by the Trustee, constitute part of the Trust Estate and be subject to the security interest created hereby.

**Section 5.14 Payment of Excess Moneys.**

Subject to Section 2.10 and Article IX, any amounts remaining in any Fund created pursuant to Section 5.02 after full payment of all Bonds (including any rebate and/or yield reduction liability and the reasonable fees, charges and expenses with respect to the issuance of Bonds under Section 5.08), full payment of amounts owed to any Credit Facility Provider, full payment of all Swap Agreements (and termination of all interest rate swaps), if any, and full payment of the fees, charges and expenses of the Trustee, DelVal, the Administrator, and the Rebate Analyst, shall be paid to DelVal.

**Section 5.15 Reports from the Trustee; Examination of Books.**

The Trustee shall furnish to DelVal, the Administrator and the Rebate Analyst within two (2) weeks following the end of each Bond Year, statements of the activity and assets held in the Funds created pursuant to Section 5.02. The Trustee shall, at the written request of the Administrator, DelVal or the Rebate Analyst, permit representatives of such parties to examine the books and records of the Trustee relating to the Funds.

**Section 5.16 Certain Verifications.**

DelVal, the Trustee, the Administrator and/or the Rebate Analyst from time to time may cause a firm of Accountants or consultants to supply DelVal, the Trustee, the Administrator and the Rebate Analyst with such information as DelVal, the Trustee, the Administrator or the Rebate Analyst may request in order to determine in a manner reasonably satisfactory to DelVal, the Trustee, the Administrator and the Rebate Analyst all matters relating to (a) any audits of DelVal, if and to the extent such audits relate to Bonds, (b) the sufficiency of projected cash flow receipts and disbursements on the Loan Agreements, the Swap Agreements, if any, the Investment Agreements and Funds described herein to pay the principal and redemption price of and interest on the Bonds, the Swap Payments, if any, and Swap Receipts, if any; and (c) the actuarial yields on the Loan Agreements, the investments held under the Indenture, and on the Bonds, as the same may relate to any data or conclusions necessary to verify that none of the Bonds are arbitrage bonds

within the meaning of § 148 of the *Code* or to permit investment of amounts in the Funds in compliance with the *Code* and this Indenture. Payment for costs and expenses incurred in connection with supplying the foregoing information shall be paid from moneys in the Discretionary Fund. Any and all such reports shall be delivered by the Administrator to the Trustee.

**Section 5.17 Effect of Certain Loan Agreement Defaults under Loan Agreements; Assignment of Loan Agreements.**

Upon the occurrence of a Loan Agreement Default of which it has knowledge, the Trustee shall immediately notify DeIVal, the Administrator, the Guarantor, if any, each Swap Counterparty, and the Participant Credit Enhancer, if any. Upon written direction of the Participant Credit Enhancer, unless payment has been made by the Guarantor, and if the Participant Credit Enhancer is not in default on the Participant Credit Enhancement for the Loan, the Trustee shall take all action available to it as owner of the Participant Note in its representative capacity, to make demand for, and enforce, collect, settle and recoup all payments due under the Participant Note.

If, as a result of any such payment default by a Participant, the amounts on deposit in the Revenue Fund are insufficient to make the payments required to be made therefrom, and payments are not made by the Guarantor, if any, or the Participant Credit Enhancer, the Trustee shall draw upon the Debt Service Reserve Fund for the amount necessary to pay principal or interest on Bonds unless DeIVal provides moneys therefor pursuant to the Covenant Agreement or directs transfer from the Discretionary Fund, and shall take all action available to it as owner of the Participant Note in its representative capacity, to make demand for, and enforce, collect, settle and recoup all payments due under the Participant Note.



## **ARTICLE VI LOAN AGREEMENTS**

### **Section 6.01 Terms and Conditions.**

Moneys in the Acquisition Fund and the Recycling Fund shall be used to purchase Participant Notes to provide funds to Participants to finance the Cost of Projects, under Loan Agreements setting forth the terms and conditions, and upon submission of the documents, contained in this Article VI, and not otherwise. Loans may be made as either the Variable Rate Loans or at Fixed Rate Loans and may be made from one or more Series of Bonds. In connection with any Fixed Rate Loan, DelVal may enter into subsequent Swap Agreements. The Administrator shall provide to DelVal, the Trustee and a Participant recommendations concerning the terms and provisions it believes should be included in the details of each Loan Agreement.

### **Section 6.02 Restrictions on Program.**

The following restrictions shall apply to all Loan Agreements:

(a) Each Loan Agreement shall be in substantially the form attached as Exhibit “A” hereto as it may be modified pursuant to Section 6.08 hereof, or in a Supplemental Indenture authorizing this issuance of a Series of Bonds.

(b) No Closing shall occur unless DelVal, the Trustee, and, if applicable, the Credit Facility Provider, Participant Credit Enhancer, and Swap Counterparty have received all of the executed Loan Documents and all conditions established by the Administrator for such Loan have been satisfied.

(c) Loan principal shall be scheduled to mature so as to provide sufficient funds to pay Bonds issued to fund such Loans on their respective maturity dates, all as may be determined by the Administrator.

(d) DelVal shall not originate a Loan to a Participant with a rating below “A3” by Moody’s or “A-” by S&P unless the Rating Agencies previously confirmed that the ratings on the Outstanding Bonds at that time would not be downgraded as a consequence of originating such Loan or Loans without Participant Credit Enhancement.

(e) DelVal shall secure a Participant Credit Enhancement to secure any Loan to a Participant whose rating is downgraded below “A3” by Moody’s and “A-” by S&P subsequent to the closing of the Loan unless the Rating Agencies confirm that the ratings on the Outstanding Bonds at that time would not be downgraded as a consequence of not securing the Participant Credit Enhancement.

### **Section 6.03 Disbursement Period.**

The Trustee shall fund Loans from the proceeds in the Acquisition Fund or the Recycling Fund, as the case may be, by purchasing Participant Notes from Participants to finance or reimburse the Cost of Projects on such basis as shall be determined from time to time by the Administrator in the order that all necessary requirements are met, until such date as there are no longer any unloaned funds on deposit in the Acquisition Fund or the Recycling Fund, or until an Acquisition Fund Termination Date or a Recycling Fund Termination Date, respectively. Notwithstanding the foregoing, the Trustee, upon the written direction of DelVal or Administrator, and with a Favorable Opinion of Bond Counsel, may reserve proceeds in the Acquisition Fund and the Recycling Fund for funding of a Loan to a Participant at a future date after an Acquisition Fund Termination Date or a Recycling Fund Termination Date, as applicable.

### **Section 6.04 Loan Agreement Term and Repayments.**

(a) Each Loan Agreement shall be for a term not exceeding 120% of the useful life of the Project financed with the applicable Loan. The Loan Principal of the Participant Notes shall be repaid in such amounts on such dates as set forth in the applicable Participant Note.

(b) Each Repayment shall be calculated for each Loan Payment Period by the Administrator, as provided in the Loan Agreement. Repayments will consist of Loan Principal payments defined in the Participant Notes and Participant Interest payments calculated by the Administrator. Repayments will be due on the Loan Payment Date or the Loan Prepayment Date, if applicable.

(c) Participant Interest shall be at the rates as determined by the Administrator. The Administrator shall calculate the rates on Variable Rate Loans based, inter alia, on the payments on the Bonds, net of payments with respect to the Swap Agreements, if any. The Administrator shall calculate the rates on Fixed Rate Loans based, inter alia, on the payments on the Bonds, net of payments with respect to the Swap Agreements, if any. Participant Interest shall never be greater than the Maximum Rate.

(d) In the event that DelVal owes a Termination Payment due to the early termination of a Swap Agreement, the Administrator shall calculate a Termination Charge for the affected Participants and, if applicable, the Guarantor and Participant Credit Enhancer. The Termination Charge will be payable on the date specified by the Administrator.

### **Section 6.05 Application Submissions.**

Prior to approving an application, DelVal shall have received a completed application in the form approved by DelVal, including all financial and other information specified therein.

### **Section 6.06 Closing Time and Place.**

Closings shall take place at such place as may be mutually agreeable to DelVal, the Trustee, the Administrator, and the Participant.

### **Section 6.07 Closing Submissions.**

Prior to or at each Closing, the Trustee, the Administrator and DelVal shall have received the following documents from the related Participant:

(a) a counterpart of the Loan Agreement executed by the parties thereto and endorsed by DelVal to the Trustee;

(b) the original Participant Note in principal amount equal to the Initial Amount, registered in the name of the Trustee, bearing interest and maturing as to principal and interest in accordance with the Loan Agreement; and

(c) the additional items required by Section 6.02 hereof.

All opinions and certificates required under this section and under the Loan Agreement shall be dated the date of Closing and all such opinions shall be addressed to DelVal and the Trustee. Interest on the Participant Notes shall commence to accrue on the date of Closing.

### **Section 6.08 Modifications of Forms of Loan Agreements and Participant Resolutions.**

Prior to the execution and delivery of a Loan Agreement, DelVal may approve modifications to the form of Participant Ordinances or Participant Resolutions or Loan Agreements, so long as such modifications do not adversely affect the interest of Bondholders or any Swap Counterparty. Any modifications which materially change the undertakings set forth therein and adversely affect the interest of Bondholders shall be accompanied by a Favorable Opinion of Bond Counsel.

### **Section 6.09 Program Monitoring.**

The Administrator shall prepare periodic reports to DelVal and the Trustee setting forth the status of any Loan applications received by it, stating the amount of Loans then outstanding, projecting the anticipated use of moneys in the Acquisition Fund and the Recycling Fund and providing any recommendations it may have concerning the making of additional Loans.

The Administrator shall also monitor the activities of the Trustee and compliance with the requirements imposed hereunder.

The Administrator may engage or employ a person or firm acceptable to DelVal (the "Loan Origination Agent") to perform all or a portion of its duties under this Indenture and any Loan Agreement, and upon due authorization by the Administrator, such Loan Origination Agent shall be authorized to act on behalf of the Administrator in such matters. All provisions of this Indenture

calling for notices to be given to the Administrator shall also be deemed to provide for such notices to be sent to any Loan Origination Agent then engaged by the Administrator, upon filing of the address thereof with the Trustee.

## **ARTICLE VII SERVICING OF AGREEMENTS**

### **Section 7.01 Servicing.**

The Trustee shall provide enforcement of the obligations of the Participants. The Trustee shall transmit (in electronic or other format as determined by the Trustee) to each Participant an invoice (based upon information provided by the Administrator) reflecting the amounts computed to be due on each Loan.

The Administrator shall review all Loan applications, Loan Agreements and Participant Notes and assist the Participants in processing Loan applications. The Administrator shall assist Participants with any inquiries or requests made subsequent to the closing of a Loan. The Administrator shall also perform any other duties which have been delegated to the Administrator by DelVal pursuant to agreement with the Administrator.

### **Section 7.02 Defaults.**

The Trustee shall, in accordance with the terms and provisions of this Indenture, but at the direction of the Participant Credit Enhancer, if any insuring the Loan as to which there is a Loan Agreement Default, with respect to a Loan Agreement Default so long as such Participant Credit Enhancer has not defaulted under the Participant Credit Enhancement and the Guarantor, if any, so long as such Guarantor has not failed to make payments pursuant to its guarantee of a Loan, enforce, and take all steps, actions and proceedings necessary for the enforcement of all terms, covenants and conditions of all Participant Notes and Loan Agreements, including the prompt payment of Repayments, Termination Charges and all other amounts due thereunder. The Trustee shall promptly notify the Administrator, the Guarantor, if any, any Swap Counterparties and the Participant Credit Enhancer, if any insuring the Loan as to which there is a Loan Agreement Default, of the occurrence of any Loan Agreement Default of which it has knowledge. The Trustee shall not release the obligations of any Participant under any Loan Agreement and shall at all times, to the extent permitted by law, defend, enforce, preserve and protect the rights and privileges of (a) the Bondholders and, the Trustee under or with respect to each Loan Agreement; (b) any Swap Counterparty under or with respect to any Swap Agreement and (c) any Credit Facility Provider under or with respect to any Credit Facility Agreement; provided that this provision shall not be construed to prevent the Trustee, with the consent of the Participant Credit Enhancer, if any insuring the Loan as to which there is a Loan Agreement Default so long as such Participant Credit Enhancer has not defaulted under the Participant Credit Enhancement, or at the direction of the Participant Credit Enhancer, if any insuring the Loan as to which there is a Loan Agreement Default, so long as such Participant Credit Enhancer has not defaulted under the Participant Credit Enhancement, from settling a default under any applicable Participant Notes, Loan Agreement or any document securing them. The Trustee may act in accordance with the foregoing irrespective of whether there shall have occurred an Event of Default hereunder. Notwithstanding anything to the contrary set forth in this Indenture, including, in particular, Section 10.07 hereof, all moneys received by the Trustee, constituting proceeds of any action brought under a Loan Agreement, shall, after application to the reasonable expenses of the Trustee, be applied to all amounts then due and owing the Participant Credit Enhancer, if any insuring the Loan as to which there is a Loan

Agreement Default, as subrogee thereunder and shall thereafter, so long as the Participant Credit Enhancer, if any, is not in payment default of its Participant Credit Enhancement, be applied by the Trustee as a credit against Termination Charges then due and thereafter, against scheduled Loan Repayments in such manner as the Participant Credit Enhancer, if any, shall determine. Notwithstanding anything to the contrary set forth herein or in any Loan Agreement, DelVal hereby appoints the Trustee, and in the event of discharge of this Indenture in accordance with the provisions hereof, each Participant Credit Enhancer, its agent and attorney-in-fact for purposes of enforcing all rights under the Loan Agreements for which each Participant Credit Enhancer has provided Participant Credit Enhancement.

**Section 7.03 [Reserved].**

**Section 7.04 Payment or Prepayment by Participants.**

Upon the payment of all sums due and to become due under a Loan Agreement, including all Repayments due under the applicable Participant Notes, payment of all sums owing to a Participant Credit Enhancer, if any, and Termination Charges, or the prepayment of a Loan Agreement by a Participant by payment of the Optional Prepayment Price pursuant to Section 6.1 of a Loan Agreement, the Trustee shall cancel the Loan Agreement on behalf of DelVal and shall surrender to the Participant its Participant Notes, and shall take any other action required of the Trustee under the Loan Agreement and shall execute in its own name all relevant documents in connection with such actions (and the Trustee is hereby appointed DelVal's agent and attorney-in-fact for purposes of taking any act, including the presentation for payment and collection of the Participant Notes and the execution and delivery of any document, required by this Section).

**Section 7.05 Loan Agreement Files.**

All documents received by the Trustee with regard to a particular Loan Agreement shall be retained by the Trustee in a file pertaining to that Loan Agreement (a "Loan Agreement File"). The Loan Agreement File shall be kept at the Philadelphia office of the Trustee and shall be available for inspection by DelVal, any Swap Counterparty and the Participant Credit Enhancer, if any, at reasonable times and under reasonable circumstances.

**Section 7.06 Trustee, Administrator and DelVal Not to Impair Tax Exemption of Bonds.**

The Administrator and DelVal shall not take any action, or direct the Trustee to take any action, or omit to take any action, or permit any action, except actions required hereunder and under the Loan Agreements, which is within each of its respective control to be taken or omitted, which would to the actual knowledge of the respective officers of each, impair the exclusion of interest on Bonds (to the extent such Bonds were issued as tax exempt Bonds) from gross income of the Bondholders thereof for federal income tax purposes.

## **Section 7.07 Additional Duties of Administrator.**

In connection with the administration of the Program, the Administrator shall perform the following services:

- (a) Participate in the establishment of the Program and coordinate the development of the Program with involved parties,
- (b) Provide information and market and promote the program to all potential Participants through written materials and presentations, and attendance at conferences and seminars as representative of the program,
- (c) Initiate contact with potential Participants for the purpose of presenting and explaining the program,
- (d) Act as originator and processor of each Loan,
- (e) Consult with government officials and give advice and assistance as to the Participant's eligibility, the application procedure, any required security, and related matters prior to the filing of a Loan application,
- (f) Upon the request of a Participant, meet with the governing body or officials of the Participant to explain the program and the application procedure,
- (g) Assist any potential Participant in the preparation of its Loan application and gathering of information and documentation required,
- (h) Receive filed applications and review them for completeness and forward them to a Participant Credit Enhancer, if any, for approval,
- (i) Report to the Trustee and the Participant Credit Enhancer, if any, any information of which it has actual knowledge concerning the condition of a Participant that could potentially cause a default,
- (j) Review each Loan Agreement, including the related Participant Note, and approve the same in accordance with the parameters of the program established by DelVal from time to time and in accordance with the Participant's application,
- (k) Provide information requested by DelVal and Trustee to enable DelVal and Trustee to comply with the requirements of continuing disclosure, including the requirements of Rule 15(c)2-12 of the Securities and Exchange Commission,
- (l) Review and approve all applications for disbursements by the Trustee, and
- (m) Prepare Qualified Interest Rate Management Agreements and Interest Rate Management Plans to the extent required by the *Debt Act*.

## **ARTICLE VIII INVESTMENT OF MONEYS**

### **Section 8.01 Investment of Moneys in Funds.**

(a) Subject to the provisions of each Tax Compliance Certificate, all Bond proceeds and other moneys deposited in any Funds (other than the Rebate Fund) shall be initially invested pursuant to the Investment Agreements or other Eligible Investments. Proceeds of a draw on a Credit Facility or from the remarketing of any Series of Bonds shall be invested only in cash or Eligible Investments meeting the requirements of Section (a)(ii) of the definition thereof, which, if invested, shall mature on the earlier of: (i) as required pursuant to this Indenture or (ii) thirty days following the investment thereof.

(b) The Trustee is hereby directed to enter into the Investment Agreements and to invest amounts thereunder in accordance with the terms of such Investment Agreements and is hereby instructed to give all notices and to take all other actions necessary (i) to make withdrawals from such Investment Agreements in order to make timely payments of principal or redemption price and interest on the Bonds and fees and expenses due hereunder and (ii) to make timely deposits or redeposits of proceeds as required hereunder.

Eligible Investments acquired as an investment of moneys in any Fund created by this Indenture shall be credited to such Fund. For the purpose of determining the amount in any Fund at any time in accordance with this Indenture, except as otherwise provided herein, all Eligible Investments credited to such Fund shall be valued at fair market value. The value of Eligible Investments in each Fund shall be determined upon acquisition and annually thereafter as of each Anniversary Date. The value of Eligible Investments so determined as of any such date shall constitute the “Value of Eligible Investments” for purposes of this Indenture until the next date of valuation.

All interest, profits and other income earned, net of any losses suffered (herein called the “net earnings from investment of moneys”), in any Fund created by this Indenture shall be deposited as set forth in Article V.

Subject to the provisions hereof, investments in any and all Funds created by this Indenture may be commingled for purposes of making, holding and disposing of investments. Notwithstanding provisions herein for transfer to or holding in particular Funds amounts received, or such commingling, the Trustee shall at all times account for such investments in the Funds to which they are credited and otherwise as provided in this Indenture. The Trustee may act as principal or agent in the acquisition or disposition of any Eligible Investment. The Trustee may sell, or present for redemption, any Eligible Investment to the credit of any Fund created by this Indenture whenever it shall be necessary in order to provide moneys to meet any required payment, transfer, withdrawal or disbursement from such Fund, and the Trustee shall not be liable for any loss resulting from such investment.

All moneys required to be deposited with or paid to the Trustee for the account of any Fund (other than the Rebate Fund) established under any provision of this Indenture shall be held by the



Trustee in trust and shall constitute part of the Trust Estate while held by the Trustee; provided, however, that moneys deposited with or held by the Trustee for the purchase of a Series of Bonds on or after any date on which such Series of Bonds are required to be purchased, for the redemption of such Series of Bonds on or after the redemption date of such Series of Bonds, or for the payment of the principal or redemption price of or interest on a Series of Bonds on or after the date on which such amounts shall have become due, shall be held and applied solely for the purchase, redemption or payment of such Series Bonds or the payment of such interest, as the case may be.

The Trustee shall not invest any funds held by it for the payment of the principal or redemption price of a Series Bonds after the date established for maturity or redemption thereof.

Notwithstanding any provision to the contrary contained herein, all moneys subject to investment under this Indenture shall be invested in Eligible Investments.

The Trustee shall promptly send to DelVal and the Administrator monthly trust statements of the investments held under the Indenture, including the balances on deposit in each Fund and Account, the investment income for such month, and the maturities and interest rates then in effect for such investments. The Administrator shall review such reports and advise the Trustee and DelVal of any discrepancies or concerns regarding such investments.

## **Section 8.02 Federal Tax Laws.**

(a) DelVal covenants that it will make no investment or other use of the proceeds of Bonds which are tax exempt Bonds which would cause the Bonds which are tax exempt Bonds to be “arbitrage bonds” as that term is defined in Section 103(b)(2) and Section 148(a) of the Code, and that it will comply with the requirements of the Code sections and regulations and with the Tax Compliance Certificate throughout the term of the Bonds. In the event that at any time DelVal is of the opinion that for the purposes of this Section 8.02 it is necessary to restrict or limit the yield on the investment of any moneys held by the Trustee, DelVal shall so instruct the Trustee in writing, and the Trustee shall take such action as may be necessary in accordance with such instructions.

Without limiting the generality of the foregoing, DelVal agrees that there shall be paid from time to time all amounts required to be paid to the United States Treasury pursuant to Section 148(f) of the Code and any temporary, proposed or final Treasury Regulations as may be applicable to the Bonds which are tax exempt Bonds from time to time. This covenant shall survive payment in full or defeasance of all Outstanding Bonds which are tax exempt Bonds. DelVal specifically covenants to pay or cause to be paid to the United States Treasury the Rebate Amounts and Yield Reduction Amounts, as set forth in the Tax Compliance Certificate.

Notwithstanding any provision of this Section, if DelVal shall provide to the Trustee a Favorable Opinion of Bond Counsel to the effect that any action required under this section is no longer required, or to the effect that some further action is required, to maintain the exclusion from gross income of the interest on the Bonds which are tax exempt Bonds pursuant to Section 103 of the Code, DelVal and the Trustee may rely conclusively on such opinion in complying with the provisions hereof or such matters as are set forth in the Favorable Opinion of Bond Counsel.

(b) DelVal covenants that so long as Bonds which are tax exempt Bonds remain Outstanding it will comply with the requirements of the *Code* so that the interest on the Bonds which are tax exempt Bonds shall be excluded from gross income for federal income tax purposes, and will comply with the information reporting requirements imposed by federal tax laws as they relate to the Bonds which are tax exempt Bonds by, *inter alia*, filing any statement required thereby in a complete and timely manner.

(c) DelVal hereby covenants for the benefit of the Bondholders of the Bonds which are tax exempt Bonds that it will cause the Participants to not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the Bondholders of the Bonds of the interest on the Bonds which are tax exempt Bonds under Section 103 of the Code. DelVal also covenants that it will cause the Participants to not directly or indirectly use or permit the use of any of the proceeds of the Bonds which are tax exempt Bonds or any other funds or take or omit to take any action which would cause the Bonds which are tax exempt Bonds to be “arbitrage bonds” within the meaning of Section 148(a) of the Code and to comply will all requirements of Section 148 of the Code to the extent applicable to the Bonds. DelVal shall comply with the covenants in this paragraph (c) by requiring each Participant to enter into a Participant Tax Compliance Agreement.

(d) DelVal recognizes that the provisions of this Section 8.02 are intended to comply with the provisions of the Code applicable to the Bonds which are tax exempt Bonds and if as a result of a change in an applicable section of the Code or in the interpretation thereof, change in this Section 8.02 shall be permitted or necessary to assure continued compliance with provisions of the Code, then DelVal shall be empowered without further action or consent, to amend this Section 8.02 and DelVal may require a written opinion of Bond Counsel satisfactory to DelVal to the effect that either (i) such amendment is required to maintain the exclusion from gross income under Section 103 of the Code of interest paid and payable on the Bonds which are tax exempt Bonds, or (ii) such amendment shall not adversely affect the exclusion from gross income under Section 103 of the Code of the interest paid or payable on the Bonds which are tax exempt Bonds.

## **ARTICLE IX DISCHARGE OF INDENTURE**

### **Section 9.01 Discharge of Indenture.**

If DelVal shall pay or cause to be paid, or there shall be otherwise paid or provision for payment made to or for the Bondholders, the principal of and interest due or to become due thereon at the times and in the manner stipulated therein, shall have paid all amounts owing to any Credit Facility Provider (and such Credit Facility shall have been returned and marked “cancelled”), shall have paid all Swap Payments and Termination Payments due or to become due under the Swap Agreements and shall pay or cause to be paid all sums of money due or to become due according to the provisions hereof, then these presents and the estate and rights hereby granted shall cease, terminate and be void, whereupon the Trustee shall cancel and discharge the lien of this Indenture, and execute and deliver to DelVal such instruments in writing as shall be requisite to cancel and discharge the lien hereof, and release, assign and deliver unto DelVal any and all of the estate, right, title and interest in and to any and all rights assigned or pledged to the Trustee or otherwise subject to the lien of this Indenture.

Notwithstanding the foregoing, those provisions of this Indenture relating to the maturity of Bonds, interest payments and dates thereof, redemption provisions, exchange and transfer of Bonds, replacement of mutilated, destroyed, lost or stolen Bonds, the safekeeping and cancellation of Bonds, nonpresentment of Bonds, the holding of moneys in trust, the rights afforded any Swap Counterparty herein and the duties of the Trustee in connection with all of the foregoing, shall remain in effect and shall be binding upon the Trustee and the Bondholders notwithstanding the release and discharge of the lien of this Indenture.

Any Bond shall be deemed to be paid within the meaning of this Article when payment of the principal of such Bond, plus interest thereon to the due date thereof (whether such due date is by reason of maturity or upon redemption as provided in this Indenture, or otherwise), either

(a) shall have been made or caused to have been made in accordance with the terms thereof, or

(b) shall have been provided for by irrevocably depositing with the Trustee, in trust and exclusively for such payment, (i) moneys sufficient to make such payment, (ii) non-callable direct general obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America, maturing as to principal and interest in such amounts and at such times as shall insure the availability of sufficient moneys to make such payments, or (iii) a combination of such moneys and obligations, and all necessary and proper fees and expenses of and other amounts owing to the Trustee, the Administrator or DelVal, with respect to which such deposit is made shall have been paid or deposited with the Trustee. At such times as a Bond shall be deemed to be paid hereunder, as aforesaid, it shall no longer be secured by or entitled to the benefits of this Indenture, and all liability of DelVal with respect to such Bond shall cease, terminate, and be completely discharged and extinguished except for the purposes of registration and exchange of Bonds, and replacement of mutilated, lost, stolen or destroyed Bonds,

and the Bondholders thereof shall be entitled to payment solely out of the moneys or securities so deposited.

Notwithstanding the foregoing, no deposit under the immediately preceding paragraph shall be deemed a payment of such Bonds as aforesaid unless:

(a) the Trustee has received a letter from each Rating Agency then rating the Bonds that such deposit shall not cause the rating then assigned to the Bonds by such Rating Agency to be lowered or eliminated; and

(b) DeVal shall have given the Trustee, in form satisfactory to the Trustee, irrevocable instructions:

- (i) stating the date when the principal of each such Bond is to be paid, whether at maturity or on a redemption date (which shall be any redemption date permitted or required by this Indenture);
- (ii) to call for redemption pursuant to this Indenture any Bonds to be redeemed prior to maturity pursuant to (i) hereof, and
- (iii) to mail, as soon as practicable, in the manner prescribed by Article III hereof, a notice to the Bondholders of such Bonds that such deposit has been made with the Trustee and that said Bonds are deemed to have been paid in accordance with this Article and stating the maturity or redemption date upon which moneys are to be available for the payment of the principal or redemption price, if applicable, of said Bonds as specified in Clause (i) of this paragraph.

Any moneys so deposited with the Trustee as provided in this Article may at the direction of DeVal also be invested and reinvested in Government Obligations, maturing in the amounts and times as hereinbefore set forth, and all income from all Government Obligations in the hands of the Trustee pursuant to this Article which is not required, as evidenced by a report of an Accountant, for the payment of the Bonds and interest thereon with respect to which such moneys shall have been so deposited, shall be used as otherwise permitted by this Indenture.

No such deposit under this Article shall be made or accepted hereunder and no use made of any such deposit unless the Trustee shall have received an Opinion of Bond Counsel to the effect that such deposit and use would not cause Bonds which are tax exempt Bonds to be treated as arbitrage bonds within the meaning of Section 148 of the Code.

Notwithstanding any provision of any other Article of this Indenture which may be contrary to the provisions of this Article, all moneys or Government Obligations set aside and held in trust pursuant to the provisions of this Article for the payment of Bonds (including interest thereon) shall be applied to and used solely for the payment of the particular Bonds (including interest thereon) with respect to which such moneys or obligations have been so set aside in trust.

Anything in Article XII to the contrary notwithstanding, if moneys or obligations have been deposited or set aside with the Trustee pursuant to this Article for the payment of Bonds and such Bonds shall not have in fact been actually paid in full, no amendment to the provisions of this Article shall be made without the consent of the Bondholder of each Bond affected thereby.

**ARTICLE X  
DEFAULT PROVISIONS AND REMEDIES OF  
TRUSTEE AND BONDHOLDERS**

**Section 10.01 Defaults; Events of Default.**

The following events shall constitute an “Event of Default” or “Events of Default”:

(a) A failure to pay when the same shall become due and payable, interest on or principal of any Bond (whether at maturity, by acceleration, redemption or otherwise) or the payment of any Swap Payment; or

(b) Any other default in the payment or default in the performance or observance of any covenant, agreement or condition on the part of DelVal contained in this Indenture or in Bonds (other than defaults mentioned in Section 10.01(a) and other than the failure to pay a Termination Payment unless moneys sufficient therefor are available in the Discretionary Fund) and failure to remedy the same after notice of the default pursuant to Section 10.11.

**Section 10.02 Acceleration.**

Upon the occurrence of an Event of Default described in Section 10.01(a), the Trustee shall, by notice to DelVal, the Bondholders, the Administrator and the provider of any Credit Facility, except to the extent limited in a Supplemental Indenture, declare the entire unpaid principal of and interest on all Bonds Outstanding immediately due and payable; thereupon, the entire unpaid principal of and interest on all Bonds Outstanding shall forthwith become immediately due and payable and the Trustee shall immediately draw on any Credit Facility which secures any Series of Bonds.

Upon the occurrence of an Event of Default described in Section 10.01(b), the Trustee shall, upon the written request of the Bondholders of 50% in aggregate principal amount of all Bonds Outstanding, by notice to DelVal, the Administrator, the Bondholders and the provider of any Credit Facility, except to the extent limited in a Supplemental Indenture, declare the entire unpaid principal of and interest on all Bonds Outstanding immediately due and payable and, thereupon, the entire unpaid principal of and interest on the Bonds shall forthwith become due and payable.

If the Bonds are accelerated, DelVal shall forthwith pay pro-rata to the Bondholders of the Bonds, any provider of a Credit Facility and the Swap Counterparty, the entire unpaid principal of and accrued interest on the Bonds (or to reimburse a Credit Facility Provider for amounts drawn on a Credit Facility to pay the Bonds) and the Swap Payments, but only from the Revenues herein specifically pledged for such purpose. Interest on any Series of Bonds secured by a Credit Facility on which the Credit Facility Provider has honored a draw, shall cease to accrue on the date of the declaration of the acceleration. In the event the Trustee fails to accelerate as required by this Section 10.02, the Bondholders of a majority in aggregate principal amount of Bonds Outstanding shall have the right to take such action. Following payment of the entire unpaid principal of and accrued interest on the Bonds, all amounts owing to any Credit Facility Provider and the Swap Payments, the Trustee shall pay the Termination Payments from the sources as provided herein.

**Section 10.03 [Reserved].**

**Section 10.04 Remedies; Rights of Bondholders.**

Upon the occurrence of an Event of Default, the Trustee shall have the following rights and remedies:

(a) The Trustee may pursue any available remedy at law or in equity or by statute to enforce the payment of the principal of and interest on Bonds then Outstanding, including enforcement of any rights of DeVal or the Trustee hereunder or under the Loan Agreements or any documents securing them, or to enforce the rights of any Swap Counterparty to the payment of Swap Payments under any Swap Agreement.

(b) The Trustee may by action or suit in equity require DeVal to account as if it were the trustee of an express trust for the Bondholders and shall then take such action with respect to the Loan Agreements as the Trustee shall deem necessary or appropriate and in the best interest of the Bondholders, subject to the terms of the Loan Agreements, including the sale or assignment of part or all of the Loan Agreements.

(c) Upon the filing of a suit or other commencement of judicial proceedings to enforce any rights of the Trustee and of the Bondholders under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate and of the revenues, issues, earnings, income, products and profits thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

If an Event of Default shall have occurred, the Trustee may except as otherwise provided in a Supplemental Indenture, and if requested so to do by the Bondholders of 50% or more in aggregate principal amount of all Bonds then Outstanding, except as otherwise provided in a Supplemental Indenture and in either case indemnified as provided in Section 11.01(l), shall be obligated to exercise such one or more of the rights and powers conferred by this section as the Trustee, being advised by Counsel, shall deem most expedient in the interests of the Bondholders.

No right or remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the Bondholders) is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and shall be in addition to any other right or remedy given to the Trustee or to the Bondholders hereunder as now or hereafter existing at law or in equity or by statute. The assertion or employment of any right or remedy shall not prevent the concurrent or subsequent assertion or exercise of any other right or remedy.

No delay or omission in exercising any right or remedy accruing upon any default or Event of Default shall impair any such right or remedy or shall be construed to be a waiver of any such default or Event of Default or acquiescence therein; and every such right or remedy may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default or Event of Default hereunder, whether by the Trustee or the Bondholders, shall extend to or shall affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereon.

**Section 10.05 [Reserved].**

**Section 10.06 Appointment of Receivers.**

Upon the occurrence of an Event of Default and the filing of a suit or other commencement of judicial proceedings to enforce any rights of the Trustee and of the Bondholders under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate and of the revenues, issues, earnings, income, products and profits thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

**Section 10.07 Application of Moneys.**

Subject to the provisions of Section 7.02 hereof, all moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the fees, expenses, liabilities and advances incurred or made by the Trustee (including fees and expenses of its Counsel) or DelVal, be deposited in the Revenue Fund, along with any other moneys available for such purposes:

(a) Unless the principal of all Bonds shall have become due and payable, all such moneys shall be applied equally and ratably, to the payment to the persons entitled thereto of all amounts payable pursuant to Section 5.04(b)(i) and Section 5.04(b)(ii), provided that if the amount available shall not be sufficient to pay in full any particular installment of interest and any Swap Payment, then to the payment thereof ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or privilege.

(b) If the principal amount of all Bonds shall have become due, all such moneys shall be applied, equally and ratably, to the payment to the persons entitled thereto of amounts payable pursuant to Section 5.04(b)(i), Section 5.04(b)(ii) and Section 5.04(b)(iii), without preference or priority of principal, interest or Swap Payments or of interest and Swap Payments over principal, or of any installment of interest or Swap Payments over any other installment of interest or Swap Payments, according to the amounts due respectively for principal, interest and Swap Payments, without any discrimination or privilege.

(c) Termination Payments shall be paid from moneys in the Discretionary Fund subject and subordinate to the payment of principal and redemption price of and interest on the Bonds, amounts owing to any Credit Facility Provider and Swap Payments.

Except as to Series of Bonds secured by a Credit Facility, whenever the Trustee shall apply funds, it shall fix the date upon which such application is to be made and upon such date interest on the amounts of Bonds to be paid on such dates shall cease to accrue. The Trustee shall by first class mail, postage prepaid, notify Bondholders of the Record Date and the time and place at which defaulted principal and interest is to be paid. Such notice shall be mailed to the persons in whose name the Bonds are registered at the close of business on the fifth day preceding the date of mailing. The Trustee shall not be required to make payment of principal to the Bondholder of



any Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Whenever all principal or redemption prices on all Bonds, amounts owing to any Credit Facility Provider and all Swap Payments and Termination Payments have been paid under the provisions of this Section (and all interest rate swaps have been terminated) and all expenses and charges of and other amounts payable to the Trustee, the Administrator and DelVal have been paid, any balance remaining in the Funds shall be paid to DelVal as provided in Section 5.14 hereof.

Notwithstanding the foregoing, no fees, expenses, liabilities and advances incurred or made by the Trustee (including fees and expenses of its Counsel) or DelVal shall be paid with the proceeds of a draw on a Credit Facility or proceeds from the remarketing of any Series of Bonds.

#### **Section 10.08 Remedies Vested in the Trustee.**

All rights of action (including the right to file proof of claims) under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceeding related thereto and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs any Bondholders, and any recovery of judgment shall be for the equal and ratable benefit of the Bondholders of all the Outstanding Bonds, any Credit Facility Provider and any Swap Counterparty in accordance with their respective interests in the Trust Estate.

#### **Section 10.09 Termination of Proceedings.**

In case the Trustee, or any Bondholder shall have proceeded to enforce any right under this Indenture by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case DelVal, the Trustee, the Swap Counterparty, if any, the provider of any Credit Facility and the Bondholders shall be restored to their former positions and rights hereunder, respectively, and with regard to the property herein subject to this Indenture, and all rights, remedies and powers of the Trustee and the Bondholders shall continue as if no such proceedings had been taken.

#### **Section 10.10 Waivers of Events of Default.**

The Trustee may, at its discretion, waive any Event of Default hereunder and its consequences and may rescind any declaration of acceleration of all the Bonds, and shall do so upon the written request of the Bondholders of (a) a majority in aggregate principal amount of Bonds then Outstanding in respect of which default in the payment of principal and/or interest exists, or (b) a majority in aggregate principal amount of all Bonds then Outstanding in the case of any other default; provided, however, that there shall not be waived without the consent of the Bondholders of all Bonds then Outstanding (i) any default in the payment of the principal of any Outstanding Bond at the date of maturity specified therein or date of prior redemption or (ii) any default in the payment when due of the interest on any Outstanding Bond, unless prior to such waiver all arrears of interest or all arrears of payments of principal or redemption price then due

(other than accelerated principal), as the case may be, with interest on overdue principal and redemption price and interest at the rate borne by such Bond and all expenses of the Trustee in connection with such default, shall have been paid or provided for, and in case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case DelVal, the Trustee and the Bondholders shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any consequent right thereon. No waiver hereunder shall affect the rights of third parties to payment of amounts provided for hereunder.

**Section 10.11 Notice of Defaults under Section 10.01(b); Opportunity of DelVal to Cure Such Defaults.**

Anything herein to the contrary notwithstanding, no default under Section 10.01(b) shall constitute an Event of Default until actual notice of such default by registered or certified mail shall be given to DelVal and the Administrator by the Trustee or the Bondholders of not less than 50% in aggregate principal amount of all Bonds then Outstanding, and DelVal (other than the failure to pay a Termination Payment if moneys sufficient therefor are available in the Discretionary Fund) shall have had 60 days after receipt of such notice to correct said default or cause said default to be corrected, and shall not have corrected said default or caused said default to be corrected within the applicable period; provided, however, if said default be such that it cannot be corrected within the applicable period, it shall not constitute an Event of Default if corrective action is instituted by DelVal within the applicable period and diligently pursued until the default is corrected.

With regard to any alleged default concerning which notice is given to DelVal under the provisions of this section, DelVal hereby grants the Trustee full power and authority, on behalf of DelVal, to perform any covenant or obligation alleged in said notice to constitute a default, in the name and stead of DelVal, with full power to do any and all things and acts to the same extent that DelVal could do and perform any such things and acts and with power of substitution.

Notwithstanding anything to contrary contained in Sections 10.10 or 10.11, an Event of Default shall not be waived following a draw on Credit Facility unless the Trustee receives evidence that the Credit Facility has been reinstated in full and the Credit Facility Provider has not directed the Trustee to accelerate the Bonds secured by such Credit Facility.

**Section 10.12 Consent by Credit Facility Provider.**

If a Credit Facility is provided for all or a portion of a Series of Bonds, the Credit Facility Provider shall be deemed to be the Holder of such Bonds for the following:

- (a) the right to make requests of, direct or consent to the actions of the Trustee or to otherwise direct proceedings all as provided in Article X of this Indenture to the same extent and in place of the Owners of the Series of Bonds which are secured by the Credit Facility;

(b) the right to act in place of the Owners of the Series of Bonds which are secured by the Credit Facility for purposes of removing a Trustee or appointing a Trustee under Article XI hereof; and

(c) the right to act in place of the Owners of the Series of Bonds to consent to Supplemental Indentures, which would otherwise require the consent of the Holders of not less than 50% in aggregate Principal Amount of the Bonds, entered into pursuant to Section XII, and of this Indenture.

The rights granted to any such Credit Provider, with respect to the provisions of Articles XI and XII hereof shall be disregarded and be of no effect if the Credit Facility Provider is in default of its payment obligations under its Credit Facility.

## **ARTICLE XI THE TRUSTEE**

### **Section 11.01 Acceptance of the Trusts.**

The Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to serve as trustee for all Bonds issued hereunder and to perform said trusts, but only upon and subject to the following express terms and conditions and agrees to serve as Tender Agent for all Bonds (the Trustee and the Tender Agent shall at all times be the same entity so long as a Credit Facility is outstanding):

(a) The Trustee, prior to the occurrence of an Event of Default hereunder or under a Loan Agreement of which the Trustee has actual notice and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and the Loan Agreements. In case an Event of Default hereunder or under a Loan Agreement of which the Trustee has actual notice has occurred (which has not been cured or waived), the Trustee shall 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 a prudent Trustee would exercise or use under the circumstances in the conduct of his own affairs.

(b) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, or receivers, but the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder, and the Trustee shall be entitled to advice of Counsel concerning all matters of trusts hereof and the duties hereunder and under the Loan Agreements, and may in all cases pay such reasonable compensation to all such attorneys, agents, and receivers as may reasonably be employed in connection with the trusts hereof and under the Loan Agreements. The Trustee may act upon the opinion or advice of any attorneys (who may but need not be the attorney or attorneys for DelVal or a Participant), approved by the Trustee in the exercise of reasonable care. The Trustee shall not be responsible for any loss or damage resulting from any action or nonaction in good faith in reliance upon such opinion or advice.

(c) The Trustee shall not be responsible for any recital herein (except recitals of the Trustee), or in the Bonds (except in respect to any certificate of authentication endorsed on the Bonds by the Trustee) or in the Loan Agreements, or for the validity of the execution by DelVal of this Indenture or of any supplements hereto or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby.

(d) The Trustee shall not be accountable for the use of any Bonds authenticated or delivered hereunder. The Trustee may become the Bondholder secured hereby with the same rights which it would have if not the Trustee.

(e) The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder or under a Loan Agreement or Participant Note, except a failure by a Participant to make payments when due under a Loan Agreement or on a Participant Note, or a failure by DelVal to cause to be made any of the payments of principal or redemption prices of, or

interest on, the Bonds when due unless the Trustee shall be specifically notified in writing of such default by DeVal or by any Bondholder or a state or federal court. All notices or other instruments required by this Indenture or by a Loan Agreement to be delivered to the Trustee must, in order to be effective, be delivered at the corporate trust office of the Trustee in Philadelphia, Pennsylvania, until such time as a different address may be provided by the Trustee, and in the absence of such notice so delivered the Trustee may conclusively assume there is no default except as aforesaid.

(f) The Trustee shall be protected in acting upon and shall be conclusively entitled to rely upon any notice, request, consent, certificate (including the certificates of the officials of the Participants required pursuant to Section 6.07 hereof and under the Loan Agreements), order, affidavit, letter, telegram or other paper or document believed to be genuine and correct and to have been signed or sent by the proper person or persons including any such documents signed by an Authorized Officer of DeVal. The Trustee shall not unreasonably withhold its consent, approval or action to any reasonable request of DeVal. Any action taken by the Trustee pursuant to this Indenture upon the request of DeVal or upon the consent of any person who at the time of making such request or giving such consent is the Bondholder shall be conclusive and binding upon all future Bondholders of the same Bond and of Bonds issued in exchange therefor or in place thereof.

(g) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled in good faith to rely upon a Certificate signed by an Authorized Officer of DeVal as sufficient evidence of the facts therein contained, and prior to the occurrence of a default of which the Trustee has notice or is deemed to have notice pursuant to Section 11.01(e) hereof, shall also be at liberty to accept a similar Certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same. The Trustee may accept a Certificate of the Chairman or the Secretary of DeVal under its seal to the effect that a resolution in the form therein set forth has been adopted by DeVal as conclusive evidence that such resolution has been duly adopted and is in full force and effect.

(h) The permissive right of the Trustee to do things enumerated in this Indenture or in the Loan Agreements shall not be construed as a duty and it shall not be answerable for other than its gross negligence or willful misconduct.

(i) At any and all reasonable times, the Trustee, the Administrator and the duly authorized agents, attorneys, experts, engineers, accountants and representatives of any of said Persons shall have the right to inspect any and all of the books, papers and records of DeVal pertaining to the revenues and receipts under the Loan Agreements and the Bonds, and to take such memoranda from and in regard thereto as may be desired.

(j) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises granted herein.

(k) Notwithstanding anything elsewhere in this Indenture contained, the Trustee shall have the right, but shall not be required, to demand, in respect of the authentication

of any Bonds, the withdrawal of any cash, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action, by the Trustee deemed desirable for the purpose of establishing the right of DeVal to the authentication of any Bonds, the withdrawal of any cash, or the taking of any other action by the Trustee.

(l) Before taking any action under this Indenture, other than drawing under the provisions of a Credit Facility or, if applicable, directing a mandatory tender of a Series of Bonds secured by a Credit Facility, the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all expenses which it may incur and to protect it against all liability, except liability which is adjudicated to have resulted from its gross negligence or willful misconduct, by reason of any action so taken, but the Trustee may not require indemnity as a condition to declaring the principal of or interest on the Bonds to be due immediately under Section 10.02 hereof.

(m) All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds, except to the extent required herein or by law. The Trustee shall not be under any liability for interest on any moneys received hereunder except such as may be agreed upon.

#### **Section 11.02 Fees, Charges and Expenses of the Trustee.**

The Trustee shall be entitled to payment and reimbursement for reasonable fees for its services rendered hereunder and all advances, Counsel fees and other expenses reasonably and/or necessarily made or incurred by the Trustee in connection with such services, but solely from moneys deposited in the Revenue Fund (other than the proceeds of a draw on a Credit Facility and proceeds from the remarketing of any Series of Bonds) and available therefor pursuant to Sections 5.04(b) and 10.07 hereof. Upon an Event of Default, but only upon an Event of Default, the Trustee shall have a first lien with right of payment prior to payment on account of principal or redemption price of or interest on any Bond upon the Trust Estate (other than the proceeds of a draw on a Credit Facility and proceeds from the remarketing of any Series of Bonds) for the foregoing fees, charges and expenses incurred by it.

#### **Section 11.03 Notice to Certain Persons If Default Occurs.**

If the Trustee becomes aware of an Event of Default, then the Trustee shall promptly give written notice thereof by first-class mail to the Bondholders of all Bonds then Outstanding, shown by the registration books kept at the designated corporate trust office of the Trustee, and to the Administrator, DeVal and the Swap Counterparty.

#### **Section 11.04 Intervention by the Trustee.**

In any judicial proceeding to which DelVal is a party and which, in the opinion of the Trustee and its Counsel, has a substantial bearing on the interests of Bondholders, the Trustee may intervene on behalf of the Bondholders and shall do so if requested in writing by the Bondholders of at least 50% of the aggregate principal amount of the Bonds then Outstanding.

#### **Section 11.05 Resignation by the Trustee.**

The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving 60 days' written notice by first-class mail to DelVal, the Administrator and the Bondholder of each Bond; provided, however, that in no event shall such resignation take effect until the appointment of a successor Trustee and the acceptance of such appointment by such successor as provided in Sections 11.08 and 11.09 hereof. Upon receiving such notice of resignation, DelVal shall promptly appoint a successor Trustee. If no successor Trustee shall have been so appointed and accepted such appointment within 60 days of mailing the notice of such resignation to the Bondholders, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee, or the Bondholders of at least 50% of the aggregate principal amount of the Bonds may petition any such court for the appointment of a successor Trustee. Such court may thereupon, after such notice, if any, as it may deem proper, appoint a successor Trustee as provided in Sections 11.08 and 11.09 hereof.

#### **Section 11.06 Removal of the Trustee.**

The Trustee may be removed at any time for just cause, by an instrument or concurrent instruments in writing delivered to DelVal, the Trustee, and the Administrator and signed by the Bondholders of a majority in aggregate principal amount of all Bonds then Outstanding.

DelVal may remove the Trustee at any time for just cause so long as there is no default by DelVal and no Event of Default then in existence or continuing under this Indenture.

#### **Section 11.07 Successor Trustee by Merger.**

Any corporation into which any Trustee hereunder may be merged or converted, with which it may be consolidated, or to which it may transfer or sell all or substantially all or its assets, or any corporation resulting from any merger, conversion, consolidation or sale to which any Trustee hereunder shall be a party, shall be the successor trustee under this Indenture, without the execution or filing of any paper or any further act on the part of the parties hereto, anything herein to the contrary notwithstanding, provided, however, that any such successor corporation continuing to act as Trustee hereunder shall meet the requirements of Sections 11.09 and 11.10(d) hereof, and if such corporation does not meet the aforesaid requirements, a successor Trustee shall be appointed pursuant to this Article XI.

### **Section 11.08 Appointment of a Successor Trustee by the Bondholders; Temporary Trustee.**

In case the Trustee hereunder shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the Bondholders of a majority in aggregate principal amount of all Bonds then Outstanding by an instrument or concurrent instruments in writing signed by such Bondholders, or by their attorneys in fact, duly authorized and a copy of which shall be delivered personally or sent by registered mail to DeVal and the Administrator. Nevertheless, in case of such vacancy or resignation, DeVal shall appoint a temporary Trustee to fill such vacancy until a successor Trustee shall be appointed by the Bondholders in the manner above prescribed; and any such temporary Trustee so appointed shall immediately and without further act be superseded by any Trustee so appointed by such Bondholders. Notice of the appointment of a successor Trustee shall be given in the same manner as provided herein with respect to the resignation of a Trustee.

Notwithstanding any other provision of this Indenture, no removal, resignation or termination of the Trustee shall take effect until a successor shall have been appointed and shall have accepted such appointment.

### **Section 11.09 Concerning Any Successor Trustee.**

Every successor Trustee appointed hereunder shall be a trust company or bank in good standing located in or incorporated under the laws of the Commonwealth, duly authorized to exercise trust powers and subject to examination by federal or state authority, having a reported capital and surplus of not less than \$50,000,000.

Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to DeVal an instrument in writing accepting such appointment hereunder, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessors; but any such predecessor shall, nevertheless, on the written request of DeVal, or of the successor Trustee, execute and deliver an instrument transferring to such successor Trustee all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities, moneys, documents and other property held by it as Trustee hereunder to its successor hereunder. Should any instrument in writing from DeVal be required by any successor Trustee for more fully and certainly vesting in such successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by DeVal. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article, shall be filed or recorded by the successor Trustee in each recording office where this Indenture shall have been filed or recorded.



## **Section 11.10 Appointment of Co-Trustee.**

(a) If at any time or times DelVal or the Trustee shall have determined, or shall have been advised by counsel satisfactory to it, that it is necessary or prudent to appoint a Co-Trustee under this Section in order to (i) separate (or provide for the joint undertaking of) certain of the rights, powers, duties and obligations conferred or imposed upon the Trustee; (ii) comply with the legal requirements of any applicable jurisdiction; or (iii) effectuate the exercise of the powers, rights or remedies of the Trustee hereunder, then the Trustee and/or DelVal shall be entitled, without the consent of the Program Administrator or any Participant, and regardless of whether an Event of Default hereunder shall have occurred, to appoint one or more additional institutions (which each shall meet the specifications for a successor trustee under Section 11.09 hereof) to serve as a separate co-trustee hereunder (a “Co-Trustee”), with such powers as may be provided in the instrument of appointment, and to vest in each such institution any property, title, right or power deemed necessary or desirable, subject to the provisions of this Section 11.10.

(b) Each Co-Trustee shall, to the extent permitted by applicable law, be appointed subject to the following terms:

(i) The rights, powers, duties and obligations conferred or imposed upon any such Co-Trustee shall not be greater than those conferred or imposed upon the Trustee.

(ii) DelVal, or the Trustee, may at any time accept the resignation of and DelVal may remove any Co-Trustee appointed under this Section 11.10 in the same manner as stated in this Article XI with respect to resignation and removal of the Trustee.

(iii) No Co-Trustee under this Indenture shall be liable by reason of any act or omission of the Trustee or any other Co-Trustee appointed under this Indenture.

(iv) Anything herein contained to the contrary notwithstanding, no power given to any Co-Trustee hereunder shall be separately exercised by such Co-Trustee except at the written direction of DelVal with notice to the Trustee.

(c) Should any instrument in writing from DelVal be required by the Co-Trustee so appointed or removed by the Trustee in order to vest in and confirm to it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by DelVal. In case any Co-Trustee, or a successor shall become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such 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 Trustee or Co-Trustee.

(d) In addition to the provisions of Sections 11.05, 11.06 and 11.09, any Trustee or Co-Trustee appointed hereunder shall resign if requested by DelVal, or may be removed by DelVal, if the long-term unsecured senior debt rating (not taking into account any third party credit

enhancement) of such Trustee or Co-Trustee, as applicable, is below “A2” as determined by Moody’s, below “A” as determined by S&P or Fitch, or below an equivalent rating by any other NRSRO with a published rating of the Bonds.

(e) The Trustee shall promptly give each Swap Counterparty written notice of the appointment of a separate Trustee or Co-Trustee under this Indenture.

#### **Section 11.11 Certain Notices.**

The Trustee shall give notice to each Rating Agency of the following:

- (a) Any change in the identities of the Trustee, any remarketing agent, paying agent or tender agent;
- (b) Any supplements or amendments to this Indenture;
- (c) Any supplements or amendments to any Credit Facility Agreement on any Credit Facility;
- (d) The expiration, termination, substitution or extension of any Credit Facility;
- (e) Conversion of interest rate mode on any Series of Bonds;
- (f) Redemptions or defeasance of any Series of any Bonds;
- (g) Any Series of Bonds which are mandatorily tendered;
- (h) Any acceleration of the Bonds; and
- (i) Any other information that any Rating Agency may reasonably request of the Trustee in writing in order to maintain a rating on the Bonds.

DeVal shall give written notice to the Trustee, each Swap Counterparty and the Administrator in the event of any change or reduction in the ratings of the Bonds or any Participant Credit Enhancer which has issued Participant Credit Enhancement.

#### **Section 11.12 Continuing Disclosure.**

The Trustee is hereby appointed as the dissemination agent for purposes of compliance with the requirements of Rule 15(c)2-12 of the Securities and Exchange Commission. The Trustee shall disseminate all information in accordance with the terms of each Continuing Disclosure Agreement.

**ARTICLE XII  
SUPPLEMENTAL INDENTURES**

**Section 12.01 Supplemental Indentures Not Requiring Consent of Bondholders.**

DeIVal and the Trustee may, without the consent of or notice to any of Bondholders or any Swap Counterparty or any Credit Facility Provider, enter into any Supplemental Indenture for any one or more of the following purposes:

- (a) In connection with the issuance of a Series of Bonds;
- (b) To cure any ambiguity or formal defect or omission in this Indenture;
- (c) To grant to or confer upon the Trustee for the benefit of the Bondholders any additional benefits, rights, remedies, powers or authorities that may lawfully be granted to or conferred upon the Bondholders or the Trustee or to make any change which in the judgment of the Trustee is not to the detriment of the Bondholders;
- (d) To subject to this Indenture additional revenues, properties or collateral;
- (e) To modify, amend or supplement this Indenture or any indenture supplemental hereto in such manner as to permit the qualification hereof and thereof under the *Trust Indenture Act of 1939*, as amended, or any similar federal statute hereafter in effect or to permit the qualification of the Bonds for sale under the securities laws of the United States of America or of any of the states of the United States of America, and, if they so determine, to add to this Indenture or any indenture supplemental hereto such other terms, conditions and provisions as may be permitted by said *Trust Indenture Act of 1939*, as amended, or similar federal statute;
- (f) To evidence the appointment of a Co-Trustee or the succession of a new Trustee hereunder;
- (g) To provide for separate accounts within the Funds established pursuant to Article V;
- (h) To provide for certificated Bonds as contemplated by Section 2.07(c)(vii) hereof;
- (i) To make any change to reflect any provision in the Code or the interpretations thereof by the Internal Revenue Service, provided that such change does not materially adversely affect the rights of any Bondholder;
- (j) To make any change not materially adversely affecting any Bondholder's or Swap Counterparty's or any Credit Facility Provider's rights requested by any Rating Agency in order (i) to obtain a rating from such Rating Agency in connection with its rating of such Series of Bonds or (ii) to maintain any rating on the Bonds;

- (k) To make any change necessary to obtain Participant Credit Enhancement;
- (l) To make any change necessary to obtain a Credit Facility; or
- (m) To make any other change that does not materially adversely affect the rights of any Bondholder or Swap Counterparty or Credit Facility Provider.

### **Section 12.02 Supplemental Indentures Requiring Consent of Bondholders.**

Exclusive of supplemental indentures covered by Section 12.01 hereof and subject to the terms and provisions contained in this Section 12.02 and Section 10.10 hereof, and not otherwise, the Bondholders of not less than 50% in aggregate principal amount of the Bonds then Outstanding which are affected and each Swap Counterparty shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by DelVal and the Trustee of such other indenture or indentures supplemental hereto as shall be deemed necessary and desirable by DelVal or the Trustee for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any supplemental indenture; provided, however, that nothing in this Section contained shall permit, or be construed as permitting (a) without the consent of the Bondholders of all then Outstanding Bonds and each Swap Counterparty, (i) an extension of the maturity date of the principal of or the interest on any Bond, or (ii) a reduction in the principal amount of any Bond or the rate of interest thereon, or (iii) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (iv) a reduction in the aggregate principal amount of the Bonds required for consent to such supplemental indenture, or (v) the creation of any lien other than a lien ratably securing all of the Bonds at any time Outstanding hereunder, or (b) any modification of the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of the Trustee without the written consent of the Trustee.

If at any time DelVal shall request the Trustee to enter into any such supplemental indenture for any of the purposes of this Section, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such supplemental indenture to be mailed by first-class mail to the Administrator, the Swap Counterparty and to each Bondholder of a Bond at the address shown on the registration books. Such notice shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on file at the designated corporate trust office of the Trustee for inspection by all Bondholders. If, within 60 days or such longer period as shall be prescribed by DelVal, following the mailing of such notice, the Bondholders of not less than 50% in aggregate principal amount of the Bonds Outstanding which are affected at the time of the execution of any such supplemental indenture shall have consented to and approved the execution thereof as herein provided, no Bondholder of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or DelVal from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such supplemental indenture as in this section permitted and provided, this Indenture shall be and be deemed to be modified and amended in accordance therewith.

**Section 12.03 Required Opinions.**

No supplemental indenture entered into pursuant to this Article XII shall be effective unless there shall have been provided to DeIVal and the Trustee a Favorable Opinion of Bond Counsel with respect thereto and an Opinion of Counsel to the effect that such Supplemental Indenture has been duly authorized, executed and delivered by the parties thereto and that the requirements of this Article XII have been satisfied in connection therewith.

**Section 12.04 Supplemental Indentures requiring Consent of Participant Credit Enhancers and providers of Credit Facilities.**

Any Supplemental Indenture which would adversely affect the rights, interests, security and obligations of a Participant Credit Enhancer or a Credit Facility Provider shall not be effective until all Participant Credit Enhancers and providers of Credit Facilities affected thereby have consented thereto.

**ARTICLE XIII**  
**AMENDMENT OF LOAN AGREEMENTS AND PARTICIPANT NOTES,**  
**PARTICIPANT CREDIT ENHANCEMENT, AND CREDIT FACILITIES**

**Section 13.01 Amendments Without Consent of Bondholders.**

The Administrator shall review all such proposed amendments to Loan Agreements, Participant Notes, Participant Credit Enhancements, and Credit Facilities and provide a recommendation with respect thereto to DeIVal. DeIVal may, without the consent of or notice to the Bondholders, consent to any amendment, change or modification of any previously executed and delivered Loan Agreement, Participant Note, Participant Credit Enhancement, or Credit Facility, so long as such amendment, change or modification does not adversely affect the interest of Bondholders. DeIVal may not consent to any material amendment, change or modification to a Loan Agreement, Participant Note, Participant Credit Enhancement, or Credit Facility which adversely affects the interests of Bondholders, Swap Counterparty, Participant Credit Enhancer, or Credit Facility Provider unless the consent of each affected party is obtained.

## **ARTICLE XIV GENERAL COVENANTS**

### **Section 14.01 Payment of Bonds.**

DelVal covenants that it shall promptly pay the principal, interest or redemption price on every Bond issued under this Indenture at the place, on the dates and in the manner provided herein and in said Bonds according to the true intent and meaning thereof; provided, that the principal, interest or redemption price is payable by DelVal solely from the Revenues or moneys provided by the Covenant Agreement, and nothing in the Bonds or this Indenture shall be considered as assigning or pledging any other funds or assets or rights of DelVal other than the Revenues and the right, title and interest of DelVal in the Loan Agreements and any other property mentioned in the Granting Clauses hereof.

### **Section 14.02 Performance of Covenants by DelVal.**

DelVal covenants that it shall faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Loan Agreement and Bond executed, authenticated and delivered hereunder and in all of its proceedings pertaining hereto. DelVal covenants that it is duly authorized under the Constitution and laws of the Commonwealth, including particularly the *Authorities Act*, to issue the Bonds authorized hereby and to execute this Indenture and the Loan Agreements, and to evidence amounts payable thereunder and its interest in any security therefor, and to pledge the Revenues, the Participant Notes and any other property hereby pledged in the manner and to the extent herein set forth; that all action on its part for the issuance of the Bonds and the execution and delivery of this Indenture and the Loan Agreements have been or, with respect to the Loan Agreements, will be, duly and effectively taken, and that the Bonds in the hands of the Bondholders thereof are and shall be valid and enforceable obligations of DelVal according to the terms thereof and hereof.

### **Section 14.03 Instruments of Further Assurance.**

DelVal agrees that the Trustee may defend its rights to the payments of the Revenues and the Participant Notes for the benefit of the Bondholders against the claims and demands of all persons whomsoever. DelVal covenants that it shall do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such indentures supplemental hereto and such further acts, instruments and transfers as the Trustee may reasonably require for the better assuring, transferring, pledging, assigning and confirming unto the Trustee all and singular the rights assigned hereby and the amounts and other property pledged hereby to the payment of the principal or redemption price of and interest on the Bonds. DelVal covenants and agrees that, except as provided herein or in the Loan Agreements, it shall not sell, convey, assign, pledge, encumber or otherwise dispose of any part of the Participant Notes or the Revenues or its rights under the Loan Agreements or any security therefor or any other property pledged to secure the Bonds.

#### **Section 14.04 Recording and Filing.**

The Trustee shall keep or cause to be kept all financing statements related to this Indenture and all supplements hereto, the Loan Agreements and all supplements thereto and such other documents that are delivered to the Trustee as may be necessary to be filed in such manner and in such places, and, except to the extent otherwise expressly stated in or contemplated by this Indenture, the Trustee shall maintain continuous possession of any portions of the Trust Estate in which a security interest may not be perfected by filing, as may be required by law in order to preserve, protect, and perfect fully the security of the Bondholders and the rights of the Trustee hereunder. DelVal shall cooperate with the Trustee in accomplishing the filing of any financing statements to be filed in connection therewith.

#### **Section 14.05 Rights under the Loan Agreements and Participant Notes.**

The Participant Resolutions, the Participant Notes and the Loan Agreements set forth covenants and obligations of DelVal and the Participants and reference is hereby made to the Loan Agreements, the Participant Resolutions and the Participant Notes for a detailed statement of said covenants and obligations of the Participants under the Loan Agreements, and DelVal agrees that the Trustee in its name or, to the extent permitted by law, in the name of DelVal, may enforce all rights of DelVal and all obligations of the Participants under the Participant Resolutions and the Participant Notes and the Loan Agreements, and any documents securing them (and waive the same, except for rights expressly granted to DelVal and not assigned to the Trustee hereunder) on behalf of the Bondholders, whether or not DelVal is in default hereunder.

#### **Section 14.06 Possession and Inspection of Loan Agreements and Participant Notes.**

The Trustee shall retain possession of the Participant Notes and an executed copy of each Loan Agreement, and shall surrender Participant Notes and release any Loan Agreement only in accordance with the provisions of this Indenture, the Participant Notes and the Loan Agreements.

#### **Section 14.07 Indemnification of the Trustee.**

DelVal, to the extent legally permissible but solely from its interest in the Trust Estate, shall pay, and shall protect, indemnify and save the Trustee (including all officers, employees, agents and attorneys thereof) harmless from and against any and all liabilities, losses, damages, costs and expenses (including reasonable attorneys' fees and expenses of DelVal and the Trustee), causes of action, suits, claims, demands and judgments of whatsoever kind and nature arising out of the issuance, offering, sale, delivery, payment and purchase of the Bonds, the execution and delivery of the Indenture, the Loan Agreements, any resolution of DelVal in connection with the foregoing and the performance by the Trustee of its respective duties and responsibilities hereunder and under the Loan Agreements, except that DelVal shall not be required to indemnify the Trustee for its own gross negligence or willful misconduct. The Trustee shall promptly notify DelVal in writing of any claim or action brought against the Trustee in respect of which indemnity may be sought against DelVal, setting forth the particulars of such claim or action, and DelVal may assume the defense thereof, including the employment of Counsel and the payment of all expenses. The



Trustee may employ separate Counsel in any such action and participate in the defense thereof, but the fees and expenses of such Counsel shall not be payable by DeIVal unless such employment has been specifically authorized by DeIVal; provided, however, DeIVal shall authorize employment of such separate Counsel if Counsel retained by DeIVal shall advise the Trustee in writing that the interests of the Trustee and any other parties such Counsel may represent in such action are in conflict. The indemnification provided in this Section shall survive the termination or discharge of this Indenture.

**Section 14.08 No Recourse Against Members, Directors, or Officers of DeIVal.**

No recourse under, or upon, any statement, obligation, covenant, certificate, or agreement contained in this Indenture, or in any Bond, any Loan Agreement, any Investment Agreement, or in any document or certification whatsoever, or under any judgment obtained against DeIVal or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise or under any circumstances, under or independent of this Indenture, any Bond, any Loan Agreement, or the Investment Agreement, shall be had against any incorporator, member, director or officer, as such, past, present, or future, of DeIVal, either directly or through DeIVal or otherwise, for the payment for, or to, DeIVal or any receiver thereof, or for, or to, the Bondholder of any Bond or otherwise of any sum that may be due and unpaid by DeIVal upon any such Bonds, including the interest payable thereon. Any and all personal liability of every nature, whether at common law or in equity or by statute or by constitution or otherwise, of any such incorporator, member, director, or officer, as such, to respond by reason of any act or omission on his or her part or otherwise for, directly or indirectly, the payment for, or to, DeIVal or any receiver thereof, or for, or to, the Bondholder of any Bond issued hereunder or otherwise, of any sum that may remain due and unpaid on the Bonds, including the interest payable thereon, is hereby expressly waived by the Trustee and DeIVal and released as a condition of, and consideration for, the execution of this Indenture and the issuance of the Bonds.

**Section 14.09 DeIVal to be Bound by Covenant Agreement.**

DeIVal acknowledges that it has approved, executed and delivered the Covenant Agreement in the form attached hereto as Exhibit “B” and covenants and further agrees that the Covenant Agreement shall apply in all respects to the Bonds issued pursuant to this Indenture.

## **ARTICLE XV MISCELLANEOUS**

### **Section 15.01 Consents, etc., of Bondholders.**

Any consent, direction, approval, objection or other instrument required by this Indenture to be signed and executed by the Bondholders may be in any number of concurrent writings of similar tenor and may be signed or executed by such Bondholders in person or by agent appointed in writing. Proof of the execution of any such consent, request, direction, approval, objection or other instrument or of the writing appointing any such agent and of the ownership of the Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken by it under such request or other instrument, namely:

(a) The fact and date of the execution by any person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such writing acknowledged before him the execution thereof, or by an affidavit of any witness to such execution.

(b) The fact of ownership of Bonds and the amount or amounts, numbers and other identification of the Bonds, and the date of owning the same shall be proved by the registration books of DeVal maintained by the Trustee.

### **Section 15.02 Limitation of Rights.**

With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give to any person or company other than the parties hereto or any Swap Counterparty, provider of a Credit Facility, Participant Credit Enhancer and the Bondholders, any legal or equitable right, remedy or claim under or in respect to this Indenture or any covenants, conditions and provisions herein contained; this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto or any Swap Counterparty, provider of a Credit Facility, Participant Credit Enhancer and the Bondholders as herein provided.

### **Section 15.03 Severability.**

If any provision of this Indenture 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 15.04 Notices.**

Any notice, request, complaint, demand, communication or other paper shall be sufficiently given and shall be deemed given when delivered or mailed by first-class mail, postage prepaid, or sent by telegram or telex, addressed to the parties as follows:

DelVal: Delaware Valley Regional Finance Authority  
1811 Bethlehem Pike  
Flourtown Commons, Suite 350  
Flourtown, PA 19031

Trustee: TD Bank, N.A.  
TD Wealth Management  
Institutional Trust  
1006 Astoria Boulevard  
Cherry Hill, NJ 08034

Administrator: Calhoun Baker Inc.  
1811 Bethlehem Pike  
Flourtown Commons, Suite 350  
Flourtown, PA 19031  
Attention: Lucien B. Calhoun

S&P: Standard & Poor's Ratings Services  
Municipal Finance Department  
55 Water Street  
New York, NY 10041  
Attention: Rating Desk

Moody's: Moody's Investors Service  
7 World Trade Center  
250 Greenwich Street  
New York, NY 10007  
Attention: Municipal Structured Products Group

Fitch: Fitch Ratings  
Attention: Structured Finance Group  
One State Street Plaza  
New York, NY 10004

The parties may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

### **Section 15.05 Payments Due on Non-Business Days.**

In any case where the date of payment of principal of or interest on the Bonds or the date fixed for redemption of any Bonds shall not be a Business Day, then payment of such interest or principal or the redemption price may be made on the succeeding Business Day with the same force and effect as if made on the scheduled date of payment or maturity, or the date fixed for redemption, without payment of any extra accrued interest.

### **Section 15.06 Counterparts.**

This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

### **Section 15.07 Applicable Provisions of Law.**

This Indenture, and all matters arising out of or relating to this Indenture, shall be governed by and construed in accordance with the laws of the Commonwealth.

**IN WITNESS WHEREOF, the DELAWARE VALLEY REGIONAL FINANCE AUTHORITY** has caused this Indenture, amended and restated as of August 13, 2018, to be executed on its behalf by the Authorized Officers set forth below.

Dated as of: August 13, 2018

**DELAWARE VALLEY REGIONAL  
FINANCE AUTHORITY**



JOHN P. MCBLAIN  
Chairman

ATTEST:



PATRICIA K. POPRIK  
Secretary

**IN WITNESS WHEREOF, TD Bank, N.A.,** as Trustee, has caused this Indenture, amended and restated as of August 13, 2018, to be executed and its seal to be impressed hereon by one of its duly authorized officers.

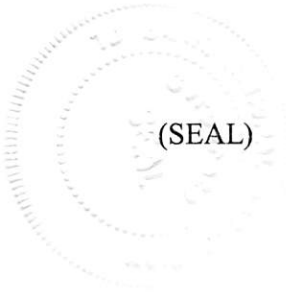
**TD BANK, N.A. as Trustee**

Dated as of: August 13, 2018

**TD BANK, N.A., as Trustee**



STEPHEN R. SCHAAF  
Vice President



**EXHIBIT "A"**  
**FORM OF LOAN AGREEMENT**

**EXHIBIT "B"**  
**COVENANT AGREEMENT**