

*In the opinion of Pope Flynn, LLC, Special Tax Counsel, under existing law, assuming continuing compliance by the Issuer and the Company with certain covenants and the accuracy of certain representations, interest on the Series 2024 Bonds is excluded from gross income for federal income tax purposes, except as provided in Section 147(a) of the Internal Revenue Code of 1986, as amended (the "Code"), with respect to any period during which a Series 2024 Bond is held by a "substantial user" of the facilities being financed with proceeds of the Series 2024 Bonds or by a "related person" (as those terms are defined under Section 147(a) of the Code). Special Tax Counsel is further of the opinion that interest on the Series 2024 Bonds is an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and may be taken into account for purposes of computing the alternative minimum tax imposed on certain corporations. Special Tax Counsel is further of the opinion that, under current law, interest on the Series 2024 Bonds is exempt from all income taxation within the State of North Carolina. See "TAX MATTERS" herein for a description of these and other tax considerations.*

**\$250,000,000**

**THE CUMBERLAND COUNTY INDUSTRIAL FACILITIES  
AND POLLUTION CONTROL FINANCING AUTHORITY  
SOLID WASTE DISPOSAL REVENUE BONDS  
(PROJECT AERO), SERIES 2024**

**Dated: Date of Issuance**  
**Price: 100%**

**Due: December 1, 2027**  
**CUSIP # 230589AB9**

The Cumberland County Industrial Facilities and Pollution Control Financing Authority Solid Waste Disposal Revenue Bonds (Project Aero), Series 2024 (the "Series 2024 Bonds") were issued to finance, in part, the acquisition, construction and installation of a titanium reprocessing facility to be located in Cumberland County, North Carolina (the "Project"). See "THE COMPANY AND THE PROJECT" herein. The Series 2024 Bonds are being remarketed pursuant to an Amended and Restated Trust Indenture dated as of November 1, 2025, which amends and restates the original Trust Indenture dated as of December 1, 2024 (as so amended and restated, the "Indenture"), by and between The Cumberland County Industrial Facilities and Pollution Control Financing Authority, a body corporate and politic of the State of North Carolina (the "Issuer"), and Wilmington Trust, National Association, a national banking association, as trustee (the "Trustee"). The proceeds of the Series 2024 Bonds have been made available to American Titanium Metal, LLC, a Delaware limited liability company (the "Company"), pursuant to a Loan Agreement dated as of December 1, 2024, as amended by the First Amendment to Loan Agreement dated as of November 1, 2025 (as so amended, the "Loan Agreement"), between the Issuer and the Company.

During the period from November 3, 2025 to December 1, 2026 (the "Initial Mandatory Tender Date"), the Trustee will invest the amounts on deposit in the Escrow Fund in certain Government Securities (as such terms are defined herein). The Government Securities will yield amounts, together with the interest income therefrom, sufficient to pay interest accrued on the Series 2024 Bonds on the first Interest Payment Date (as defined below) and the principal of and interest accrued on the Series 2024 Bonds on the Initial Mandatory Tender Date. See "SECURITY AND SOURCE OF PAYMENT FOR THE SERIES 2024 BONDS" herein.

On the Initial Mandatory Tender Date, each Series 2024 Bond shall be subject to mandatory tender for purchase at a purchase price equal to 100% of the principal amount thereof, together with any interest accrued and unpaid to the date of purchase, without premium. Interest on the Series 2024 Bonds will be payable each June 1 and December 1, commencing June 1, 2026 (each, an "Interest Payment Date"). See "DESCRIPTION OF THE SERIES 2024 BONDS" herein.

Prior to the Initial Mandatory Tender Date, the Series 2024 Bonds will bear interest at 3.125% per annum. The Series 2024 Bonds are subject to redemption prior to the Initial Mandatory Tender Date at the option of the Company as provided herein. See "DESCRIPTION OF THE SERIES 2024 BONDS" herein.

The Series 2024 Bonds will be payable on the Initial Mandatory Tender Date from the Government Securities together with the interest income therefrom held in the Escrow Fund to the extent remarketing proceeds are not sufficient to pay such amounts.

*The Series 2024 Bonds are reoffered solely on the basis of the investment of the moneys on deposit in the Escrow Fund in the Government Securities, and are not offered on the basis of the credit of the Company, the feasibility of the Project or any other security. This Remarketing Circular does not contain any information about the financial condition or results of operations of the Company. The Series 2024 Bonds are offered only to investors who, in making their investment decision, rely on the Government Securities, and not the credit of the Company, the feasibility of the Project or any other security.*

The Series 2024 Bonds will be reoffered only as fully registered bonds, without coupons, and will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"). See "DESCRIPTION OF THE SERIES 2024 BONDS-Book-Entry-Only System" herein.

**THE PRINCIPAL OR REDEMPTION PRICE OF AND INTEREST ON THE SERIES 2024 BONDS ARE PAYABLE SOLELY AND EXCLUSIVELY FROM THE TRUST ESTATE PLEDGED FOR THEIR PAYMENT PURSUANT TO THE INDENTURE. THE SERIES 2024 BONDS ARE SPECIAL OBLIGATIONS OF THE ISSUER AND ARE PAYABLE SOLELY FROM THE SOURCES REFERRED TO IN THE INDENTURE. THE SERIES 2024 BONDS DO NOT CONSTITUTE A DEBT OR A PLEDGE OF THE FAITH AND CREDIT OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF AND THE BONDHOLDERS OR OWNERS OF THE SERIES 2024 BONDS HAVE NO RIGHT TO HAVE TAXES LEVIED BY THE GENERAL ASSEMBLY OF THE STATE OR TAXING AUTHORITY OF ANY POLITICAL SUBDIVISION OF THE STATE FOR THE PAYMENT OF THE PRINCIPAL OR REDEMPTION PRICE OF AND INTEREST ON THE SERIES 2024 BONDS. THE ISSUER HAS NO TAXING POWER.**

*The Series 2024 Bonds are reoffered when, as and if remarketed by the Issuer and received by the Remarketing Agent, subject to prior sale and to the approval of the validity by Pope Flynn, LLC, Special Tax Counsel and McGuireWoods LLP, Bond Counsel to the Issuer. Certain legal matters will be passed upon for the Issuer by Rick Moorefield, County Attorney, for the Company by Pope Flynn, LLC and Nelson Mullins Riley & Scarborough LLP, for the Remarketing Agent by Ballard Spahr LLP, and for the Trustee by Govier & Taboada LLP. It is expected that the Series 2024 Bonds in definitive form will be available for delivery through the facilities of DTC on or about November 3, 2025.*



The statements and information contained under “THE ISSUER” and “ABSENCE OF MATERIAL LITIGATION – The Issuer” have been obtained from the Issuer. The other statements and information contained herein have been obtained from the Company and other sources believed to be reliable. No person has been authorized to give any information or to make any representations other than those contained in this Remarketing Circular in connection with the Series 2024 Bonds and, if given or made, such information or representations must not be relied upon as having been authorized by the Issuer, the Company or the Remarketing Agent. Neither the delivery of this Remarketing Circular nor any sale hereunder will under any circumstances create any implication that there has been no change in the affairs of the Issuer, the Company or any other person described herein since the date hereof. This Remarketing Circular does not constitute an offer to sell or the solicitation of an offer to buy nor will there be any sale of the Series 2024 Bonds by a person in any jurisdiction in which it is unlawful for such person to make such an offer, solicitation or sale. This Remarketing Circular is submitted in connection with the sale of the Series 2024 Bonds referred to herein and may not be reproduced or used, in whole or in part, for any other purpose.

This Remarketing Circular is not to be construed as a contract with the purchasers of the Series 2024 Bonds. This Remarketing Circular, including the appendices hereto, contains statements relating to future results that are “forward-looking statements” as defined in the Private Securities Litigation Reform Act of 1995. When used in this Remarketing Circular, the words “estimate,” “anticipate,” “forecast,” “project,” “intend,” “propose,” “plan,” “expect” and similar expressions identify forward-looking statements. Such statements are subject to risks and uncertainties that could cause actual results to differ materially from those contemplated in such forward-looking statements. Any forecast is subject to such uncertainties. Inevitably, some assumptions used to develop the forecasts will not be realized and unanticipated events and circumstances may occur. Therefore, there are likely to be differences between forecasts and actual results, and those differences may be material.

The Remarketing Agent has provided the following sentence for inclusion in this Remarketing Circular. The Remarketing Agent has reviewed the information in this Remarketing Circular in accordance with, and as part of, its responsibility to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Remarketing Agent does not guarantee the accuracy or completeness of such information.

**THE SERIES 2024 BONDS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, IN RELIANCE UPON AN EXEMPTION CONTAINED THEREIN, AND HAVE NOT BEEN REGISTERED OR QUALIFIED UNDER THE SECURITIES LAWS OF ANY STATE. THE INDENTURE HAS NOT BEEN QUALIFIED UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, IN RELIANCE UPON AN EXEMPTION CONTAINED THEREIN. THE SERIES 2024 BONDS HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY COMMISSION. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS REMARKETING CIRCULAR. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.**

IN CONNECTION WITH THIS REMARKETING, THE REMARKETING AGENT MAY OVERALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE SERIES 2024 BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING TRANSACTIONS, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME. THE REMARKETING AGENT MAY OFFER AND SELL THE SERIES 2024 BONDS TO CERTAIN DEALERS AND OTHERS AT PRICES LOWER THAN THE PUBLIC OFFERING PRICES STATED ON THE COVER PAGE OF THIS REMARKETING CIRCULAR, AND SUCH PUBLIC OFFERING PRICES MAY BE CHANGED FROM TIME TO TIME BY THE REMARKETING AGENT.

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## **REMARKETING CIRCULAR**

**\$250,000,000**

### **THE CUMBERLAND COUNTY INDUSTRIAL FACILITIES AND POLLUTION CONTROL FINANCING AUTHORITY SOLID WASTE DISPOSAL REVENUE BONDS (PROJECT AERO), SERIES 2024**

#### **INTRODUCTORY STATEMENT**

The summaries of and references to all documents, opinions and other instruments referred to herein do not purport to be complete, comprehensive or definitive, and each such summary and reference is subject to, and qualified in its entirety by reference to, all of the provisions of such documents, opinions and instruments, including the definitions therein of certain terms. Unless otherwise indicated herein, capitalized terms used in this Remarketing Circular have the meanings established in the Indenture (as defined below).

This Remarketing Circular is provided to furnish information in connection with the remarketing of the \$250,000,000 The Cumberland County Industrial Facilities and Pollution Control Financing Authority Solid Waste Disposal Revenue Bonds (Project Aero), Series 2024 (the “Series 2024 Bonds”) to be remarketed by The Cumberland County Industrial Facilities and Pollution Control Financing Authority, a body corporate and politic of the State of North Carolina (the “Issuer”). The proceeds of the Series 2024 Bonds have been made available to American Titanium Metal, LLC, a Delaware limited liability company (the “Company”), pursuant to a Loan Agreement dated as of December 1, 2024, as amended by the First Amendment to Loan Agreement dated as of November 1, 2025 (as so amended, the “Loan Agreement”) between the Issuer and the Company, to finance, in part, the acquisition, construction and installation of a titanium reprocessing facility to be located in Cumberland County, North Carolina (the “Project”).

The Series 2024 Bonds will be remarketed pursuant to the constitution and laws of the State of North Carolina (the “State”), including particularly the provisions of the Industrial and Pollution Control Facilities Financing Act, Chapter 159C of the General Statutes of North Carolina, as amended (the “Act”), resolutions of the Issuer adopted on October 24, 2024 and September 18, 2025 (the “Resolution”) and an Amended and Restated Trust Indenture, dated as of November 1, 2025, which amends and restates the original Trust Indenture dated as of December 1, 2024 (as so amended and restated, the “Indenture”), by and between the Issuer and Wilmington Trust, National Association, a national banking association, as trustee (the “Trustee”). The Trustee will also be appointed bond registrar under the Indenture.

On the date of the original issuance of the Series 2024 Bonds, all of the proceeds of the Series 2024 Bonds (the “Escrow Fund Deposit”) were transferred to the Escrow Fund to be established under the Indenture (the “Escrow Fund”). On November 3, 2025, the date of the remarketing of the Series 2024 Bonds (the “Remarketing Date”), the Series 2024 Bonds will be remarketed and the proceeds of the remarketing will be deposited into the Remarketing Proceeds Fund established under the Indenture, and used, together with certain amounts transferred from the Escrow Fund, to pay the purchase price of the Series 2024 Bonds tendered for mandatory purchase on such Remarketing Date. The balance of the Escrow Fund, net of a deposit to the Project Fund, will remain in the Escrow Fund. See “PLAN OF FINANCE” herein.

During the period from the Remarketing Date to December 1, 2026 (the “Initial Mandatory Tender Date”), the Trustee will invest the amounts on deposit in the Escrow Fund in certain (a) direct obligations of the United States of America, (b) obligations issued by a person controlled or supervised by and acting as an agency or instrumentality of the United States of America or (c) securities which represent an interest in the obligations described in (a) and (b) above, which obligations are not subject to optional redemption

by the Issuer thereof prior to maturity (“Government Securities”), as permitted and more fully described in the form of Indenture attached as Appendix A hereto.

The Trustee is required to hold the Government Securities until their maturity on the initial Interest Payment Date and on the Initial Mandatory Tender Date. The Government Securities will yield amounts, together with the interest income therefrom, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom sufficient to pay interest accrued on the Series 2024 Bonds on the first Interest Payment Date and the principal of and interest accrued on the Series 2024 Bonds on the Initial Mandatory Tender Date, and the amounts so held in the Escrow Fund will secure the payment of the principal of and the interest on the Series 2024 Bonds when subject to mandatory tender and purchase on the Initial Mandatory Tender Date.

On the Initial Mandatory Tender Date, each Series 2024 Bond shall be subject to mandatory tender for purchase at a purchase price equal to 100% of the principal amount thereof, together with any interest accrued and unpaid to the date of purchase, without premium (the “Purchase Price”). See “DESCRIPTION OF THE SERIES 2024 BONDS” herein. Oppenheimer & Co. Inc. has been appointed as Remarketing Agent (the “Remarketing Agent”) under the Indenture.

During the period from (and including) the Remarketing Date to (but excluding) the Initial Mandatory Tender Date (the “Initial Rate Period”), the Series 2024 Bonds will bear interest at the interest rate set forth on the cover page of this Remarketing Circular. Interest on the Series 2024 Bonds will be payable each June 1 and December 1, commencing June 1, 2026 (each, an “Interest Payment Date”).

The Series 2024 Bonds are subject to redemption prior to the Initial Mandatory Tender Date at the option of the Company. The Series 2024 Bonds will be subject to mandatory tender for purchase on the Initial Mandatory Tender Date and will be payable on the Initial Mandatory Tender Date from the Government Securities, together with the interest income therefrom held in the Escrow Fund to the extent proceeds from the remarketing thereof are not sufficient to make such payments. See “DESCRIPTION OF THE SERIES 2024 BONDS” herein.

Under the Loan Agreement, the Company has agreed to repay the loan of the proceeds of the Series 2024 Bonds by making payments when due (as determined in the Loan Agreement) to or for the account of the Issuer in an amount sufficient for the payment in full of all Series 2024 Bonds from time to time issued under the Indenture and then outstanding, including (i) the total interest becoming due and payable on the Series 2024 Bonds to the date of payment thereof and (ii) the total principal amount of the Series 2024 Bonds.

Brief descriptions of the Company, the Project, the Indenture, the Loan Agreement, the Series 2024 Bonds and the Issuer are included in this Remarketing Circular. The forms of the Indenture and Loan Agreement are included as Appendix A hereto.

The information under the caption “INTRODUCTORY STATEMENT” is qualified by reference to this entire Remarketing Circular. The information under the caption “INTRODUCTORY STATEMENT” is only a brief description and a full review of this entire Remarketing Circular, as well as the documents summarized or described herein, should be made.

*This Remarketing Circular does not contain any information about the financial condition or results of operations of the Company or the Project. The Project may not be constructed prior to the Initial Mandatory Tender Date, and Bondholders must not look to the Project for security or a source of revenues with which to make payments under the Loan Agreement. Therefore, this Remarketing Circular also does not contain a comprehensive description of the Project or security associated with the Project upon its completion. A brief description of the Project and the Company are set forth in “THE PROJECT AND*

*THE COMPANY” below. The Series 2024 Bonds are offered only to investors who, in making their investment decision, rely on the Government Securities, and not the credit of the Company, the feasibility of the Project or any other security. This Official Statement is not provided to furnish information in connection with any future remarketing of the Series 2024 Bonds after the Initial Mandatory Tender Date, and does not contain important information that would be material to any such future remarketing. Any future remarketing of the Series 2024 Bonds will be made only upon delivery of offering materials expressly provided to furnish information in connection with such future remarketing.*

## **THE ISSUER**

The Issuer was created by Cumberland County, North Carolina pursuant to the Act. Under the Act, the Issuer is a political subdivision and body corporate and politic, with full power and authority to issue and remarket the Series 2024 Bonds and to enter into and perform its obligations under the Indenture and the Loan Agreement. The Issuer has no taxing power.

**THE PRINCIPAL OR REDEMPTION PRICE OF AND INTEREST ON THE SERIES 2024 BONDS ARE PAYABLE SOLELY AND EXCLUSIVELY FROM THE TRUST ESTATE PLEDGED FOR THEIR PAYMENT PURSUANT TO THE INDENTURE. THE SERIES 2024 BONDS ARE SPECIAL OBLIGATIONS OF THE ISSUER AND ARE PAYABLE SOLELY FROM THE SOURCES REFERRED TO IN THE INDENTURE. THE SERIES 2024 BONDS DO NOT CONSTITUTE A DEBT OR A PLEDGE OF THE FAITH AND CREDIT OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF AND THE BONDHOLDERS OR OWNERS OF THE SERIES 2024 BONDS HAVE NO RIGHT TO HAVE TAXES LEVIED BY THE GENERAL ASSEMBLY OF THE STATE OR TAXING AUTHORITY OF ANY POLITICAL SUBDIVISION OF THE STATE FOR THE PAYMENT OF THE PRINCIPAL OR REDEMPTION PRICE OF AND INTEREST ON THE SERIES 2024 BONDS. THE ISSUER HAS NO TAXING POWER.**

Except for information in the sections hereof captioned “THE ISSUER” and “ABSENCE OF MATERIAL LITIGATION—The Issuer,” none of the information in this Remarketing Circular has been supplied or verified by the Issuer, and the Issuer makes no representation or warranty, express or implied, as to the accuracy or completeness of such information.

## **PLAN OF FINANCE**

On the date of the original issuance of the Series 2024 Bonds, all of the proceeds of the Series 2024 Bonds were transferred to the Escrow Fund. On the Remarketing Date, the Series 2024 Bonds will be remarketed and the proceeds of the remarketing, along with certain amounts transferred from the Escrow Fund described below, will be used to pay the purchase price of the Series 2024 Bonds tendered for mandatory purchase on such date. The balance of the Escrow Fund, net of a deposit to the Project Fund, will remain in the Escrow Fund.

On or prior to the Remarketing Date, the Company will deposit an amount equal to \$925,084.17 (the “Additional Company Contribution”) in the Costs of Remarketing Fund. After the payment of the purchase price of the Series 2024 Bonds is tendered for mandatory purchase, the Trustee shall retain \$250,000,000.00 in the Escrow Fund, and will invest such amount in Government Securities in accordance with written directions from the Company. See “DESCRIPTION OF THE SERIES 2024 BONDS – Escrow Fund.”

## THE COMPANY AND THE PROJECT

### Company Overview

American Titanium Metal, LLC, a limited liability company organized and existing under the laws of the State of Delaware (the “Company”), has been organized for the purpose of developing the Project.

### Senior Management Team of the Company

***Teresa McBride – Chairman.*** Ms. McBride, Chairman of the Company, is the CEO of McBride Capital Partners (MCP), focusing on large project finance and late-stage technologies.

***Glenn Pushis – Chief Executive Officer (Construction & Operating).*** Mr. Pushis began his career at LTV Steel, where he served as a shift supervisor and hydraulic systems engineer in both the Hot Rolling and Cold Rolling Departments. Mr. Pushis then worked for Nucor Corporation as a mechanical engineer involved in the construction and commissioning of the world’s first Compact Strip Production thin slab steel casting facility. In 1994, Mr. Pushis joined Steel Dynamics as one of its first employees, working as a mechanical engineer on the construction of Steel Dynamics’ first facility in Butler, IN. When the plant expanded into cold rolling and finishing, he oversaw the procurement, construction, commissioning, and operation of the mill. Mr. Pushis later became the General Manager and VP of the newly acquired Special Bar Quality mill in Pittsboro, IN, where he was responsible for reengineering and restarting a long products mill. In 2007, Mr. Pushis was promoted to General Manager and VP of the Butler, IN, Flat Roll Steel Plant, overseeing operations. In 2014, Mr. Pushis was appointed Senior Vice President of the Flat Roll Group, with responsibilities for all Flat Roll Operations at Steel Dynamics. In 2019, Mr. Pushis was appointed Senior Vice President of Strategic Projects, which included the responsibility for the construction and commissioning of the company’s newest flat roll sheet mill. In 2022, Mr. Pushis was promoted to President of Aluminum Dynamics, responsible for the procurement, design, construction, and commissioning of SDI’s first Aluminum Flat Roll Mill, which is the first new aluminum mill to be constructed in the United States in 42 years.

### Project Overview

The Company is developing a fully integrated and purpose-built titanium mill and processing center to deliver titanium plate and sheet (the “Project”). The Project will produce aerospace-grade titanium that will support the U.S. aerospace, biomedical, power generation, desalination, and other industries.

## DESCRIPTION OF THE SERIES 2024 BONDS

### General

The Series 2024 Bonds will be reoffered in the aggregate principal amount set forth on the cover page of this Remarketing Circular as fully registered Series 2024 Bonds without coupons, will be dated their date of delivery, and will mature on the date set forth on the cover page of this Remarketing Circular subject to prior mandatory tender for purchase and/or redemption. Beneficial ownership of Series 2024 Bonds may be acquired initially in denominations of \$5,000 or any integral multiples thereof.

The Trustee will be the bond registrar for the Series 2024 Bonds. So long as the Series 2024 Bonds are held in the system of book-entry-only transfers, transfers of beneficial ownership for Series 2024 Bonds will be made pursuant to rules and procedures established by the securities depository with respect to the Series 2024 Bonds. See “-Book-Entry-Only System” below.

## **Interest**

During the Initial Rate Period, and prior to the Initial Mandatory Tender Date, the Series 2024 Bonds will bear interest at the interest rate set forth on the cover page of this Remarketing Circular. Interest on the Series 2024 Bonds will be payable on each Interest Payment Date. Thereafter, the Series 2024 Bonds shall bear interest from and after the Initial Rate Period at a rate to be determined from time to time upon the remarketing of the Series 2024 Bonds. Interest will be computed on the basis of a 360-day year consisting of twelve 30-day months.

## **Mandatory Tender for Purchase**

On the Initial Mandatory Tender Date, the Series 2024 Bonds shall be subject to mandatory tender for purchase at the Purchase Price. The Purchase Price shall be paid first from amounts held in the Remarketing Proceeds Fund, and, second, to the extent amounts in the Remarketing Proceeds Fund are not sufficient to pay such Purchase Price, from amounts in the Escrow Fund. By no later than 11:00 a.m., New York City time, on the Mandatory Tender Date, the Trustee shall apply amounts in the Remarketing Proceeds Fund to the payment of the Purchase Price, and, to the extent such funds are not sufficient to pay the Purchase Price, by 12:00 p.m. New York City time, the Trustee shall withdraw the remaining amounts necessary to pay the Purchase Price from the Escrow Fund.

If on the Initial Mandatory Tender Date the Trustee receives the Purchase Price for all Series 2024 Bonds to be purchased on the Initial Mandatory Tender Date, the owner of any such Series 2024 Bond shall have no further rights thereunder except the right to receive the Purchase Price thereof and such rights as the owner may have to interest accrued to and unpaid on the Initial Mandatory Tender Date upon presentation and surrender of that Series 2024 Bond to the Trustee, and that Series 2024 Bond shall no longer be outstanding under and entitled to the benefits of the Indenture for any other purpose.

No notice of a mandatory tender for purchase shall be required to be given to the owners of the Series 2024 Bonds for mandatory tender in connection with the Initial Mandatory Tender Date.

## **Escrow Fund**

The Escrow Fund shall be funded as described herein under the heading “PLAN OF FINANCE” and shall be invested in Government Securities according to the written direction of the Company, such written direction to specify the particular investment in Government Securities to be made. Such Government Securities shall have such maturities and interest payment dates and bear such interest as will, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom be sufficient for the payment of interest coming due on the Series 2024 Bonds on June 1, 2026 and December 1, 2026 and the Purchase Price of the Series 2024 Bonds on the Initial Mandatory Tender Date. Only the Trustee shall have any right of withdrawal from the Escrow Fund and such right of withdrawal shall be for the sole and exclusive benefit of the initial owners of the Series 2024 Bonds that are subject to mandatory tender and purchase on the Initial Mandatory Tender Date. No additional bonds may be issued that are secured by the Escrow Fund and no other liens are permitted on the Escrow Fund.

Except for the initial purchase of Government Securities on the Remarketing Date, amounts on deposit in the Escrow Fund shall be held uninvested as cash without bearing interest and not be commingled with amounts in any other Account or Fund created under the Indenture.

On the Initial Mandatory Tender Date, the Trustee shall pay the Purchase Price of the Series 2024 Bonds first from any remarketing proceeds on deposit in the Remarketing Proceeds Fund, and second, to the extent the remarketing proceeds are insufficient to pay the Purchase Price of the Series 2024 Bonds from the Escrow Fund. In the event that the Series 2024 Bonds are redeemed or defeased in accordance



with the Indenture on or prior to the Initial Mandatory Tender Date, the Trustee shall transfer all remaining amounts of cash and Government Securities held in the Escrow Fund to a project fund to be established with the Trustee in connection with the Project.

### **Redemption of Series 2024 Bonds**

***Optional Redemption.*** During the Initial Rate Period, the Series 2024 Bonds are subject to redemption by the Issuer at the option of the Company, in whole but not in part on or after May 1, 2026, including on the Initial Mandatory Tender Date, at the principal amount of the Series 2024 Bonds called for redemption, plus accrued interest thereon to the redemption date, without premium (the “Redemption Price”).

***Notice of Redemption.*** Notice of the call for any redemption, identifying the Series 2024 Bonds to be redeemed, shall be given to the Trustee at least twenty-five (25) days prior to the date fixed for redemption (or such shorter time as may be agreed upon by the Trustee) and, at least twenty (20) days before the date fixed for redemption, the Trustee shall cause a notice of redemption, signed by an authorized officer of the Trustee (1) for Bonds held through the DTC system, to be submitted electronically to all such Bondholders through the DTC system, and (2) for any Bondholders who have taken physical delivery of a Bond certificate pursuant to the terms of this Indenture, mailed, postage prepaid, to all such Bondholders of record at their addresses as they appear on the Bond Register, but any defect in such mailing of any such notice shall not affect the validity of the proceedings for the redemption of any Series 2024 Bond with respect to which no such failure has occurred; and provided also that no such notice shall be mailed unless (i) such notice is a Conditional Redemption (defined below), or (ii) the Trustee has sufficient money and/or Government Securities on deposit (or has received evidence that an escrow bank has sufficient money and/or Government Securities on deposit) to pay the principal of, premium, if any, and interest on the Series 2024 Bonds being so redeemed. The notice of redemption shall set forth the complete title of the issue (including series designation), CUSIP number, the date of the issue, maturity, the date fixed for redemption, the Redemption Price to be paid, and the place or places of redemption, including the name, address and phone number of a contact person.

***Conditional Redemption.*** In the case of an optional redemption pursuant to the Indenture, the notice may state (i) that it is conditioned upon the deposit of money, in an amount equal to the Redemption Price of the Series 2024 Bonds to be redeemed and prepaid, with the Trustee on or before the redemption date or (ii) that the Company retains the right to rescind such notice on or prior to the scheduled redemption date (in either case, a “Conditional Redemption”), and such notice and optional redemption shall be of no effect if such money is not so deposited or if the notice is rescinded as hereinafter described. On or before the redemption date, funds sufficient to redeem such Series 2024 Bonds, including accrued interest thereon to the redemption date, shall be deposited with the Trustee. The Series 2024 Bonds thus called shall not, on or after the specified redemption date, bear any interest and, except for the purpose of payment, shall not be entitled to the lien of the Indenture. Any Conditional Redemption may be rescinded in whole, not in part, at any time on or before the redemption date if the Company delivers a certificate of the Company to the Issuer and the Trustee at least five (5) days prior to the redemption date instructing the Trustee to rescind the redemption notice. A certificate of the Company delivered by the Company to the Issuer and the Trustee less than five (5) days prior to the redemption date will have no force and effect and will not rescind any Conditional Redemption. The Trustee shall give prompt notice of any properly tendered notice of rescission to the affected registered owners. Any Series 2024 Bonds subject to Conditional Redemption where funds are not received on or before the redemption date sufficient to pay the Redemption Price or where the redemption has been rescinded by the Company within the timeframe provided above shall remain Outstanding, and the rescission shall not constitute an Event of Default. Further, in the case of a Conditional Redemption, the failure of the Company to make available funds sufficient to redeem all of the Series 2024 Bonds so called for redemption on or before the redemption date shall not constitute an Event

of Default, and the Trustee shall give immediate notice to the Securities Depository or the affected Bondholders that the redemption did not occur and that the Series 2024 Bonds called for redemption remain Outstanding. Any extraordinary costs, fees or expenses incurred by the Trustee in connection with a rescission of a redemption shall be paid by the Company.

The Trustee also shall provide a copy of such notice in an electronic format as prescribed by the Municipal Securities Rulemaking Board (the “MSRB”), together with such identifying information as is prescribed by the MSRB at least twenty (20) days prior to such redemption date; provided, however, that such notice shall not be a condition precedent to such redemption and failure to provide any such notice shall not affect the validity of any proceedings for the redemption of Series 2024 Bonds.

Any notice mailed as provided above shall be conclusively presumed to have been duly given, whether or not the Bondholder or registered owner receives such notice.

***Redemption Payments.*** On or prior to the date fixed for redemption, funds shall be deposited with the Trustee to pay, and the Trustee is authorized and directed to apply such funds to the payment of, the Redemption Price of the Series 2024 Bonds called for redemption. Upon the giving of notice and the deposit of funds for redemption, interest on the Series 2024 Bonds or portions thereof thus called shall no longer accrue after the date fixed for redemption, and such Series 2024 Bonds or portions thereof shall no longer be deemed to be Outstanding.

#### **Remarketing of Series 2024 Bonds; Remarketing Agent**

Oppenheimer & Co. Inc. has been appointed Remarketing Agent for the Series 2024 Bonds under the Indenture. The Remarketing Agent may remarket the Series 2024 Bonds on the Initial Mandatory Tender Date and deposit proceeds of the remarketing of the Series 2024 Bonds in the Remarketing Proceeds Fund and such funds shall be used solely for the purpose of paying the Purchase Price on the Series 2024 Bonds on the Initial Mandatory Tender Date.

At the option and upon instruction by the Company, the Remarketing Agent shall offer for sale and use its best efforts to find purchasers for all Series 2024 Bonds for which the Company has directed the Remarketing Agent to remarket on the Initial Mandatory Tender Date. Any such Series 2024 Bonds shall be offered at the best available price, plus interest accrued, if any, to the purchase date, and pursuant to terms that provide for the payment of the Purchase Price for tendered Series 2024 Bonds by the Remarketing Agent to the Trustee in immediately available funds at or before 11:00 a.m., New York City time, on the purchase date. All such remarketing proceeds shall be deposited directly into the Remarketing Proceeds Fund.

#### **Events of Default; Remedies**

***Events of Default.*** Each of the following events is hereby declared to be an “*Event of Default*”:

- (a) The payment of any installment of interest on any of the Series 2024 Bonds shall not be made when the same shall become due and payable;
- (b) The payment of the principal on any of the Series 2024 Bonds shall not be made when the same shall become due and payable, whether at maturity or by proceedings for redemption or by acceleration or otherwise;
- (c) The failure to pay on the Initial Mandatory Tender Date the amounts due to the owner of any Series 2024 Bonds or the Beneficial Owner of any beneficial ownership interests tendered or deemed tendered to the Trustee;

(d) An “Event of Default” under Article 9 of the Loan Agreement (other than an event described under (a), (b) or (c) above) shall have occurred and shall not have been cured within the applicable cure period, if any; or

(e) Default by the Issuer in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Series 2024 Bonds or in the Indenture on the part of the Issuer to be performed, if such default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall have been given to the Issuer and the Company by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of the owners of not less than a majority in principal amount of the Series 2024 Bonds then Outstanding.

**Remedies.** Upon the occurrence of an Event of Default, the Issuer, the Trustee and, subject to certain conditions set forth in the Indenture, the Bondholders shall have all the rights and remedies as may be allowed by law, the Indenture, or pursuant to the provisions of the Loan Agreement by virtue of their assignment hereunder, including but not limited to acceleration of the maturity of all Series 2024 Bonds, or suit at law or in equity to enforce or enjoin the action or inaction of parties under the provisions of the Indenture or the Loan Agreement.

Upon the occurrence of an Event of Default, the Trustee, may, and upon the written direction of the owners of a majority in aggregate principal amount of the Series 2024 Bonds then outstanding, shall, by notice in writing to the Issuer and the Company, declare the Series 2024 Bonds then outstanding immediately due and payable, and such Series 2024 Bonds shall become and be immediately due and payable, and anything in such Series 2024 Bonds or in the Loan Agreement or the Indenture to the contrary notwithstanding, the Trustee may exercise any remedies granted to it therein. In such event, there shall be due and payable on the Series 2024 Bonds an amount equal to the principal amount of all of the Series 2024 Bonds then outstanding plus all interest accrued thereon and which will accrue thereon to the date of payment.

### **Book-Entry-Only System**

**Introduction.** Unless otherwise noted, the information contained under the caption “—General” below has been provided by DTC. None of the Issuer, the Company, the Trustee, or the Remarketing Agent makes any representation as to the accuracy or the completeness of such information. The Beneficial Owners of the Series 2024 Bonds should confirm the following information with DTC, the Direct Participants or the Indirect Participants.

None of the Issuer, the Company, the Trustee, or the Remarketing Agent will have any responsibility or obligation to Direct Participants, Indirect Participants, or any Beneficial Owner with respect to (a) the accuracy of any records maintained by DTC, any Direct Participant, or any Indirect Participant; (b) any notice that is permitted or required to be given to the owners of Series 2024 Bonds under the Indenture; (c) the payment by DTC or any Direct Participant or Indirect Participant of any amount with respect to the principal or interest due with respect to the owner of the Series 2024 Bonds; (d) any consent given or other action taken by DTC as the owner of Series 2024 Bonds; or (e) any other matter regarding DTC.

**General.** The Series 2024 Bonds will be delivered in book-entry-only form. DTC will act as securities depository for the Series 2024 Bonds. The Series 2024 Bonds are issued as fully registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or other such name as may be requested by an authorized representative of DTC. One fully registered bond certificate was issued for the Series 2024 Bonds and is held by the Trustee.

DTC is a limited purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, as amended. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity, corporate and municipal debt issues, and money market instruments from over 100 countries that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions, in deposited securities through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts, thereby eliminating the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC National Securities Clearing Corporation and Fixed Income Securities Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (the “Indirect Participants”). The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission.

Purchases of Series 2024 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2024 Bonds on DTC’s records. The ownership interest of each actual purchaser of each Series 2024 Bond (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2024 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Series 2024 Bonds, except in the event that use of the book-entry system for the Series 2024 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2024 Bonds deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co. or such other name as may be requested by an authorized representative of DTC. The deposit of Series 2024 Bonds with DTC and their registration in the name of Cede & Co. or such other nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2024 Bonds; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Series 2024 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Neither DTC nor Cede & Co. (nor such other DTC nominee) will consent or vote with respect to the Series 2024 Bonds unless authorized by a Direct Participant in accordance with DTC’s procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.’s consenting or voting rights to those Direct Participants to

whose accounts the Series 2024 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Payments of principal of and interest on the Series 2024 Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts, upon DTC's receipt of funds and corresponding detailed information from the Issuer or the Trustee on payable dates in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with Series 2024 Bonds held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC nor its nominee, the Trustee, or the Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest is the responsibility of the Issuer or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may determine to discontinue providing its services with respect to the Series 2024 Bonds at any time by giving notice to the Issuer and the Trustee and discharging its responsibilities with respect thereto under applicable law.

The Issuer, in its sole discretion and without the consent of any other person, may terminate the services of DTC with respect to the Series 2024 Bonds if the Issuer determines that (a) DTC is unable to discharge its responsibilities with respect to the Series 2024 Bonds, or (b) a continuation of the requirement that all of the outstanding Bonds be registered on the registration books kept by the Trustee in the name of Cede & Co., or any other nominee of DTC, is not in the best interest of the beneficial owners of the Series 2024 Bonds.

## **SECURITY AND SOURCE OF PAYMENT FOR THE SERIES 2024 BONDS**

### **General**

The Series 2024 Bonds will be remarketed pursuant to the constitution and laws of the State, particularly the Act, and will be secured under the Indenture. On the Remarketing Date, amounts remaining on deposit in the Escrow Fund will be invested in Government Securities, which are direct obligations of the United States of America for the payment of which the full faith and credit of the United States of America is pledged. The Government Securities will have such maturities and interest payment dates and bear such interest as will, without further investment or reinvestment of either the principal amount thereof or the interest therefrom be sufficient to pay interest accrued on the Series 2024 Bonds on the first Interest Payment Date and the principal of and interest accrued on the Series 2024 Bonds on the Initial Mandatory Tender Date. All amounts held in the Escrow Fund, including the Government Securities and the interest accruing thereon will secure the payment of interest due on the Initial Interest Payment Date and the principal of and the interest on the Series 2024 Bonds when subject to mandatory tender and purchase on the Initial Mandatory Tender Date.

**The Series 2024 Bonds are special, limited obligations of the Issuer and will be payable on the Initial Mandatory Tender Date from the Government Securities, together with the interest income therefrom held in the Escrow Fund to the extent remarketing proceeds in the Remarketing Proceeds Fund are not sufficient to pay such amounts.**

*This Remarketing Circular does not contain any information about the financial condition or results of operations of the Company. The Series 2024 Bonds are offered only to investors who, in making their investment decision, rely on the Government Securities, and not the credit of the Company, the feasibility of the Project or any other security.*

## **Bankruptcy Considerations**

No assurance can be given that the Company will not become a debtor in a bankruptcy case before the Initial Mandatory Tender Date. The Escrow Fund, into which the Government Securities will be deposited, has been structured to minimize the likelihood that under existing case precedent the funds in the Escrow Fund would be treated as property of the bankruptcy estate in a bankruptcy case in which the Company is the debtor. Upon delivery of the Series 2024 Bonds, Nelson Mullins Riley & Scarborough LLP will render its opinion that in the event that a case is commenced under the Bankruptcy Code by or against the Company, the laws of the State, and applicable case law under each as it exists on the date of the delivery of the Series 2024 Bonds, neither the Escrow Fund nor any of the moneys maintained therein should be included in the bankruptcy estate of the Company or be subject to the automatic stay provision of the Bankruptcy Code. However, should a bankruptcy court conclude that the funds in the Escrow Fund are property of the bankruptcy estate, then the funds would be subject to the automatic stay of section 362(a) of the Bankruptcy Code.

## **TAX MATTERS**

### **Federal Income Tax Treatment of Interest on the Series 2024 Bonds**

On the Remarketing Date, Pope Flynn, LLC, in its capacity as Special Tax Counsel to the Company (“Special Tax Counsel”), will render an opinion that, under existing law, assuming continuing compliance with certain covenants made by the Issuer and the Company to satisfy pertinent requirements of the Internal Revenue Code of 1986, as amended (the “Code”), and the applicable regulations promulgated thereunder (the “Regulations”), and the accuracy of certain representations, interest on the Series 2024 Bonds (i) is excluded from gross income for federal income tax purposes, except as provided in Section 147(a) of the Code with respect to any period during which a Series 2024 Bond is held by a “substantial user” of the facilities being financed with proceeds of the Series 2024 Bonds or by a “related person” (as those terms are defined under Section 147(a) of the Code), and (ii) is an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals under the Code. Such interest may also be taken into account in determining the annual adjusted financial statement income of certain applicable corporations (as defined in Section 59(k) of the Code) for the purpose of determining the application of the 15-percent alternative minimum tax imposed on the adjusted financial statement income of such corporations under Section 55 of the Code. (In general, an “applicable corporation” is a corporation whose average annual adjusted financial statement income (i.e., adjusted book income) exceeds \$1 billion for the 3-taxable year period ending with the tax year in question.) See Appendix B—“Form of Opinion of Special Tax Counsel” attached hereto. In rendering such opinion, Special Tax Counsel will rely, as to certain matters of North Carolina law, on the approving opinion of McGuireWoods LLP, Bond Counsel to the Issuer (“Bond Counsel”). See Appendix C—“Form of Approving Opinion of Bond Counsel.”

The opinion of Special Tax Counsel is based on current statutes, regulations, judicial decisions, rulings, and other published guidance of the Internal Revenue Service (the “IRS”), covers certain matters not directly addressed by such authorities, and represents Special Tax Counsel’s judgment as to the proper treatment of the Series 2024 Bonds for federal income tax purposes. Special Tax Counsel’s opinion is based upon existing law, which is subject to change. Such opinion is further based on factual representations made to Special Tax Counsel as of the date thereof. Special Tax Counsel assumes no duty to update or supplement its opinion to reflect any facts or circumstances that may thereafter come to Special Tax Counsel’s attention or to reflect any changes in law that may thereafter occur or become effective. Moreover, Special Tax Counsel’s opinion is not a guarantee of a particular result, and is not binding on the IRS or the courts; rather, such opinion represents Special Tax Counsel’s professional judgment based on its review of existing law, and in reliance on the representations and covenants that it deems relevant to such opinion.

The opinion of Special Tax Counsel described above is subject to the condition that the Issuer and the Company comply with all requirements of the Code and the Regulations, including, without limitation, certain limitations on the use, expenditure, and investment of the gross proceeds of the Series 2024 Bonds and the obligation to rebate certain earnings on investments of such gross proceeds to the United States Government, that must be satisfied subsequent to the issuance of the Series 2024 Bonds in order for interest thereon to be, or to continue to be, excluded from gross income for federal income tax purposes. The Issuer and the Company have covenanted to comply with each such requirement. Failure to comply with certain of such requirements could cause the inclusion of interest on the Series 2024 Bonds in gross income for federal income tax purposes, in some cases retroactively to the date of issuance of the Series 2024 Bonds. The opinion of Special Tax Counsel delivered on the date of issuance of the Series 2024 Bonds is conditioned on continuing compliance by the Issuer and the Company with such requirements, and Special Tax Counsel has not been retained to monitor compliance with the requirements subsequent to the issuance of such Series 2024 Bonds.

### **Other Federal Income Tax Considerations Affecting the Series 2024 Bonds**

Prospective purchasers of the Series 2024 Bonds should be aware that ownership of tax-exempt obligations may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, financial institutions, property and casualty insurance companies, life insurance companies, certain foreign corporations, certain S corporations, individual recipients of Social Security or Railroad Retirement benefits, and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry tax-exempt obligations. Special Tax Counsel expresses no opinion concerning such collateral income tax consequences, and prospective purchasers of Series 2024 Bonds should consult their tax own advisors as to the applicability thereof.

From time to time, there are legislative proposals in Congress which, if enacted into law, could eliminate or reduce the exclusion of the interest on the Series 2024 Bonds from gross income for federal income tax purposes or which might otherwise adversely affect the benefit or marketability of the Series 2024 Bonds. No prediction can be made as to whether any such provisions will be enacted as proposed or concerning other future legislation which, if passed, might affect the tax treatment of interest on the Series 2024 Bonds. Similarly, future clarifications of the Code by the IRS and court proceedings interpreting the Code could likewise affect the treatment of interest on the Series 2024 Bonds, as well as the benefit or marketability of the Series 2024 Bonds. Prospective purchasers of the Series 2024 Bonds should consult their own tax advisers regarding any pending or proposed federal tax legislation, court proceedings, and IRS actions, as to all of which Special Tax Counsel expresses no opinion.

The IRS has established an ongoing program to audit tax-exempt obligations to determine whether interest on such obligations is includable in gross income for federal income tax purposes. Special Tax Counsel cannot predict whether the IRS will commence an audit of the Series 2024 Bonds. Special Tax Counsel's engagement with respect to the Series 2024 Bonds ends with the issuance of the Series 2024 Bonds, and, unless separately engaged, Special Tax Counsel is not obligated to defend the Issuer, the Company, or the holders of the Series 2024 Bonds regarding the tax-exempt status of the Series 2024 Bonds in the event of an audit examination by the IRS.

Under current procedures, parties other than the Issuer and its appointed counsel, including the Company and holders of the Series 2024 Bonds, would have little, if any, right to participate in the audit examination process. Moreover, because achieving judicial review in connection with an audit examination of tax-exempt bonds is difficult, obtaining an independent review of IRS positions with which the Issuer or the Company legitimately disagrees may not be practicable.

Any action of the IRS, including but not limited to selection of the Series 2024 Bonds for audit, or the course or result of such audit, or an audit of bonds presenting similar tax issues may affect the market

price for, or the marketability of, the Series 2024 Bonds, and may cause the Issuer, the Company, or the holders of the Series 2024 Bonds to incur significant expense, regardless of the ultimate outcome. Under certain circumstances, the Issuer or the Company may be obligated to disclose the commencement of an audit under the Continuing Disclosure Undertaking (a form of which is attached as Appendix D to this Remarketing Circular).

### **Reporting and Withholding Requirements**

Payments of interest, including payments of tax-exempt interest on the Series 2024 Bonds, are generally subject to IRS Form 1099-INT information-reporting requirements.

An owner of a Series 2024 Bond may be subject to backup withholding at the applicable rate determined by statute with respect to interest paid on the Series 2024 Bonds if such owner, upon issuance of the Series 2024 Bonds, fails to provide to any person required to collect such information pursuant to Section 6049 of the Code with such owner's taxpayer identification number, furnishes an incorrect taxpayer identification number, fails properly to report interest, dividends, or other "reportable payments" (as defined in the Code), or, under certain circumstances, fails to provide such persons with a certified statement, under penalty of perjury, that such owner is not subject to backup withholding.

These requirements do not affect the exclusion of interest on the Series 2024 Bonds from gross income for federal income tax purposes.

### **State Tax Exemption**

Special Tax Counsel will also opine that, under current law, interest on the Series 2024 Bonds is exempt from all income taxation within the State. Special Tax Counsel will express no opinion regarding (i) other tax consequences arising with respect to the Series 2024 Bonds under the laws of the State, or (ii) any consequences arising with respect to the Series 2024 Bonds under the tax laws of any state or local jurisdiction other than the State. Prospective purchasers of the Series 2024 Bonds should consult their own tax advisors regarding such other State tax consequences or the tax status of interest on the Series 2024 Bonds in a particular state or local jurisdiction other than the State.

*The opinion of Special Tax Counsel is limited to the laws of the State and federal tax laws. No opinion is rendered by Special Tax Counsel concerning the taxation of the Series 2024 Bonds or the interest thereon under the laws of any other jurisdiction.*

### **RATING**

The Series 2024 Bonds have been assigned a rating of "Aa1/VMIG-1" by Moody's Investors Services with the understanding that, upon delivery of the Series 2024 Bonds, the amounts held in the Escrow Fund will be invested in Government Securities maturing on the Initial Mandatory Tender Date. Such rating remains in effect only through the Initial Mandatory Tender Date. An explanation of the significance of a rating may be obtained only from the rating agency furnishing the same. The rating of the Series 2024 Bonds may be changed at any time, and no assurance can be given that it will not be revised downward or withdrawn entirely by the rating agency if, in its judgment, circumstances so warrant. Any such downward revision or withdrawal of the rating is likely to have an adverse effect on the market price or marketability of the Series 2024 Bonds.



## **ABSENCE OF MATERIAL LITIGATION**

### **The Issuer**

There is not now pending (as to which the Issuer has received service of process) nor, to the actual knowledge of the Issuer, threatened any litigation against the Issuer restraining or enjoining the remarketing or delivery of the Series 2024 Bonds or questioning or affecting the validity of the Series 2024 Bonds or the proceedings or authority under which they are to be remarketed. Neither the creation, organization or existence of the Issuer, nor the title of any of the present directors or other officers of the Issuer to their respective offices, is being contested. There is no litigation pending (as to which the Issuer has received service of process) or, to the actual knowledge of the Issuer, threatened against the Issuer which in any manner questions the right of the Issuer to enter into the Indenture or the Loan Agreement or to take any other action provided in the Indenture, the Loan Agreement, the resolutions of the Issuer and the Act.

### **The Company**

There is not now pending or, to the knowledge of the Company, threatened, any litigation or any proceeding before any governmental agency against or affecting the Company which questions the right or ability of the Company to finance the costs of the Project, the use of the proceeds of the Series 2024 Bonds in accordance with the Indenture and the Loan Agreement, or the right of the Company to enter into the Loan Agreement or to perform under such documents.

## **VERIFICATION OF ARITHMETICAL COMPUTATIONS**

The accuracy of the arithmetical computations of the adequacy of the maturing principal and interest earned on the Government Securities purchased with moneys on deposit in the Escrow Fund to pay, when due, interest on the Series 2024 Bonds on June 1, 2026 and December 1, 2026 and the principal of and interest accrued on the Series 2024 Bonds to the Initial Mandatory Tender Date has been verified by Terminus Analytics, LLC.

## **REMARKETING**

Subject to the terms and conditions set forth in a Bond Purchase Agreement with the Issuer and the Company (the “Bond Purchase Agreement”), Oppenheimer & Co. Inc. (the “Remarketing Agent”) has agreed to purchase the Series 2024 Bonds at a purchase price of \$250,000,000.00 (reflecting the par amount of the Series 2024 Bonds). On the Remarketing Date, the Company will pay to the Remarketing Agent, a remarketing fee of \$665,884.17. The obligation of the Remarketing Agent to pay for the Series 2024 Bonds is subject to certain terms and conditions set forth in the Bond Purchase Agreement.

The Remarketing Agent may offer and sell the Series 2024 Bonds to certain dealers (including dealers depositing the Series 2024 Bonds into investment accounts) and to others at prices lower than the initial offering price set forth on the cover page of this Remarketing Circular.

The Company has agreed to indemnify the Remarketing Agent against certain liabilities, including liabilities under federal securities laws, or to contribute to payments that the Remarketing Agent may be required to make because of any of those liabilities.

The Remarketing Agent and its affiliates are full service financial institutions engaged in various activities, which may include sales and trading, commercial and investment banking, advisory, investment management, investment research, principal investment, hedging, market making, brokerage and other financial and non-financial activities and services. The Remarketing Agent and its affiliates have provided, and may in the future provide, a variety of these services to the Issuer or the Company and to persons and

entities with relationships with the Issuer or the Company, for which they received or will receive customary fees and expenses.

In the ordinary course of their various business activities, the Remarketing Agent and its affiliates, officers, directors and employees may purchase, sell or hold a broad array of investments and actively trade securities, derivatives, loans, commodities, currencies, credit default swaps and other financial instruments for their own account and for the accounts of their customers, and such investment and trading activities may involve or relate to assets, securities and/or instruments of the Issuer or the Company (directly, as collateral securing other obligations or otherwise) and/or persons and entities with relationships with the Issuer or the Company. The Remarketing Agent and its affiliates may also communicate independent investment recommendations, market color or trading ideas and/or publish or express independent research views in respect of such assets, securities or instruments and may at any time hold, or recommend to clients that they should acquire, long and/or short positions in such assets, securities and instruments.

### **CONTINUING DISCLOSURE**

On the Remarketing Date, the Company will enter into an Amended and Restated Continuing Disclosure Undertaking (the “Continuing Disclosure Undertaking”), substantially in the form attached as Appendix D hereto, for the benefit of the beneficial owners of the Series 2024 Bonds pursuant to certain requirements of Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended. The Continuing Disclosure Undertaking obligates the Company to file certain information annually and to provide notice of certain events to the Electronic Municipal Market Access system of the Municipal Securities Rulemaking Board or similar system.

### **LEGAL MATTERS**

The Series 2024 Bonds will be remarketed subject to the approval of legality by Pope Flynn, LLC, Special Tax Counsel and McGuireWoods LLP, Bond Counsel. See Appendix B herein for the form of opinion of Special Tax Counsel and Appendix C herein for the form of approving opinion of Bond Counsel. Certain legal matters will be passed upon by Rick Moorefield, County Attorney, as counsel to the Issuer, by Pope Flynn, LLC and Nelson Mullins Riley & Scarborough LLP, as counsel to the Company, by Ballard Spahr LLP, as counsel to the Remarketing Agent, and by Govier & Taboada LLP, as counsel to the Trustee.

### **MISCELLANEOUS**

The references herein to the Indenture, the Loan Agreement and certain other agreements are brief summaries of certain provisions thereof. Such summaries do not purport to be complete and are subject to, and qualified in their entirety by reference to, all of the provisions of such agreements. Copies of such documents are on file at the offices of the Issuer and at the designated corporate trust office of the Trustee. Copies of such documents are available from the Trustee upon written request by Series 2024 Bondholders.

The Company has reviewed the information contained herein that relates to it, its properties and operations, and has approved all such information for use within this Remarketing Circular.

The delivery of this Remarketing Circular has been duly authorized by the Issuer and the Company.

**AMERICAN TITANIUM METAL, LLC**

By: /s/ Teresa McBride  
Name: Teresa McBride  
Title: Sole Member

**THE CUMBERLAND COUNTY  
INDUSTRIAL FACILITIES AND  
POLLUTION CONTROL FINANCING  
AUTHORITY**

By: /s/ Tracie Hines Lashley  
Name: Dr. Tracie Hines Lashley  
Title: Chair

## **APPENDIX A**

### **FORMS OF TRUST INDENTURE AND LOAN AGREEMENT**

AMENDED AND RESTATED  
TRUST INDENTURE

between

THE CUMBERLAND COUNTY INDUSTRIAL FACILITIES AND  
POLLUTION CONTROL FINANCING AUTHORITY,  
as Issuer

and

WILMINGTON TRUST, NATIONAL ASSOCIATION,  
as Trustee

Dated as of November 1, 2025

Relating to

Remarketing of

\$250,000,000

The Cumberland County Industrial Facilities and  
Pollution Control Financing Authority  
Solid Waste Disposal Revenue Bonds  
(Project Aero),  
Series 2024

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## AMENDED AND RESTATED TRUST INDENTURE

This AMENDED AND RESTATED TRUST INDENTURE (this “*Indenture*”), dated as of November 1, 2025, is made by and between THE CUMBERLAND COUNTY INDUSTRIAL FACILITIES AND POLLUTION CONTROL FINANCING AUTHORITY, a political subdivision and body corporate and politic of the State of North Carolina (the “*Issuer*”), and WILMINGTON TRUST, NATIONAL ASSOCIATION, a national banking association with a corporate trust office located in Buffalo, New York, as trustee hereunder, and its successors and assignees in trust (the “*Trustee*”), under the circumstances summarized in the following recitals (the capitalized terms not defined in the recitals and granting clauses being used therein as defined in Article I hereof).

### WITNESSETH:

WHEREAS, the Issuer is empowered and authorized under the Constitution and laws of the State of North Carolina (the “*State*”), particularly the Industrial and Pollution Control Facilities Financing Act, Chapter 159C of the General Statutes of North Carolina, as amended (the “*Act*”), to issue its revenue bonds and to make loans for the purposes of financing the cost of the acquisition, construction and installation of certain facilities comprising a “special purpose project,” as defined in the Act, including land, equipment and facilities for the disposal, treatment or recycling of solid, agricultural or other waste; and

WHEREAS, American Titanium Metal, LLC, a Delaware limited liability company (the “*Company*”), duly applied to the Issuer for financial assistance to plan, design, construct, and equip a titanium reprocessing facility to be located in Cumberland County, North Carolina (as more particularly defined in the hereinafter defined Loan Agreement, the “*Project*”), and the Issuer, by resolution adopted by its Board of Directors on October 24, 2024, authorized the issuance of its \$250,000,000 original principal amount Solid Waste Disposal Revenue Bonds (Project Aero), Series 2024 (the “*Bonds*”); and

WHEREAS, on December 12, 2024, the Issuer issued the Bonds pursuant to a Trust Indenture dated as of December 1, 2024 (the “*Original Indenture*”), between the Issuer and the Trustee; and

WHEREAS, simultaneously with the issuance of the Bonds, the Issuer executed and delivered a Loan Agreement dated as of December 1, 2024 (as amended and supplemented from time to time, the “*Loan Agreement*”), between the Issuer and the Company; and

WHEREAS, in furtherance of the Act and concurrently with the issuance of the Bonds pursuant to the Original Indenture, the Company agreed in the Loan Agreement to make payments in an amount sufficient to make timely payments of principal of, premium, if any, and interest on the Bonds and to pay such other amounts as are required by the Loan Agreement; and

WHEREAS, under the Original Indenture the Bonds are subject to mandatory tender and purchase on Saturday, November 1, 2025; however, pursuant to Section 13.12 of the Original Indenture:

“In any case where the date of maturity of interest on or principal of the Bonds, the Mandatory Tender Date, or the date fixed for redemption or purchase of any Bonds or the date fixed for the giving of notice or the taking of any action under this Indenture shall not be a Business Day, then payment of such interest, principal, Purchase Price and Redemption Price, the giving of such notice or the taking of such action need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption or

purchase, and no interest on such payment shall accrue for the period after such date;” and

WHEREAS, the next succeeding Business Day (as such term is defined in the Original Indenture) to November 1, 2025 is November 3, 2025; and

WHEREAS, the Issuer and the Trustee have determined to effect certain amendments to the Original Indenture relating to the Bonds pursuant to this Indenture and the Loan Agreement in connection with the mandatory tender and remarketing thereof, and acknowledge that this Indenture amends and restates the Original Indenture in its entirety; and

WHEREAS, the amendment and restatement of the Original Indenture by this Indenture and the amendment of the Loan Agreement have been approved by a resolution of the Board of Directors of the Issuer adopted September 18, 2025; and

WHEREAS, all things necessary to (i) make the Bonds upon the original issuance and remarketing thereof and to constitute this Indenture at the Effective Time (as defined herein), valid and binding obligations and agreements of the Issuer and the Trustee, (ii) to provide for the assignment and pledge of the payments under the Loan Agreement (except for certain rights reserved by the Issuer pursuant to the Loan Agreement) for payment of the principal or purchase price of, premium, if any, and interest on the Bonds, and (iii) to constitute this Indenture a valid assignment of the rights of the Issuer under the Loan Agreement except as otherwise stated herein, have been done and performed, and the creation, execution and delivery of this Indenture, and the remarketing of the Bonds, subject to the terms hereof, have in all respects been duly authorized; and

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

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Issuer and the Trustee hereby covenant and agree as follows:

## ARTICLE 1 DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.1 Definitions. All capitalized terms not otherwise defined herein shall have the meanings assigned in the preamble hereto or in the Loan Agreement. In addition to words and terms elsewhere defined in this Indenture, the following words and terms as used herein shall have the following meanings, unless some other meaning is plainly intended:

“*Accounts*” means the accounts and subaccounts created pursuant to Article 4 hereof.

“*Act*” means the Industrial and Pollution Control Facilities Financing Act, Chapter 159C of the General Statutes of North Carolina, as amended, and all future acts supplemental thereto and amendatory thereof.

“*Additional Company Contribution*” means the cash contribution from the Company in the amount of \$925,084.17 deposited in the Bond Proceeds Fund and transferred in accordance with the provisions of Section 4.2(a) hereof on the Closing Date.

“*Administrative Expenses*” means the reasonable and direct out-of-pocket expenses incurred by the Issuer, the LGC, the Company (including, but not limited to, insurance premiums for insurance

obtained for or on behalf of directors, officers, agents or employees of the Company), or the Trustee pursuant to the Indenture or the Loan Agreement, the compensation of the Trustee under the Indenture (including, but not limited to, any annual administrative fee charged by the Trustee), the compensation of the Issuer, and the reasonable out-of-pocket fees and expenses of the Trustee incurred by the Trustee in the performance of its duties under the Indenture.

“*Authorized Company Representative*” means any person at the time designated to act on behalf of the Company by written certificate furnished to the Issuer and the Trustee containing the specimen signature of such person and signed on behalf of the Company by an officer of the Company. Such certificate or any subsequent or supplemental certificate so executed may designate an alternate or alternates.

“*Authorized Denomination*” means \$5,000 or any integral multiple thereof.

“*Authorized Issuer Representative*” shall mean the Chairman or Vice Chairman of the Issuer or such other person(s) at the time designated to act under the Loan Agreement and this Indenture on behalf of the Issuer by a written certificate furnished to the Company and the Trustee containing the specimen signature of such person(s) and signed on behalf of the Issuer by the Chairman or Vice Chairman of the Issuer. Such certificate may designate an alternate or alternates.

“*Beneficial Owner*” means, so long as a book-entry system of registration is in effect pursuant to Section 3.16 hereof, the actual purchaser of the Bonds.

“*Bond Counsel*” means a firm of attorneys knowledgeable and experienced in the law relating to municipal securities and the law relating to federal and State taxation of interest thereon and approved by the Company.

“*Bond Proceeds Fund*” means the fund of that name created under Section 4.1 of this Indenture.

“*Bond Documents*” have the meaning given such term in Section 3.15(b)(iii) hereof.

“*Bond Purchase Agreement*” means the agreement by that name dated October 21, 2025 entered into among the Issuer, the Remarketing Agent and the Company providing for the remarketing of the Bonds.

“*Bond Register*” means, when used with respect to the Bonds, the registration books maintained by the Trustee pursuant to Section 3.11 of this Indenture.

“*Bondholder*” or “*owner*,” when used with reference to a Bond or Bonds, means the registered owner of any Outstanding Bond or Bonds.

“*Bonds*” means The Cumberland County Industrial Facilities and Pollution Control Financing Authority Solid Waste Disposal Revenue Bonds (Project Aero), Series 2024 in the original aggregate principal amount of \$250,000,000.

“*Business Day*” means any day other than (a) a Saturday, (b) a Sunday, (c) any other day on which banking institutions or trust companies in, Wilmington, Delaware, New York, New York, the State or the location of the Corporate Trust Office are authorized or required by law, regulation or executive order not to be open for business, or (d) a day on which The New York Stock Exchange is closed.

“*Closing Date*” means, for purposes of Section 3.1 of the Loan Agreement, December 12, 2024, the date of original issuance and delivery of the Bonds, and for all other purposes, the date on which the Bonds are delivered upon remarketing and payment therefor is received by the Issuer, being November 3, 2025.

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

“*Company*” means American Titanium Metal, LLC, a Delaware limited liability company, and its successors and assigns.

“*Continuing Disclosure Undertaking*” means that certain Amended and Restated Continuing Disclosure Undertaking dated as of November 1, 2025, executed by the Company, as it may be further amended or supplemented from time to time.

“*Corporate Trust Office*” means the designated office of the Trustee at which at any time its corporate trust business shall be administered, which office at the date hereof is located in Buffalo, New York, Attention: Corporate Trust Services, or such other address as the Trustee may designate from time to time by notice to the Bondholders and the Company, or the designated corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Bondholders and the Company).

“*Costs of Remarketing*” means all items of expense, directly or indirectly payable or reimbursable and related to the authorization, sale and issuance of the Bonds, including publication costs, printing costs, the Remarketing Agent’s fee, costs of preparation and reproduction of documents, filing and recording fees, initial fees and charges of any fiduciary, legal fees and charges, fees and disbursements of consultants and professionals, including financial advisors, costs of liquidity facilities, costs of credit ratings, fees and charges for preparation, execution, transportation and safekeeping of the Bonds and any other cost, charge or fee paid by the Issuer in connection with the remarketing of the Bonds.

“*Costs of Remarketing Account*” means the account so designated under Section 4.1 of this Indenture.

“*Debt Service Fund*” means the fund of that name created under Section 4.1 of this Indenture.

“*Defeasance Obligations*” means cash (insured at all times by the Federal Deposit Insurance Corporation) or direct obligations (including obligations issued or held in book-entry form on the books of) the Department of Treasury of the United States of America, which obligations shall be non-callable and non-prepayable.

“*DTC*” or “*Securities Depository*” means The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York, and its successors and assigns, including any successor securities depositories appointed pursuant to this Indenture.

“*Effective Time*” means the time of receipt by the Trustee of the Remarketing Proceeds from the Remarketing Agent for the remarketing of the Bonds on November 3, 2025.

“*Escrow Fund*” means the fund of that name created under Section 4.1 of this Indenture.

“*Events of Default*” means those events of default described in Article 8 hereof.



“*Favorable Opinion of Bond Counsel*” means an opinion of Bond Counsel, addressed to the Issuer, the Company, the Trustee and the Remarketing Agent to the effect that the action proposed to be taken is authorized or permitted by the Act and this Indenture and will not adversely affect any exclusion from gross income for federal income tax purposes of interest on the Bonds.

“*Fiscal Year*” means any period of twelve (12) consecutive months adopted by the Company as its Fiscal Year for financial reporting purposes.

“*Fixed Rate*” shall mean the fixed per annum interest rate on the Bonds determined pursuant to Section 3.6 hereof.

“*Fixed Rate Period*” shall mean for the Bonds bearing interest at the Fixed Rate, the period from (and including) the date upon which the Bonds are delivered upon remarketing bearing a Fixed Rate to (but excluding) the Maturity Date for the Bonds.

“*Funds*” means the funds created pursuant to Article 4 hereof.

“*Government Securities*” means (a) direct obligations of the United States of America for the payment of which the full faith and credit of the United States of America is pledged, including SLGS; (b) obligations issued by a person controlled or supervised by and acting as an agency or instrumentality of the United States of America, the payment of the principal of, premium, if any, and interest on which is fully guaranteed as a full faith and credit obligation of the United States of America (including any securities described in (a) or (b) issued or held in book-entry form on the books of the Department of Treasury of the United States of America or Federal Reserve Bank); and (c) securities which represent an interest in the obligations described in (a) and (b) above, which obligations are not subject to optional redemption by the issuer thereof prior to maturity.

“*Indenture*” means the Original Indenture, as amended and restated by this Amended and Restated Trust Indenture dated as of November 1, 2025 between the Issuer and the Trustee, as it may be further amended or supplemented from time to time by supplemental indentures in accordance with the provisions hereof.

“*Initial Mandatory Tender Date*” means December 1, 2026.

“*Initial Rate Period*” means the period from (and including) the Closing Date and to (but excluding) December 1, 2026.

“*Interest Payment Date*” means each June 1 and December 1, commencing June 1, 2026.

“*Interest Rate*” means, with respect to the Bonds, the following:

- (a) During the Initial Rate Period, 3.125% per annum.
- (b) During any Term Rate Period, the rate per annum determined by the Remarketing Agent on or before the first day of such Term Rate Period and designated by the Company in accordance with Section 3.6 hereof.
- (c) During any Fixed Rate Period, the rate per annum determined by the Remarketing Agent on or before the first day of such Fixed Rate Period as the Fixed Rate in accordance with Section 3.6 hereof.

- (d) The Interest Rate shall in no event exceed the Maximum Rate.

“*Interest Rate Period*” means each of the Initial Rate Period, any Term Rate Period and the Fixed Rate Period.

“*Issuer*” means The Cumberland County Industrial Facilities and Pollution Control Financing Authority, a political subdivision and body corporate and politic duly organized and validly existing under the laws of the State of North Carolina, created by the provisions of the Act, or any agency, board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers conferred upon the Issuer by said provisions shall be given by law.

“*LGC*” means the North Carolina Local Government Commission, a division of the Department of the State Treasurer, or any successor governmental agency performing a similar function, or its designated representative. Any action required to be taken by the LGC under this Indenture may be taken by the Secretary of the LGC, a Deputy Secretary or other designated representative of the LGC.

“*Letter of Representations*” means the Blanket Letter of Representations from the Issuer to DTC dated August 9, 2022 or any agreement between the Issuer, the Trustee and a successor securities depository appointed pursuant to Section 3.16 hereof, as such may be amended from time to time.

“*Loan Agreement*” means the Loan Agreement dated as of December 1, 2024, as amended by the First Amendment to Loan Agreement dated as of November 1, 2025, each between the Company and the Issuer, including any amendments and supplements thereof and thereto as permitted thereunder.

“*Mandatory Tender Date*” means the Initial Mandatory Tender Date and the first day following the last day of each Term Rate Period.

“*Maturity Date*” or “*principal payment date*,” when used with respect to the Bonds, means December 1, 2027.

“*Maximum Rate*” means the rate per annum of 12.0%.

“*Moody’s*” means Moody’s Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns, and if such corporation shall for any reason no longer perform the functions of a securities rating agency, “*Moody’s*” shall be deemed to refer to any other nationally recognized securities rating agency or service designated by the Issuer and approved by the Company. Whenever rating categories of Moody’s are specified in this Indenture, such categories shall be irrespective of gradations within a category.

“*Original Indenture*” means the Trust Indenture dated as of December 1, 2024, between the Issuer and the Trustee.

“*Outstanding*” or “*outstanding*,” when used with reference to Bonds, means all Bonds that have been authenticated and issued under this Indenture except:

- (a) Bonds canceled by the Trustee pursuant to this Indenture;
- (b) Bonds for which moneys or Defeasance Obligations shall be held in trust for their payment by the Trustee as provided in the defeasance provisions of this Indenture;

- (c) Bonds that have been duly called for redemption and for which the Redemption Price thereof is held in trust by the Trustee as provided in this Indenture;
- (d) Bonds in exchange for which other Bonds shall have been authenticated and delivered by the Trustee as provided in this Indenture;
- (e) Bonds paid pursuant to Section 3.10 hereof, and in the event a Bond shall have matured, such Bond with respect to which the Issuer has authorized payment of the same instead of issuing a substitute Bond; and
- (f) for all purposes regarding consents and approvals or directions of Bondholders under the Loan Agreement or this Indenture, Bonds held by or for the Issuer, the Company or any person controlling, controlled by or under common control with either of them of which the Trustee has actual knowledge.

“*Participant*” means any broker dealer, bank and other financial institution from time to time for which DTC holds Bonds as securities depository.

“*Payments*” means the amounts of repayments under the Loan Agreement with respect to the Bonds to be made by the Company as provided in Article 4 of the Loan Agreement.

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

“*Project*” means the Project as defined in the preamble.

“*Project Costs*” means all costs and expenses incurred in connection with the design, construction, commissioning and financing of the Project, including, without limitation, amounts payable under all construction, engineering, technical and other contracts entered into by the Company in connection with the construction, operation, maintenance and commissioning of the Project and the costs of performing its obligations thereunder, all financing costs, including costs of issuance, fees, interest during construction, and any taxes, assessments or governmental charges payable by the Company in connection with the construction, operations, maintenance and commissioning of the Project.

“*Project Fund*” means the Project Fund created pursuant to Section 4.5.1 hereof.

“*Purchase Price*” means the purchase price to be paid to the Bondholders of Bonds purchased pursuant to Section 3.5 hereof, which shall be equal to the principal amount thereof tendered for purchase, without premium, plus accrued and unpaid interest to the Mandatory Tender Date.

“*Rating Agency*,” at any point in time, means any nationally recognized securities rating agency or service then rating the Bonds (collectively, the “*Rating Agencies*”).

“*Rebate Fund*” means the Fund of that name created under Section 4.1 of this Indenture.

“*Record Date*” means the 15<sup>th</sup> day of the month next preceding an Interest Payment Date, or if such day is not a Business Day, the next preceding Business Day.

“*Redemption Price*” means, with respect to any Bonds called for redemption pursuant to Section 3.4 hereof, the principal amount of the Bonds called for redemption, plus accrued interest thereon to the redemption date, without premium.

“*Remarketing Agent*” means Oppenheimer & Co. Inc. and each other Person qualified under Section 9.15 hereof to act as Remarketing Agent for the Bonds and appointed by the Company with the consent of the Issuer (such approval not to be unreasonably withheld).

“*Remarketing Proceeds Fund*” means the account of that name established pursuant to Section 4.1.

“*S&P*” or “*Standard & Poor’s Ratings Group*” mean Standard & Poor’s Ratings Services, a Standard and Poor’s Financial Services LLC business, its successors and assigns, and, if such entity shall for any reason no longer perform the functions of a securities rating agency, “*S&P*” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer with the approval of the Company.

“*Solid Waste Disposal Facility*” means a Special Purpose Project described in Section 159C-3(15a)g. of the Act, consisting of land, equipment, and facilities for the disposal, treatment, or recycling of (i) solid or other waste that are described in North Carolina General Statutes 159I-8 (recodified as 159-146(b)(7)a.) or (ii) solid, forestry, agricultural, or other waste, including any residual material which is the by-product or excess raw material remaining after the completion of any commercial, consumer, governmental, agricultural, or industrial production process, and including facilities for the handling and transport of products resulting from such treatment and recycling.

“*Special Purpose Project*” has the meaning set forth in Section 159C-3(15a) of the Act.

“*State*” means the State of North Carolina.

“*Tax Certificate*” means the Tax Regulatory Agreement dated the Closing Date, between the Company and the Issuer.

“*Term Rate*” shall mean the interest rate per annum for the Bonds for a Term Rate Period determined pursuant to Section 3.6 hereof.

“*Term Rate Period*” shall mean the period from (and including) the date of remarketing the Bonds bearing interest at a Term Rate to (but excluding) the last day of the Term Rate Period as established by the Company for the Bonds pursuant to Section 3.5 hereof and, thereafter, each successive period from (and including) the beginning date of each successive period during which the Bonds bear interest at a Term Rate selected by the Company, pursuant to Section 3.6 hereof, to (but excluding) the last date of such period.

“*Trust Estate*” means all the property mortgaged, pledged, transferred and assigned to the Trustee by the Issuer pursuant to this Indenture as security for the Bonds.

“*Trustee*” means the state banking corporation or national banking association with corporate trust powers qualified to act as Trustee under this Indenture which may be designated (originally or as a successor) as Trustee for the owners of the Bonds issued and secured under the terms of this Indenture, initially Wilmington Trust, National Association.

“Underwriter” means Oppenheimer & Co. Inc., which acted as underwriter in connection with the original issuance and delivery of the Bonds.

Section 1.2 Rules of Construction.

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

(b) Unless the context shall otherwise indicate, the word “person” shall include the plural as well as the singular number, and “person” shall mean any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

(c) Provisions calling for the redemption of Bonds or the calling of Bonds for redemption do not mean or include the payment of Bonds at their stated maturity or maturities.

(d) All references in this Indenture to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and other subdivisions of this Indenture. The words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision.

ARTICLE 2  
GRANTING CLAUSES AND PLEDGES

Section 2.1 Granting Clauses. In consideration of the acceptance by the Trustee of the trusts and duties set forth in this Indenture on behalf of the owners of all Bonds issued and secured hereunder; of the purchase and acceptance of the Bonds issued and secured by this Indenture by the owners thereof; of the payment of the purchase price of the Bonds to the Trustee for application as provided hereinafter; and in order to secure the payment of any and all Bonds at any time outstanding hereunder, according to the tenor and effect thereof and the premium and interest thereon, the payment of all costs, fees, expenses and charges specified herein, and the payment of all other sums if any, from time to time due to the owners of all Bonds secured hereunder, to the Trustee or its successors and assigns, or to others, according to the intent and meaning of all such Bonds and this Indenture, up to a maximum principal amount of \$250,000,000, and for the purpose of securing the performance and observance by the Issuer of all the covenants and conditions herein contained, the Issuer does hereby confirm the TRANSFER, ASSIGNMENT AND DELIVERY TO AND IN FAVOR OF the Trustee, and its successor or successors in trust, pursuant to this Indenture, for the benefit of the owners of all Bonds secured hereunder, its interest in the following described properties, rights, interests and benefits which, are collectively called the “Trust Estate”:

All right, title and interest of the Issuer in, to and under the Loan Agreement (except for rights of the Issuer relating to exculpation, indemnification and payment of fees and expenses thereunder), all payments, proceeds, revenues, income, receipts, issues, benefits and other moneys received or derived by the Issuer under the Loan Agreement including, without limitation, the Payments to be paid by the Company to the Trustee pursuant to Section 4.2 of the Loan Agreement.

All cash, moneys, securities and investments and earnings thereon that may at any time and from time to time, pursuant to the provisions of this Indenture, be paid to the Trustee or be held by the Trustee in the Funds created under this Indenture (other than the Rebate Fund), except as the interest of said Trustee in such cash, moneys, securities and investments may otherwise appear in this Indenture,

provided, however, that nothing in this Indenture shall be construed to affect any property held by the Trustee in any capacity other than as Trustee hereunder; and

To the extent not covered by the clauses above, all proceeds of any and all of the foregoing.

TO HAVE AND TO HOLD all and singular the Trust Estate, whether now owned or hereafter acquired, unto the Trustee and its successor or successors and assigns forever; in trust, nevertheless subject to the terms and conditions and trusts herein set forth, for the equal benefit, security and protection of all and singular the present and future owners of all of the Bonds issued under and secured by this Indenture, without preference, priority or distinction as to lien or otherwise, except as may otherwise be provided herein, of any one Bond over any other Bond or of principal over interest or interest over principal, all as herein provided, and for the uses and purposes, and upon the terms, agreements and conditions set forth herein.

The Trust Estate assigned hereunder is also assigned to secure the payment of any and all sums that the Trustee may expend or become obligated to expend (including but not limited to court costs and attorneys’ fees and expenses) to preserve and protect any of the Trust Estate or to cure any default of the Company under the Loan Agreement or arising out of any such default or incident of delay in payment of sums and the performance of obligations thereunder, or in pursuing or exercising any right, rights, remedy or remedies consequent upon the default of the Company thereunder.

PROVIDED, HOWEVER, that if the Issuer, its successors or assigns, shall well and truly pay, or cause to be paid, or provide for the payment pursuant to the provisions of this Indenture, the principal of the Bonds, premium, if any, and the interest due or to become due thereon, at the times and in the manner set forth in the Bonds and this Indenture, according to the true intent and meaning thereof, and shall well and truly keep, perform and observe all the covenants and agreements as provided in and pursuant to the terms of this Indenture to be kept, performed and observed by it, and shall pay or cause to be paid to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, and the rights created hereby shall cease, terminate and be void as provided in Article 12 hereof; otherwise this Indenture shall be and remain in full force and effect.

The Issuer hereby covenants and agrees with, and does hereby covenant unto the Trustee, that it has good right and lawful authority to transfer and assign the Trust Estate to the extent and in the manner herein provided; that the Issuer will not create or suffer to exist any lien or encumbrance upon the Trust Estate, or any part thereof, or do or suffer any act or thing whereby the security hereof may be diminished or impaired; and the Issuer further does covenant, and by these presents hereby covenants and agrees to defend or cause to be defended forever the title to each and every part of said Trust Estate against the claims and demands of all persons whomsoever.

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

ARTICLE 3  
AUTHORIZATION, TERMS AND CONDITIONS OF BONDS

Section 3.1 Bonds Issuable Under this Article Only. No Bonds may be issued under the provisions of this Indenture except in accordance with the provisions of this Article.

Section 3.2 Authorization of Bonds.

(a) There is hereby authorized and issued under this Indenture \$250,000,000 aggregate principal amount of bonds known as “The Cumberland County Industrial Facilities and Pollution Control Financing Authority Solid Waste Disposal Revenue Bonds (Project Aero), Series 2024” to be issued for the purpose of financing the Project. Upon issuance, the proceeds of the Bonds shall be deposited as directed in Section 4.2 herein.

(b) The Bonds are issuable as fully registered Bonds, without coupons, in Authorized Denominations. The Bonds shall be numbered from No. R-1 upwards. The Bonds shall be dated the date of delivery, and shall mature (subject to prior redemption as hereinafter set forth) on the Maturity Date.

(c) The Bonds shall bear interest at the Interest Rate.

(d) The principal of, and premium, if any, of the Bonds shall be payable to the registered owners thereof upon surrender of the Bonds at the designated Corporate Trust Office of the Trustee. The interest on the Bonds, when due and payable, shall be paid by check mailed by the Trustee on such due date to each person in whose name a Bond is registered, at the address(es) as they appear on the Bond Register maintained by the Trustee at the close of business on the applicable Record Date irrespective of any transfer or exchange of the Bonds subsequent to such Record Date and prior to such Interest Payment Date, unless the Issuer shall default in payment of interest due on such Interest Payment Date, provided that the owners of \$1,000,000 or more in aggregate principal amount of Bonds may request payment by wire transfer if such owners have requested such payment in writing to the Trustee, which request shall be made no later than the Record Date and shall include all relevant bank account information and shall otherwise be acceptable to the Trustee. Such notice shall be irrevocable until a new notice is delivered not later than a Record Date. In the event of any such default, such defaulted interest shall be payable on a payment date established by the Trustee to the persons in whose names the Bonds are registered at the close of business on a special record date for the payment of such defaulted interest established by notice mailed by the Trustee to the registered owners of the Bonds not fewer than fifteen (15) days preceding such special record date. Payment as aforesaid shall be made in such coin or currency of the United States of America as, at the respective times of payment, is legal tender for the payment of public and private debts.

Section 3.3 Form of Bonds. The Bonds issued or delivered under this Indenture shall be substantially in the form set forth in Exhibit A attached hereto and made a part hereof with such appropriate variations, additions, omissions and insertions as are permitted or required by this Indenture. All Bonds may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or of any securities exchange on which the Bonds may be listed or any usage or requirement of law with respect thereto. All Bonds may bear identifying CUSIP numbers, but any failure to include such numbers or any error in any CUSIP number so included shall not in any way affect the validity of the Bonds.

Section 3.4 Redemption of Bonds.

(a) *Optional Redemption*

(i) During the Initial Rate Period, the Bonds shall be subject to redemption by the Issuer at the option of the Company in whole but not in part on or after May 1, 2026, including on the Initial Mandatory Tender Date, at the Redemption Price.

(ii) During any subsequent Interest Rate Period, the Bonds shall be subject to redemption by the Issuer at the option of the Company, in whole but not in part on or after the first day of the third full calendar month prior to the applicable Mandatory Tender Date or Maturity Date at the Redemption Price. The Company and the Issuer, in connection with a remarketing to a Term Rate or Fixed Rate, may waive or otherwise alter the right to direct the redemption of any such Bonds so changed to a Term Rate or Fixed Rate at any time without premium; provided, that notice describing the waiver or alteration shall be submitted to the Trustee and the Remarketing Agent, together with a Favorable Opinion of Bond Counsel, addressed to them.

(b) *Notice of Redemption.* With respect to a notice of redemption under Section 3.4 hereof, notice of the call for any redemption, identifying the Bonds to be redeemed, shall be given to the Trustee at least twenty-five (25) days prior to the date fixed for redemption (or such shorter time as may be agreed upon by the Trustee) and, at least twenty (20) days before the date fixed for redemption, the Trustee shall cause a notice of redemption, signed by an authorized officer of the Trustee (1) for Bonds held through the DTC system, to be submitted electronically to all such Bondholders through the DTC system, and (2) for any Bondholders who have taken physical delivery of a Bond certificate pursuant to the terms of this Indenture, mailed, postage prepaid, to all such Bondholders of record at their addresses as they appear on the Bond Register, but any defect in such mailing of any such notice shall not affect the validity of the proceedings for the redemption of any Bond with respect to which no such failure has occurred; and provided also that no such notice shall be mailed unless (i) such notice is a Conditional Redemption (as defined in subsection (c) below), or (ii) the Trustee has sufficient money and/or Government Securities on deposit (or has received evidence that an escrow bank has sufficient money and/or Government Securities on deposit) to pay the principal of, premium, if any, and interest on the Bonds being so redeemed. The notice of redemption shall set forth the complete title of the issue (including series designation), CUSIP number, the date of the issue, maturity, the date fixed for redemption, the Redemption Price to be paid, and the place or places of redemption, including the name, address and phone number of a contact person.

(c) *Conditional Redemption.* In the case of an optional redemption pursuant to Section 3.4 hereof, the notice may state (i) that it is conditioned upon the deposit of money, in an amount equal to the Redemption Price of the Bonds to be redeemed and prepaid, with the Trustee on or before the redemption date or (ii) that the Company retains the right to rescind such notice on or prior to the scheduled redemption date (in either case, a “Conditional Redemption”), and such notice and optional redemption shall be of no effect if such money is not so deposited or if the notice is rescinded as hereinafter described. On or before the redemption date, funds sufficient to redeem such Bonds, including accrued interest thereon to the redemption date, shall be deposited with the Trustee. The Bonds thus called shall not, on or after the specified redemption date, bear any interest and, except for the purpose of payment, shall not be entitled to the lien of this Indenture. Any Conditional Redemption may be rescinded in whole, not in part, at any time on or before the redemption date if the Company delivers a certificate of the Company to the Issuer and the Trustee at least five (5) days prior to the redemption date instructing the Trustee to rescind the redemption notice. A certificate of the Company delivered by the Company to the Issuer and the Trustee less than five (5) days prior to the redemption date will have no force and effect and will not rescind any Conditional Redemption. The Trustee shall give prompt notice of any properly

tendered notice of rescission to the affected registered owners. Any Bonds subject to Conditional Redemption where funds are not received on or before the redemption date sufficient to pay the Redemption Price or where the redemption has been rescinded by the Company within the timeframe provided above shall remain Outstanding, and the rescission shall not constitute an Event of Default. Further, in the case of a Conditional Redemption, the failure of the Company to make available funds sufficient to redeem all of the Bonds so called for redemption on or before the redemption date shall not constitute an Event of Default, and the Trustee shall give immediate notice to the Securities Depository or the affected Bondholders that the redemption did not occur and that the Bonds called for redemption remain Outstanding. Any extraordinary costs, fees or expenses incurred by the Trustee in connection with a rescission of a redemption shall be paid by the Company.

(d) The Trustee also shall provide a copy of such notice in an electronic format as prescribed by the Municipal Securities Rulemaking Board (the “MSRB”), together with such identifying information as is prescribed by the MSRB at least twenty (20) days prior to such redemption date; provided, however, that such notice shall not be a condition precedent to such redemption and failure to provide any such notice shall not affect the validity of any proceedings for the redemption of Bonds.

(e) Any notice mailed as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Bondholder or registered owner receives such notice.

(f) *Redemption Payments.* On or prior to the date fixed for redemption, funds shall be deposited with the Trustee to pay, and the Trustee is hereby authorized and directed to apply such funds to the payment of, the Redemption Price of the Bonds called for redemption. Upon the giving of notice and the deposit of funds for redemption, interest on the Bonds or portions thereof thus called shall no longer accrue after the date fixed for redemption, and such Bonds or portions thereof shall no longer be deemed to be Outstanding.

#### Section 3.5 Mandatory Tender for Purchase.

(a) On each Mandatory Tender Date, the Bonds shall be subject to mandatory tender for purchase at the Purchase Price. The Purchase Price shall be paid first from amounts held in the Remarketing Proceeds Fund, and, second, to the extent amounts in the Remarketing Proceeds Fund are not sufficient to pay such Purchase Price, from amounts in the Escrow Fund. By no later than 11:00 a.m., New York City time, on the Mandatory Tender Date, the Trustee shall apply amounts in the Remarketing Proceeds Fund to the payment of the Purchase Price, and, to the extent such funds are not sufficient to pay the Purchase Price, by 12:00 p.m. New York City time, the Trustee shall withdraw the remaining amounts necessary to pay the Purchase Price from the Escrow Fund.

(b) All Bonds to be purchased on a Mandatory Tender Date shall be required to be delivered to the Corporate Trust Office of the Trustee at or before 1:45 p.m., New York City time, on the Mandatory Tender Date. If the owner of any Bond (or portion thereof) that is subject to purchase pursuant to this Section fails to timely deliver such Bond to the Trustee for purchase on the Mandatory Tender Date, such Bond shall nonetheless be deemed purchased on the Mandatory Tender Date. If on the Mandatory Tender Date the Trustee receives the Purchase Price for all Bonds to be purchased on the Mandatory Tender Date, the owner of any such Bond shall have no further rights thereunder except the right to receive the Purchase Price thereof upon presentation and surrender of that Bond to the Trustee.

(c) No notice of a mandatory tender for purchase shall be required to be given to the owners of the Bonds for mandatory tender in connection with the Mandatory Tender Date.

#### Section 3.6 Determination of Term Rates and Fixed Rates.

(a) At least twenty (20) days prior to any Mandatory Tender Date, the Company shall give written notice to the Trustee and the Issuer as to whether it elects to remarket the Bonds as Bonds bearing interest at a Term Rate for the Term Rate Period designated in such notice or as Bonds bearing a Fixed Rate for the Fixed Rate Period or that it elects not to remarket the Bonds.

(b) The Term Rate for the Term Rate Period designated by the Company shall be the minimum rate of interest that, in the sole judgment of the Remarketing Agent, would result in a sale of the Bonds on the Mandatory Tender Date at a price equal to the principal amount thereof, plus accrued interest. If a new Term Rate Period is not selected by the Company prior to a Mandatory Tender Date, the new Term Rate Period shall be the same length as the current Interest Period (or such lesser period as shall be necessary so that the new Term Rate Period does not extend beyond the Maturity Date).

(c) The Fixed Rate shall be the minimum rate of interest that, in the sole judgment of the Remarketing Agent, will result in a sale of the Bonds on the Mandatory Tender Date at a price equal to the principal amount thereof, plus accrued interest. The Fixed Rate so established shall remain the Fixed Rate in effect until the Maturity Date.

(d) The remarketing to a Term Rate or a Fixed Rate shall not occur unless there shall have been delivered to the Company, the Trustee and the Remarketing Agent, on or prior to the date of remarketing, a Favorable Opinion of Bond Counsel dated the Mandatory Tender Date and addressed to the Company, the Trustee and the Remarketing Agent.

(e) Upon the remarketing of the Bonds at a Term Rate or a Fixed Rate, the Bonds shall be remarketed at par, shall mature on the same Maturity Date and be subject to the applicable redemption provisions set forth in this Indenture; provided, however, that if the Company shall deliver to the Trustee a Favorable Opinion of Bond Counsel, the Company and the Issuer may elect to change the optional redemption provisions set forth in Section 3.4(a)(ii) hereof.

(f) In the event the conditions described above in subsection (d) of this Section 3.6 have not been satisfied by the applicable remarketing date, then the remarketing shall not take effect (although any mandatory purchase shall be made on such date).

#### Section 3.7 Remarketing of Bonds; Notice of Interest Rates.

(a) *Remarketing.* Upon each Mandatory Tender Date for which the Company has elected to remarket the Bonds, pursuant to Section 3.6 hereof, the Remarketing Agent shall offer for sale and use its best efforts to sell the Bonds, if not remarketed on such date, thereafter until sold, at a price equal to par plus accrued interest, with such interest component of the sales price being determined by the Remarketing Agent in order to best facilitate remarketing of the Bonds at par.

(b) *Notice of Rates and Terms.* The Remarketing Agent shall determine the Term Rate or the Fixed Rate, as applicable, not later than the commencement date of the applicable Term Rate Period of Fixed Rate Period, and shall furnish such rate to the Trustee, the Issuer and the Company no later than close of business on that same day.

(c) *Notice of Purchase and Remarketing.* As soon as practicable, but in any event by no later than 10:00 a.m., New York, New York time, on the date of remarketing of the Bonds, the Remarketing Agent shall give notice to the Trustee whether Bonds have been remarketed. By 11:00 a.m., New York, New York time, on the Mandatory Tender Date, the Remarketing Agent shall cause the Purchase Price of

the Bonds to be delivered to the Trustee for deposit into the Remarketing Proceeds Fund and shall deliver to the Trustee a list of the purchasers showing the names and denominations in which such Bonds shall be registered, and the addresses and social security or taxpayer identification numbers of such purchasers. Upon receipt from the Remarketing Agent of such information, the Trustee shall prepare Bonds in accordance with such information received from the Remarketing Agent for registration of transfer and redelivery to the Remarketing Agent.

Section 3.8 Execution; Limitation of Liability. The Bonds shall be executed on behalf of the Issuer with the manual or facsimile signatures of the Chairman or Vice-Chairman of the Issuer and attested by the manual or facsimile signature of the Secretary or any Assistant Secretary of the Issuer, and shall bear the seal of the Issuer, or a facsimile thereof. The Bonds, together with interest thereon, shall not constitute a debt of the State or any political subdivision thereof. The Bonds, together with interest thereon, shall be limited and special obligations of the Issuer and shall be secured by and payable solely out of revenues derived from the Payments made pursuant to the Loan Agreement and the Trust Estate pledged hereunder. The Issuer shall not be obligated to pay the principal of the Bonds or the interest thereon or other costs incidental thereto except from payments made pursuant to the Loan Agreement. In case any officer of the Issuer whose signature or whose facsimile signature shall appear on the Bonds shall cease to be such officer before the delivery of such Bonds, such signature or the facsimile signature thereof shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery.

THE PRINCIPAL OR REDEMPTION PRICE OF AND INTEREST ON THE BONDS ARE PAYABLE SOLELY AND EXCLUSIVELY FROM THE TRUST ESTATE PLEDGED FOR THEIR PAYMENT PURSUANT TO THIS INDENTURE. THE BONDS ARE SPECIAL OBLIGATIONS OF THE ISSUER AND ARE PAYABLE SOLELY FROM THE SOURCES REFERRED TO HEREIN. THE BONDS DO NOT CONSTITUTE A DEBT OR A PLEDGE OF THE FAITH AND CREDIT OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF AND THE BONDHOLDERS OR OWNERS OF THE BONDS HAVE NO RIGHT TO HAVE TAXES LEVIED BY THE GENERAL ASSEMBLY OF THE STATE OR TAXING AUTHORITY OF ANY POLITICAL SUBDIVISION OF THE STATE FOR THE PAYMENT OF THE PRINCIPAL OR REDEMPTION PRICE OF AND INTEREST ON THE BONDS. THE ISSUER HAS NO TAXING POWER.

Section 3.9 Authentication. No Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Indenture unless and until a certificate of authentication substantially in the form set forth in Exhibit A attached hereto and made a part hereof shall have been duly executed by a duly authorized representative of 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. The Trustee's certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized representative of the Trustee, but it shall not be necessary that the same representative sign the certificate of authentication on all of the Bonds issued hereunder.

Section 3.10 Mutilated, Lost, Stolen or Destroyed Bonds. In the event any outstanding Bond, whether temporary or definitive, is mutilated, lost, stolen or destroyed, the Issuer may execute and, upon its request, the Trustee may authenticate a new Bond of the same principal amount and of like tenor as the mutilated, lost or stolen or destroyed Bond; 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 the Issuer and the Trustee evidence of such loss, theft or destruction in form satisfactory to the Issuer and the Trustee, together with indemnity satisfactory to them. In the event any such Bond shall have matured, instead of issuing a substitute Bond the Issuer may authorize the payment of the same. The Issuer and the Trustee may charge the Company or the owner of such Bond

with their reasonable fees and expenses in this connection. Any Bond issued under the provisions of this Section 3.10 in lieu of any Bond alleged to be destroyed, lost or stolen shall constitute an original additional contractual obligation on the part of the Issuer, whether or not the Bond so alleged to be destroyed, lost or stolen be at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Indenture together with all other Bonds in substitution for which such Bonds were issued.

#### Section 3.11 Registration of Bonds.

(a) The Trustee shall be the bond registrar for the Bonds. So long as any of the Bonds shall remain outstanding, there shall be maintained and kept for the Issuer, at the designated Corporate Trust Office of the Trustee, the Bond Register for the registration and transfer of the Bonds and, upon presentation thereof for such purpose at said office, the Trustee shall register or cause to be registered therein, and permit to be transferred thereon, under such reasonable regulations as it may prescribe, any Bond.

(b) Each Bond shall be transferable only upon the Bond Register at the designated Corporate Trust Office of the Trustee at the written request of the registered owner thereof or his or her legal representative duly authorized in writing upon surrender thereof, together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered owner or his legal representative duly authorized in writing. Upon the transfer of any such Bond, the Trustee shall issue in the name of the transferee, in Authorized Denominations, one or more Bonds of the same aggregate principal amount as the surrendered Bonds.

#### Section 3.12 Persons Treated as Owners.

(a) The Issuer and the Trustee may, for the purpose of receiving payment of, or on account of, the principal of and interest on any Bond and for all other purposes, deem and treat the person in whose name such Bond shall be registered upon the Bond Register as the absolute owner of such Bond, whether or not such Bond is overdue, and neither the Issuer nor the Trustee shall be affected by any notice to the contrary.

(b) Payment made to the person deemed to be the owner of any Bond for the purpose of such payment in accordance with the provisions of this Section 3.12 shall be valid and effectual, to the extent of the sum or sums so paid, to satisfy and discharge the liability upon such Bond in respect of which such payment was made.

#### Section 3.13 Exchange and Transfer of Bonds.

(a) As long as any of the Bonds remain Outstanding, there shall be permitted the exchange of Bonds at the designated Corporate Trust Office of the Trustee. Any Bond or Bonds upon surrender thereof at the designated Corporate Trust Office of the Trustee with a written instrument of transfer satisfactory to the Trustee, duly executed by the registered owner or his legal representative duly authorized in writing, may, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of other Bonds in Authorized Denominations.

(b) For every such exchange or transfer of Bonds, the Issuer or the Trustee may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer.

(c) The Trustee shall not be required to register the transfer or exchange of any Bonds called for redemption.

(d) Neither the Trustee nor any agent shall have any responsibility or liability for any actions taken or not taken by DTC.

Section 3.14 Cancellation and Disposal of Surrendered Bonds. Upon the surrender to the Trustee of any temporary or mutilated Bonds, or Bonds transferred or exchanged for other Bonds, or Bonds paid at maturity by the Issuer, the same shall forthwith be canceled and disposed of in accordance with its then-customary procedures by the Trustee, and the Trustee, upon the request of the Issuer, shall deliver its certificate of such disposal to the Issuer.

Section 3.15 Delivery of the Bonds.

(a) Upon the execution and delivery of this Indenture, the Issuer shall execute and deliver to the Trustee, and the Trustee shall authenticate the Bonds and deliver them to the purchasers thereof as shall be directed by the Issuer as hereinafter in this Section provided.

(b) Prior to or simultaneously with the delivery by the Trustee of the Bonds there shall be filed with the Trustee:

(i) A copy, duly certified by the Secretary of the Issuer, of the resolution or resolutions adopted by the Issuer authorizing the execution and delivery of this Indenture and the Loan Agreement, and all other instruments contemplated thereby and the authorization, issuance, sale and delivery of the Bonds;

(ii) A copy, duly certified by an Authorized Company Representative, of the resolution or resolutions of the Company authorizing the execution and delivery of the Loan Agreement, the Tax Certificate and all other instruments contemplated thereby and approving this Indenture and the authorization, issuance, sale and delivery of the Bonds;

(iii) Executed counterparts of this Indenture, the Loan Agreement and the Tax Certificate (collectively, the “*Bond Documents*”);

(iv) Signed copies of all opinions of counsel required in connection with the issuance of the Bonds and the transactions contemplated thereby, in form and substance satisfactory to the Underwriter;

(v) Evidence of approval of the issuance of the Bonds by the LGC;

(vi) A request and authorization to the Trustee on behalf of the Issuer and signed by its Chairman or Vice Chairman to authenticate and deliver the Bonds to the purchasers thereof; and

(vii) A signed copy of the legal opinion of McGuireWoods LLP, Bond Counsel, addressed to the Trustee, (A) opining that the Bonds are exempt from the registration requirements of the Securities Act of 1933, as amended, and the Indenture is exempt from qualification under the Trust Indenture Act of 1939, as amended; and (B) authorizing the Trustee to rely upon Bond Counsel’s approving opinion as if it were addressed to the Trustee.

Section 3.16 Book-Entry Registration of Bonds.

(a) The Bonds shall be initially issued in the name of Cede & Co., as nominee for DTC, as registered owner of the Bonds, and held in the custody of DTC (or the Trustee as the agent of DTC under the F.A.S.T. delivery system). The Issuer and the Trustee acknowledge that the Issuer has executed and delivered a Letter of Representations with DTC and that the terms and provisions of said Letter of Representations shall govern in the event of any inconsistency between the provisions of this Indenture and said Letter of Representations. A single bond certificate for each maturity of Bonds will be issued and delivered to DTC. The Beneficial Owners will not receive physical delivery of Bond certificates except as provided herein. Beneficial Owners are expected to receive a written confirmation of their purchase providing details of each Bond acquired. For so long as DTC shall continue to serve as securities depository for the Bonds as provided herein, all transfers of beneficial ownership interests will be made by book-entry only, and no investor or other party purchasing, selling or otherwise transferring beneficial ownership of Bonds is to receive, hold or deliver any Bond certificate.

(b) For every transfer and exchange of the Bonds, the Beneficial Owner may be charged a sum sufficient to cover such Beneficial Owner’s allocable share of any tax, fee or other governmental charge that may be imposed in relation thereto.

(c) The Issuer, the Company and the Trustee will recognize DTC or its nominee as the Bondholder for all purposes, including notices and voting.

(d) None of the Issuer, the Trustee nor the Company is responsible for the performance by DTC of any of its obligations, including, without limitation, the payment of moneys received by DTC, the forwarding of notices received by DTC or the giving of any consent or proxy in lieu of consent.

(e) Whenever during the term of the Bonds the beneficial ownership thereof is determined by a book-entry at DTC, the requirements of this Indenture of holding, delivering or transferring Bonds shall be deemed modified to require the appropriate person to meet the requirements of DTC as to registering or transferring the book-entry to produce the same effect.

(f) DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving notice to the Issuer and the Trustee and discharging its responsibilities with respect thereto under applicable law.

(g) The Issuer, in its sole discretion and without the consent of any other person, may terminate the services of DTC with respect to the Bonds if the Issuer determines that (a) DTC is unable to discharge its responsibilities with respect to the Bonds, or (b) a continuation of the requirement that all of the outstanding Bonds be registered on the registration books kept by the Trustee in the name of Cede & Co., or any other nominee of DTC, is not in the best interest of the beneficial owners of the Bonds.

(h) Upon the termination of the services of DTC with respect to the Bonds pursuant to the above two paragraphs, after which no substitute securities depository willing to undertake the functions of DTC hereunder can be found which, in the opinion of the Issuer is willing and able to undertake such functions upon reasonable and customary terms, the Issuer is obligated to deliver Bonds to the owner, at the expense of said owner as described in this Indenture, and the Bonds shall no longer be restricted to being registered in the registration books kept by the Trustee in the name of Cede & Co., as nominee of DTC, but may be registered in whatever name or names owners transferring or exchanging Bonds shall designate in accordance with the provisions of this Indenture.

(i) Notwithstanding any other provision of this Indenture to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the Letter of Representations of the Issuer.

(j) If at any time DTC ceases to hold the Bonds, all references herein to DTC shall be of no further force or effect.

Section 3.17 No Additional Bonds. No additional bonds may be issued that are secured by the Escrow Fund and no other liens are permitted on the Escrow Fund.

Section 3.18 CUSIP Numbers. The Issuer in issuing the Bonds may use CUSIP numbers (if then generally in use), and, if so, the Trustee shall use CUSIP numbers in notices of redemption as a convenience to owners; provided that the Trustee shall have no liability for any defect in the CUSIP numbers as they appear on any Bond, notice or elsewhere, and, provided further that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Bonds or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Bonds, and any such redemption shall not be affected by any defect in or omission of such numbers. The Issuer will promptly notify the Trustee in writing of any change in the CUSIP numbers.

#### ARTICLE 4 FUNDS AND ACCOUNTS; FLOW OF FUNDS; INVESTMENTS; DEPOSITS; ARBITRAGE

##### Section 4.1 Creation and Use of Funds and Accounts.

(a) Upon delivery of and payment for the Bonds, the following special trust Funds and Accounts (except as qualified in this Section 4.1) shall be established and maintained with the Trustee so long as any Bonds issued under this Indenture are outstanding:

- (i) Bond Proceeds Fund and a Costs of Remarketing Account therein;
- (ii) Escrow Fund;
- (iii) Debt Service Fund;
- (iv) Remarketing Proceeds Fund;
- (v) Project Fund; and
- (vi) Rebate Fund.

(b) The Rebate Fund shall be held by the Trustee but shall not be a trust account within the Trust Estate pledged under this Indenture.

##### Section 4.2 Bond Proceeds Fund.

(a) The Bond Proceeds Fund shall be used to receive the proceeds of the Bonds in the amount of \$250,000,000 (representing the par amount of the Bonds). The Additional Company Contribution in the amount of \$925,084.17 shall be deposited to the Costs of Remarketing Account of the

Bond Proceeds Fund. On the Closing Date, the Trustee shall receive the proceeds of the Bonds and immediately transfer such amounts, together with the sum of \$3,906,250.00 from the Escrow Fund for the payment of the interest portion of the Purchase Price, to the Remarketing Proceeds Fund.

(b) Amounts deposited on the Closing Date into the Costs of Remarketing Account of the Bond Proceeds Fund shall be disbursed, pursuant to the written instructions of the Company, to pay Costs of Remarketing. Any amounts remaining in the Costs of Remarketing Account ninety (90) days after delivery of the Bonds shall be transferred into the Debt Service Fund.

(c) On the Closing Date, the Trustee shall transfer the sum of \$1,181,952.22 from the Escrow Fund to the Project Fund.

Section 4.3 Escrow Fund. (a) The amounts remaining in the Escrow Fund shall be funded as described in Section 4.2 above and shall be invested in Government Securities according to the signed written direction of an Authorized Company Representative, such written direction to specify the particular investment in Government Securities to be made. Such Government Securities shall have such maturities and interest payment dates and bear such interest as will, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom be sufficient for the payment of interest coming due on the Bonds on June 1, 2026 and December 1, 2026 and the Purchase Price due on the Bonds on the Initial Mandatory Tender Date. In the absence of such written direction, all amounts in the Escrow Fund will be held uninvested. Only the Trustee shall have any right of withdrawal from the Escrow Fund and such right of withdrawal shall be for the sole and exclusive benefit of the initial owners of the Bonds that are subject to mandatory tender and purchase on the Initial Mandatory Tender Date. Notwithstanding any other provision of this Indenture, (a) neither the Issuer nor the Company nor any other person shall have any legal, beneficial or equitable interest in the Escrow Fund, and (b) the pledge and lien of this Indenture with respect to the Escrow Fund and investments earnings thereon shall only secure the payment of interest due on the Bonds on June 1, 2026 and December 1, 2026 and the Purchase Price of the Bonds subject to mandatory tender on the applicable Mandatory Tender Date. Except for the initial purchase of Government Securities with the proceeds of the Bonds, amounts on deposit in the Escrow Fund shall be held uninvested as cash without bearing interest and not be commingled with amounts in any other Account or Fund created under this Indenture.

(b) On each Mandatory Tender Date, the Trustee shall pay the Purchase Price of the Bonds first from any remarketing proceeds on deposit in the Remarketing Proceeds Fund, and second, to the extent the remarketing proceeds are insufficient to pay the Purchase Price of the Bonds, from the Escrow Fund. Any Bonds paid from amounts in the Escrow Fund shall be deemed to be redeemed and not remarketed, and shall no longer be Outstanding. In the event that the Bonds are redeemed or defeased in accordance with Section 12.2 hereof on or prior to the Initial Mandatory Tender Date, the Trustee shall transfer all remaining amounts of cash and Government Securities held in the Escrow Fund to a project fund to be established with the Trustee in connection with the Project.

##### Section 4.4 Flow of Funds.

(a) All Payments under the Loan Agreement are subject to the pledge of this Indenture, and constitute a part of the Trust Estate.

(b) The principal and interest on the Bonds are payable solely from the Trust Estate and are not general obligations of the Issuer. Neither the State nor any county, municipal corporation or political subdivision thereof, including the Issuer, shall be obligated to pay the principal of, premium, if any, or interest on the Bonds or other costs incident thereto, except from the Trust Estate, and neither the faith and credit nor the taxing power of the State or any county, municipal corporation or political subdivision thereof,



including the Issuer, is pledged to the payment of the principal of, premium, if any, or interest on the Bonds or other costs incident thereto. The Issuer has no taxing power.

(c) Under the Loan Agreement, the Company has agreed to make Payments, which payments shall be made directly to the Trustee and applied by the Trustee in the following priority:

- (i) At such time as may be required by the Tax Certificate but not less often than annually, to the Rebate Fund the amount required to be deposited thereunder; and
- (ii) At such time as may be required by Section 4.5 herein, to the Debt Service Fund to make the payments set forth herein.

#### Section 4.5 Debt Service Fund.

(a) During the Initial Interest Period, the Trustee shall transfer funds from the Escrow Fund to the Debt Service Fund the amount needed to pay interest due on the Bonds on the first and second Interest Payment Dates following delivery of the Bonds upon remarketing. Thereafter, pursuant to the Loan Agreement, the Company shall provide to the Trustee for deposit to the Debt Service Fund, amounts equal to the amount of principal and interest due on the Bonds on each Interest Payment Date, each Mandatory Tender Date, and the Maturity Date. Amounts in the Escrow Fund shall be transferred to the Debt Service Fund to make such payments in accordance with Section 4.3(b) hereof.

(b) At the written direction of the Company, all or any part of the moneys in the Debt Service Fund shall be invested in specific Government Securities identified by the Company, in which event all income derived from such investments shall be credited to the Debt Service Fund.

#### Section 4.5.1 Project Fund.

(a) The Trustee shall establish and maintain a separate fund to be known as the "Project Fund." The Trustee shall disburse moneys from the Project Fund to the Company or its designees, to pay, or to reimburse the Company for, any and all Project Costs in accordance with the written Request for Disbursement of the Company in the form set forth in Exhibit B to this Indenture.

(b) The Trustee is hereby authorized and directed to make payment of each disbursement required by the aforesaid provisions. If an Event of Default shall occur pursuant to this Indenture, and the Trustee shall declare the principal of all Bonds Outstanding to be due and payable, all moneys and investments held in the Project Fund at the time of such declaration shall be transferred by the Trustee to the Debt Service Fund.

(c) The Trustee shall keep and maintain adequate records pertaining to the Project Fund and all disbursements therefrom and shall, if requested by an Authorized Company Representative, provide statements of transactions relating thereto to the Issuer and the Company.

Section 4.6 Rebate Fund. Moneys deposited and held in the Rebate Fund shall be used to make all rebate payments owed to the United States under the Code, and shall not be subject to the pledge of the Indenture. The Company shall comply with the requirements of Section 148 of the Code and the regulations thereunder, and the Company, at its expense, shall make the calculation(s) required by the Code and the Tax Certificate and shall direct the Trustee to make deposits to and make disbursements from the Rebate Fund that the Company determines are in accordance therewith. The Tax Certificate and any provisions of this Indenture governing deposits to the Rebate Fund may be superseded or amended by the Company (except the requirement of annual calculations and deposits to the Rebate Fund, if required)

if accompanied by an opinion of Bond Counsel addressed to the Issuer, the Company and the Trustee to the effect that the use of the superseding or amending Tax Certificate will not cause the interest on the Bonds to become includable in gross income of the recipient thereof for federal tax purposes.

The Trustee shall not be responsible for calculating rebate amounts or for the adequacy or correctness of any rebate report, and may conclusively rely on any such final report received. The Trustee shall be deemed conclusively to have complied with the provisions of this Indenture and any other agreement relating to the Bonds regarding calculation and payment of rebate if it follows the directions of the Issuer, the Company or any other person expressly authorized by the Issuer or the Company, and the Trustee shall have no independent duty to review, monitor or enforce the Issuer's, the Company's or any other person expressly authorized by the Issuer or the Company's compliance with such rebate requirements. The Trustee may rely conclusively upon and shall be fully protected from all liability in relying upon the Issuer's, the Company's or any other person expressly authorized by the Issuer or Company's opinions, calculations, determinations, directions, and certifications required by this Section.

Except to the extent expressly herein provided, the Trustee shall in no instance be responsible or liable for the tax treatment of the Bonds, the Issuer's or Company's compliance with the Code, or any other tax consequences in connection with the Bonds.

Section 4.7 Depository of Moneys and Security for Deposits. All of the funds and accounts established hereunder shall be special trust accounts held by the Trustee in trust for the benefit of the owners of the Bonds and shall not be subject to lien or attachment by any creditors of the Trustee, the Issuer or the Company. Any moneys in any of the funds and accounts established by the Trustee pursuant to this Indenture shall be invested by the Trustee solely upon the written direction (including a facsimile transmission) of the Company (such direction to specify the particular investment to be made). The Trustee shall be entitled to conclusively rely on the written investment directions of the Company as to the suitability and legality of the directed investments. In the absence of such written direction, the Trustee shall hold all such funds uninvested as cash. In the event of a loss on the sale of such investments (after giving effect to any interest or other income thereon except to the extent theretofore paid to the Company), the Trustee shall have no responsibility in respect of such loss except that the Trustee shall notify the Issuer of the amount of such loss and the Company shall promptly pay such amount to the Trustee to be credited as part of the moneys originally invested. The Trustee shall have no liability whatsoever for any loss, fee, tax or other charge incurred in connection with any investment, reinvestment or liquidation of an investment hereunder. Uninvested sums in these funds and accounts shall be continually secured as are deposits of uninvested sinking funds of political subdivisions of the State or in the manner prescribed by federal law for securing any federal trust funds as may be prescribed from time to time by the Comptroller of the Currency. The Issuer acknowledges that regulations of the Comptroller of the Currency grant it the right to receive brokerage confirmations of the security transactions as they occur. The Issuer specifically waives such notification to the extent permitted by law and will receive periodic cash transaction statements that will detail all investment transactions. The Trustee shall be entitled to assume, absent receipt by the Trustee of written notice to the contrary, that any investment that at the time of purchase is a permitted investment hereunder remains a permitted investment hereunder thereafter. The Trustee is hereby authorized, in making or disposing of any investment permitted by this Indenture, to deal with itself (in its individual capacity) or with any one or more of its affiliates, whether it or any such affiliate is acting as agent of the Trustee or for any third person or dealing as principal for its own account. The Trustee shall not be liable or responsible for any loss resulting from any investment or sale of any investment made in accordance herewith. The Trustee or its affiliates may act as sponsor, principal or agent in the acquisition or disposition of investments. The Trustee may commingle investments made under the Funds and Accounts established hereunder, but shall account for each separately. The parties acknowledge that the Trustee is not providing investment supervision, recommendations, or advice.

Section 4.8 Arbitrage. Notwithstanding any of the other provisions hereof, the Company shall not direct the investment of moneys in the various funds and accounts created hereunder in a manner which would result in the loss of exclusion from gross income of interest on the Bonds for federal income tax purposes or in such manner which would result in the Bonds becoming “arbitrage bonds” within the meaning of Section 148 of the Code.

Section 4.9 Amounts Remaining in Funds; Releases. It is agreed by the parties hereto that any amounts remaining in the Funds and Accounts existing pursuant to this Indenture upon the payment in full of all Bonds then outstanding under this Indenture (or provisions for the payment thereof having been made in accordance with Article 12 of this Indenture), and all other Payments required to be paid under the Loan Agreement and under this Indenture, other than amounts payable as arbitrage rebate under Section 148(f) of the Code, shall belong to and be paid to or as directed by the Company.

Section 4.10 Application of Moneys in the Rebate Fund. Moneys in the Rebate Fund shall be used to make any rebate payments required to be made to the United States under the Code. The Rebate Fund shall be held for the sole benefit of the United States of America and is not pledged under this Indenture. Moneys required to be paid to the United States shall be deposited in the Rebate Fund by the Company as required thereby and by this Indenture.

Section 4.11 Application of Money in Remarketing Proceeds Fund. There shall be deposited to the Remarketing Proceeds Fund amounts received by the Trustee from the Remarketing Agent pursuant to Section 3.7 to pay the Purchase Price of the Bonds. The money in the Remarketing Proceeds Fund shall be held in trust by the Trustee and applied to pay the Purchase Price of the Bonds required to be purchased on a Mandatory Tender Date and, pending such application, the money in the Remarketing Proceeds Fund shall be subject to a lien and charge in favor of the tendering Bondholders.

Section 4.12 Investment of Moneys. The Issuer, without thereby affecting the limitation of its liability set forth in the Loan Agreement and this Indenture, specifically disclaims any obligation to Trustee or Company for any loss arising from, or tax consequences of, investments pursuant to the provisions of this Indenture. The Trustee shall not be responsible for any losses on investments made in accordance with this Indenture or the tax consequences thereof.

Section 4.13 Nonpresentment of Bonds; Disposition of Unclaimed Money. In the event any Bond shall not be presented for payment when the principal thereof becomes due, either at maturity, at the date fixed for redemption thereof or otherwise, if funds sufficient to pay any such Bond shall have been made available to Trustee for the benefit of the owner thereof, all liability of Issuer to the owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of Trustee to hold such funds, without liability for interest thereon, 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, such Bond. If such fund or funds remains unclaimed for five years after such principal and premium, if any, or interest has become due, such fund or funds shall be treated as abandoned property pursuant to the provisions of applicable State law and Trustee shall report and remit such property to the escheat fund according to the requirements of such law and thereafter the Bondholders shall look only to the escheat fund, or to any successor fund, as the case may be, for the payment and then only to the extent of the amounts so received, without interest thereon, and the LGC, Issuer, Trustee, the Remarketing Agent and the Company shall have no responsibility with respect to such money.

## ARTICLE 5 RESERVED

## ARTICLE 6 COSTS OF REMARKETING

Section 6.1 Payment of Costs of Remarketing from Bond Proceeds Fund. There shall be paid into the Costs of Remarketing Account in the Bond Proceeds Fund the amounts required to be so paid from the Additional Company Contribution pursuant to this Indenture; and such amounts shall be applied to the payment of Costs of Remarketing. The Trustee shall make payments from the Costs of Remarketing Account upon receipt of written request of the Company directing the Trustee to pay such amounts. Any amounts remaining in the Costs of Remarketing Account ninety (90) days after delivery of the Bonds shall be transferred into the Debt Service Fund.

## ARTICLE 7 ENFORCEMENT OF LOAN AGREEMENT

Section 7.1 Assignment of Loan Agreement. The Issuer has assigned all of its right, title and interest in, to and under the Loan Agreement (except for rights of the Issuer relating to exculpation, indemnification and payment of expenses thereunder), to the Trustee as security for the Bonds and hereby agrees that the Loan Agreement may be enforced by the Trustee and/or the owners of the Bonds issued hereunder in accordance with the terms hereof and thereof. Notwithstanding such assignment, the Issuer agrees to cause the Company to comply with the terms contained in the Loan Agreement and the rights of the Bondholders and the Trustee shall be governed by the provisions of this Indenture and the Loan Agreement.

Section 7.2 Trustee or Bondholders to Enforce Loan Agreement. The Trustee may, and upon request of the owners of a majority in aggregate principal amount of the Bonds then outstanding shall, subject to the provisions of Section 8.11 and Article 9 hereof, strictly and promptly enforce the provisions of the Loan Agreement so long as any of the Bonds remain outstanding under this Indenture. All rights of action (including the right to file proof of claims) to enforce the Loan Agreement under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of the Bonds and without their production in any trial or other proceeding relating thereto. Any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee for the Bondholders without the necessity of joining as plaintiffs or defendants any of the Bondholders.

## ARTICLE 8 EVENTS OF DEFAULT; REMEDIES

Section 8.1 No Extension of Time for Payment of Principal or Interest. The Trustee shall not be authorized to extend the time for any payment of principal or interest without the prior written consent of or authorization by the owner of the Bonds so affected.

### Section 8.2 Events of Default.

(a) Each of the following events is hereby declared to be an “*Event of Default*”:

(i) The payment of any installment of interest on any of the Bonds shall not be made when the same shall become due and payable;

(ii) The payment of the principal on any of the Bonds shall not be made when the same shall become due and payable, whether at maturity or by proceedings for redemption or by acceleration or otherwise;

(iii) The failure to pay on a Mandatory Tender Date the amounts due to the owner of any Bonds or the Beneficial Owner of any beneficial ownership interests tendered or deemed tendered to the Trustee;

(iv) An “Event of Default” under Article 9 of the Loan Agreement (other than an event described under (i), (ii) or (iii) of this Section 8.2(a)) shall have occurred and shall not have been cured within the applicable cure period, if any; or

(v) Default by the Issuer in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bonds or in this Indenture on the part of the Issuer to be performed, if such default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall have been given to the Issuer and the Company by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of the owners of not less than a majority in principal amount of the Bonds then Outstanding. Such default shall not become an Event of Default if said default be of the nature that (i) it cannot be corrected within the thirty (30) day period after receipt of notice, but the Issuer (or the Company pursuant to the provisions of Section 8.14 of this Indenture) promptly shall institute and diligently pursue corrective action until such default is cured, and (ii) the Trustee (in consultation with its counsel) shall determine that such default does not affect the validity or enforceability of the Bonds, this Indenture or the Loan Agreement, an event of nonperformance shall not have occurred under the Loan Agreement (other than as a result of the cross default provisions), and such default does not impair the security or the obligations provided for or under the Bonds, this Indenture or the Loan Agreement.

(b) The word “default” as used herein shall mean failure of performance when due, exclusive of any period of grace, if any, allowed to correct any such failure.

Section 8.3 Remedies. Upon the occurrence of an Event of Default, the Issuer, the Trustee and, subject to Sections 8.10 and 8.11, the Bondholders shall have all the rights and remedies as may be allowed by law, this Indenture, or pursuant to the provisions of the Loan Agreement by virtue of their assignment hereunder, including but not limited to acceleration of the maturity of all Bonds, or suit at law or in equity to enforce or enjoin the action or inaction of parties under the provisions of this Indenture or the Loan Agreement.

#### Section 8.4 Acceleration; Annulment of Acceleration.

(a) Upon the occurrence of an Event of Default described in Section 8.2 of this Indenture, the Trustee, may, and upon the written direction of the owners of a majority in aggregate principal amount of the Bonds then outstanding, shall, by notice in writing to the Issuer and the Company, declare the Bonds then outstanding immediately due and payable, and such Bonds shall become and be immediately due and payable, and anything in such Bonds or in the Loan Agreement or this Indenture to the contrary notwithstanding, and, subject to Article 9 the Trustee may exercise any remedies granted to it herein. In such event, there shall be due and payable on the Bonds an amount equal to the principal amount of all the Bonds then outstanding plus all interest accrued thereon and which will accrue thereon to the date of payment.

(b) At any time after the principal of the Bonds shall have been so declared to be due and payable and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy under this Indenture or the Loan Agreement, the Trustee, may annul such declaration and its consequences with respect to the Bonds if: (i) moneys shall have been deposited in the Debt Service Fund sufficient to pay all matured installments of principal (other than principal due solely because of acceleration) and interest; (ii) moneys shall be available sufficient to pay the fees, charges, compensation, expenses, disbursements, advances and liabilities of the Issuer and the Trustee; (iii) all other amounts then payable by the Issuer or the Company under this Indenture or the Loan Agreement shall have been paid or a sum sufficient to pay the same shall have been deposited with the Trustee; and (iv) every Event of Default known to the Issuer or the Trustee (other than a default in the payment of the principal of the Bonds due only because of such declaration) shall have been remedied to the satisfaction of the Issuer and the Trustee. No such annulment shall extend to or affect any subsequent Event of Default or impair any right consequent thereon.

#### Section 8.5 Insufficiency in the Debt Service Fund; Application of Moneys.

(a) Anything in this Indenture to the contrary notwithstanding, if at any time the moneys in the Debt Service Fund shall not be sufficient to pay the interest on or the principal of the Bonds as the same shall become due and payable (either by their terms or by acceleration of maturities), such moneys, together with any other moneys then available or thereafter becoming available for such purpose, whether through the exercise of the remedies provided for in this Article or otherwise, shall, subject to the provisions of Sections 9.2 and 9.4 hereof and after payment of the fees, 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 counsel fees, costs and expenses), be applied as follows:

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

FIRST, to the payment to the persons entitled thereto of all installments of interest then due and payable in the order in which such installments became due and payable and, if the amount available shall not be sufficient to pay any particular installment, then to the payment thereof, ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or preference except as to any difference in the respective rates of interest specified in the Bonds; then

SECOND, to the payment to the persons entitled thereto of the unpaid principal of the Bonds that shall have become due and payable (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture) in the order of their due dates, with interest on the principal amount of such Bonds due and payable, and, if the amount available shall not be sufficient to pay in full the principal of the Bonds and their interest thereon, then to the payment thereof ratably, according to the amount of the interest due on such date, and next to the payment of the principal, ratably, according to the amount of such principal due on such date, to the persons entitled thereto without any discrimination or preference; and then

THIRD, to the payment of the interest on and the principal of the Bonds, to the purchase and retirement of Bonds and to the redemption of Bonds, all in accordance with the provisions of this Indenture.

(ii) If the principal of all the Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied to the payment of the principal and

interest then due and unpaid upon the Bonds, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, and thereafter to the persons entitled thereto without any discrimination or preference; and

(iii) If the principal of all the Bonds shall have been declared due and payable and if such declaration shall thereafter have been rescinded and annulled, then, subject to the provisions of Section 8.5(a)(ii) above, in the event that the principal of all the Bonds shall later become or be declared due and payable, then all such moneys shall be applied in accordance with the provisions of Section 8.5(a)(i) above.

(b) Whenever money is to be applied by the Trustee pursuant to the provisions of this Section, such money shall be applied by the Trustee at such times and from time to time as the Trustee in its sole discretion shall determine, having due regard to the amount of such money available for application and the likelihood of additional money becoming available for application in the future; the deposit of such money or otherwise setting aside such money in trust for the proper purpose shall constitute proper application by the Trustee; and the Trustee shall incur no liability whatsoever to the Issuer, to any Bondholder or to any other person for any delay in applying any such money, so long as the Trustee acts with reasonable diligence, having due regard to the circumstances, and ultimately applies the same in accordance with such provisions of this Indenture as may be applicable at the time of application by the Trustee. Whenever the Trustee shall exercise such discretion in applying such money, it shall fix the date (which shall be an Interest Payment Date unless the Trustee shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the fixing of any such date and shall not be required to make payment to the owner of any Bond until such Bond shall be surrendered to the Trustee for appropriate endorsement or for cancellation if fully paid.

Section 8.6 Discontinuance of Proceedings. In case any proceeding taken by the Trustee on account of any Event of Default shall have been discontinued or abandoned for any reason, then and in every such case the Issuer, the Trustee, and the Bondholders shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Trustee shall continue as though no proceeding had been taken.

Section 8.7 Appointment of Receiver. Upon the occurrence of an Event of Default, and upon filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and the Bondholders under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or keeper pending such proceedings, with such powers as the court making such appointment shall confer. Any expenses incurred in connection with such appointment shall be paid by the Company but only from the Trust Estate.

Section 8.8 Remedies Not Exclusive. No remedy by the terms of this Indenture conferred upon or reserved to the Trustee or the Bondholders is intended to be exclusive of any other remedy, but each and every remedy shall be cumulative and shall be in addition to every other remedy given under this Indenture or existing at law or in equity on or after the date of adoption of this Indenture.

Section 8.9 Remedies Vested in Trustee. All rights of action under this Indenture, the Loan Agreement or under any of the Bonds may be enforced by the Trustee without possession of the Bonds and without their production in any trial or other proceeding relating thereto. Any suit or proceeding

instituted by the Trustee may be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any owners of the Bonds.

Section 8.10 Majority of Bondholders Control Proceedings. If an Event of Default shall have occurred and be continuing, notwithstanding anything in this Indenture to the contrary, the owners of at least a majority of the aggregate outstanding principal amount of Bonds then outstanding shall have the right, at any time by an instrument or instruments in writing executed and delivered to the Trustee, upon providing security and indemnity satisfactory to the Trustee, to direct the method and place of conducting any proceeding to be taken in connection with the enforcement of the terms and conditions of this Indenture, provided the direction is in accordance with law and the provisions of this Indenture and is not unduly prejudicial to the interest of Bondholders not joining in such direction (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not such actions or forbearances are unduly prejudicial to such owners), and provided further, that nothing in this Section shall impair the right of the Trustee in its discretion to take any other action under this Indenture which it may deem proper and which is not inconsistent with the direction by Bondholders.

#### Section 8.11 Individual Bondholder Action Restricted.

(a) No owner of any Bond shall have any right to institute any suit, action or proceeding for the enforcement of this Indenture or for the execution of any trust hereunder or for any remedy under this Indenture unless:

(i) An Event of Default has occurred (other than under Sections 8.2(a)(i), (a)(ii) or (a)(iii)) as to which the Trustee has actual notice, or as to which the Trustee has been notified in writing; and

(ii) The owners of at least a majority of the aggregate outstanding principal amount of Bonds outstanding shall have made written request to the Trustee to proceed to exercise the powers granted in this Indenture or to institute an action, suit or proceeding in its own name; and these Bondholders shall have offered the Trustee such indemnity as may be satisfactory to the Trustee, and the Trustee shall have failed or refused to exercise the powers granted in this Indenture or to institute an action, suit or proceeding in its own name for a period of sixty (60) days after receipt of the request and offer of indemnity.

(b) No one or more owners of Bonds shall have any right in any manner whatsoever to disturb or prejudice the security of this Indenture or to enforce any right hereunder except in the manner herein provided and then only for the equal benefit of the owners of all outstanding Bonds.

#### Section 8.12 Waiver and Non Waiver of Event of Default.

(a) No delay or omission of the Trustee or of any owner of Bonds to exercise any right or power accruing upon any Event of Default shall impair the right or power or shall be construed to be a waiver of an Event of Default or an acquiescence therein. Every power and remedy given by this Article to the Trustee and to the owners of the Bonds, respectively, may be exercised from time to time and as often as may be deemed expedient.

(b) The Trustee may waive any Event of Default that in its opinion shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions of this Indenture or before the completion of the enforcement of any other remedy under this Indenture.

(c) The Trustee, upon written request of the owners of at least a majority of the aggregate principal amount of the Bonds then outstanding shall waive any Event of Default and its consequences; provided, however, that a default in the payment of the principal of and interest on any Bond, when due and payable or upon call for redemption, may not be waived after the date the same becomes due and payable without the written consent of the owners of all the Bonds at the time outstanding.

(d) In case of a waiver of any Event of Default, the Issuer, the Trustee and the Bondholders shall be restored to their former positions and rights under this Indenture but no waiver shall extend to any subsequent or other Event of Default or impair any right consequent thereon. The Trustee shall not be responsible to anyone for waiving or refraining from waiving any Event of Default in accordance with this Section.

#### Section 8.13 Notice of Defaults.

(a) Within thirty (30) days after the receipt of notice of an Event of Default or the occurrence of an Event of Default of which the Trustee is deemed to have notice, the Trustee shall (unless the Event of Default has already been cured) give written notice of the Event of Default to the owners of all Bonds then outstanding in the manner provided in Section 13.8 of this Indenture, provided that, except in the case of a default in the payment of principal, Redemption Price, or interest on any of the Bonds, the Trustee may withhold the notice to the Bondholders if, at the written advice of counsel, it determines that the withholding of notice is not detrimental to the best interest of the Bondholders.

(b) The Trustee shall immediately notify, in writing, the Issuer and the Company of any Event of Default known to the Trustee.

Section 8.14 Opportunity of Company to Cure Certain Defaults. The Issuer and the Trustee hereby grant the Company full authority on the account of the Issuer to perform any covenant or obligation and to otherwise fulfill any condition the failure or non-performance of which is or is alleged to be a default under Section 8.2(a)(iv) of this Indenture, and the Trustee agrees that performance by the Company shall be deemed to be performance by the Issuer.

### ARTICLE 9 CONCERNING THE TRUSTEE AND REMARKETING AGENT

Section 9.1 Acceptance of Trusts. The Trustee hereby represents and warrants to the Issuer (for the benefit of the Company and the Bondholders as well as the Issuer) that it is a national banking association duly organized and validly existing under the laws of the United States and that it is duly authorized under such laws to accept and execute trusts in the State of the character herein set out. The Trustee accepts and agrees to execute the trusts imposed upon it by this Indenture, but only upon the specific and express terms and conditions set forth in this Article and subject to the provisions of this Indenture, including the following express terms and conditions, to all of which the parties hereto and the respective owners of the Bonds agree:

(a) Except during the continuance of an Event of Default within the purview of Section 8.2, the Trustee undertakes to perform such duties and only such duties as are specifically and expressly set forth in this Indenture, and the Trustee shall not be responsible for (i) the legality or enforceability of this Indenture (except with respect to performance of its obligations hereunder), the Loan Agreement (except with respect to performance of its obligations hereunder), the Tax Certificate (except with respect to performance of its obligations thereunder), and any supplement thereto, the Bonds (except as to the authentication of the Bonds), or any instruments or documents related thereto (all documents referred to in this subsection (a)(i), collectively, the “*Transaction Documents*”) or (ii) the legality, perfection,

sufficiency or priority of the Trust Estate or any lien purported to be granted thereon under any of the aforesaid documents or otherwise. These duties shall be deemed purely ministerial in nature, and the Trustee shall not be liable except for the performance of such duties, and no implied covenants or obligations shall be read into this Indenture or the other Transaction Documents against the Trustee.

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

(i) the Trustee shall be entitled to request and receive written instructions from the Issuer and the Company and shall have no responsibility or liability for any losses or damages of any nature that may arise from any action taken or not taken by the Trustee in accordance with the written direction thereof, and the Trustee may conclusively rely upon the authenticity of, and the truth of the statements and the correctness of the opinions expressed in, and shall be protected fully from liability in relying or acting upon or refraining from acting upon, any resolution, opinion of counsel, certificate, request, notice, consent, waiver, order, judgment, decree, signature guaranty, notarial seal, stamp, acknowledgment, verification, appraisal, report or other paper or document believed by the Trustee to be genuine and to have been signed, affixed or presented by the proper party or parties, not only as to due execution, validity and effectiveness, but also as to the truth and accuracy of any information contained therein; but in the case of any such certificates or opinions that by any provision hereby are specifically required to be furnished to the Trustee, as the case may be, the Trustee shall be under a duty to examine the same to determine whether or not they conform on their face to requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein);

(ii) whenever the Trustee, or any of its agents, representatives, experts or counsel, shall consider it necessary or desirable that any matter be proved or established, such matter shall be deemed to be conclusively proved and established by a certificate executed by an Authorized Issuer Representative or Authorized Company Representative, as applicable; provided, however, that the Trustee, or such agent, representative, expert or counsel may require, but is not obligated to require, such further and additional evidence and make such further investigation as it or they may consider reasonable;

(iii) the Trustee may act through attorneys or agents (and shall not be responsible for the acts or omissions of any such attorney or agent appointed with due care) and may consult with counsel and other professionals of its selection and the advice or opinion of such counsel and other professionals shall be full and complete authorization and protection in respect of any action taken, omitted or suffered hereunder in good faith and in accordance therewith;

(iv) the Trustee shall not be liable with respect to any action taken, suffered or omitted to be taken by it in good faith and in accordance with any direction or request of the Bondholders given in accordance with the provisions of this Indenture;

(v) the Trustee shall not be liable for any action taken, or errors of judgment made, in good faith by it or any of its officers, employees or agents unless the Trustee is negligent in ascertaining the pertinent facts;

(vi) the Trustee shall not be deemed to have knowledge of any Event of Default, except for the failure of the Company to make or cause to be made scheduled payments

to the Trustee provided for in the Loan Agreement or until an officer of the Trustee who customarily handles corporate trusts and is assigned to supervise this Indenture shall have actual knowledge thereof or shall have received written notice thereof from any Bondholder;

(vii) anything in any of the Transaction Documents to the contrary notwithstanding, whether or not an Event of Default shall have occurred, the Trustee shall not be under any obligation to take any action under this Indenture that may involve it in any expense or liability, the payment of which within a reasonable time is not, in its opinion, assured to it by the security afforded to it by the terms of this Indenture, unless it is directed in writing to do so by the Bondholders or one or more owners of the Bonds outstanding hereunder, in accordance with the provisions of this Indenture, and furnished, from time to time as the Trustee may require, with security and indemnity (satisfactory to the Trustee in its sole and absolute discretion);

(viii) the Trustee need not take any action or follow any direction from any one or more Bondholders if the Trustee shall be advised by counsel that the action or proceedings so directed may not lawfully be taken or would be prejudicial to Bondholders not parties to such direction;

(ix) in no event shall the Trustee be liable to any person for special, indirect, punitive, exemplary or consequential damages, lost profits or loss of business arising under or in connection with this Indenture, even if previously informed of the possibility of such damages and regardless of the form of action;

(x) anything to the contrary in the Transaction Documents notwithstanding, the permissive right of the Trustee to do anything enumerated or set forth in any of the Transaction Documents shall not be construed as a duty, and the Trustee shall not be held responsible or liable for other than its negligence or willful misconduct;

(xi) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Owners pursuant to this Indenture, unless such Owners shall have furnished to the Trustee from time to time as the Trustee may require, security or indemnity (satisfactory to the Trustee in its sole and absolute discretion) against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction;

(xii) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for the conduct of any agent or attorney appointed with due care by it hereunder;

(xiii) it shall not be the duty of the Trustee to monitor the performance of, or see that any duties or obligations imposed herein upon the Issuer or the Company or other Persons are performed, and the Trustee shall not be liable or responsible for the failure of the Issuer or the Company or such other Persons to perform any act required of them by this Indenture, and the Trustee may assume performance by all such Persons of their respective obligations. The Trustee shall have no enforcement or notification obligations relating to breaches of representations or warranties of any other Person;

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

(xv) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers; and

(xvi) delivery of any reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Issuer's or Company's compliance with any of its covenants under the Transaction Documents (as to which the Trustee is entitled to rely exclusively on certificates of the Issuer or the Company). The Trustee shall have no duty to review or make independent investigation with respect to any of the foregoing received by the Trustee and shall hold the same solely as repository.

(c) In case an Event of Default within the purview of Section 8.2 hereof has occurred and is continuing and the Trustee has or is deemed to have knowledge of the Event of Default pursuant to (b)(vi) above, subject to the provisions of this Article 9, 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 person would exercise or use under similar circumstances.

(d) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee, including, without limitation, Sections 9.3 and 9.4 hereof, shall be subject to the provisions of this Section 9.1. The Trustee also accepts, and agrees to do and perform, the duties and obligations imposed upon it by and under the Loan Agreement, but only upon the specific and express terms and conditions set forth in the Loan Agreement and this Indenture.

Section 9.2 Trustee Entitled to Indemnity. The Issuer hereby defends, releases and indemnifies the Trustee and its directors, officers, employees and agents (collectively, the "Trustee Indemnified Parties"), and hold the Trustee Indemnified Parties harmless from any and against all liabilities, losses, actions, suits or proceedings at law or in equity, and any other expenses, fees or charges of any character or nature, (including, without limitation, attorneys' fees and expenses and the costs of enforcement of this Indenture or any provision thereof), which a Trustee Indemnified Party may incur or with which it may be threatened by reason of acting as or on behalf of the Trustee under this Indenture, except to the extent the same shall have been finally adjudicated by a court of competent jurisdiction to have been directly caused by the Trustee's negligence or willful misconduct. The terms of this indemnity shall survive the termination of this agreement or the earlier resignation or removal of the Trustee. Notwithstanding anything to the contrary contained in this Indenture, the Trustee shall be under no obligation to institute any suit, or to take any remedial proceeding under this Indenture or under the other Transaction Documents, or to enter any appearance in or in any way defend against any suit, in which it may be made a defendant (except in the case of the Trustee's own negligence or willful misconduct), or to take any steps in the execution of the trusts hereby created or in the enforcement of any rights and powers hereunder or under the other Transaction Documents, until it shall be indemnified to its sole satisfaction against any and all costs, fees and expenses, outlays and counsel fees and expenses and other reasonable advances or disbursements, and against all liability; the Trustee may, nevertheless, begin suit, or appear in

and defend suit, or do anything else in its judgment proper to be done by it as such Trustee, without indemnity, and in such case the Issuer shall reimburse the Trustee from funds available therefor under the Loan Agreement for all costs, fees and expenses, outlays and counsel fees and expenses and other reasonable advances or disbursements properly incurred in connection therewith. If the Issuer shall fail to make reimbursement, the Trustee may reimburse itself from any moneys in its possession under the provisions of this Indenture and shall be entitled to a lien and priority of payment over any of the Bonds.

Section 9.3 Trustee Not Responsible for Insurance, Taxes, Execution of Indenture, Acts of the Issuer or Application of Moneys Applied in Accordance with this Indenture.

(a) The Trustee shall not be under any obligation to effect or maintain insurance or to renew any policies of insurance or to inquire as to the sufficiency of any policies of insurance carried by the Company or to report, or make or file claims or proof of loss for, any loss or damage insured against or which may occur, or to keep itself informed or advised as to the payment of any taxes or assessments, or to require any such payment to be made. The Trustee shall have no responsibility in respect of the validity, sufficiency, due execution or acknowledgment of this Indenture or the validity or sufficiency of the security provided hereunder or in respect of the validity or sufficiency of the Bonds or the due execution or issuance thereof, except as to the authentication thereof.

(b) The Trustee shall not be liable or responsible because of the failure of the Issuer or of any of its employees or agents to make any collections or deposits or to perform any act herein required of the Issuer or because of the loss of any moneys arising through the insolvency or the act or default or omission of any other depository in which such moneys shall have been deposited under the provisions of this Indenture. The Trustee shall not be responsible for the application of any of the proceeds of the Bonds or any other moneys deposited with it and paid out, withdrawn or transferred hereunder if such application, payment, withdrawal or transfer shall be made in accordance with the provisions of this Indenture.

(c) The rights, privileges, protections, indemnities and immunities and exemptions from liability of the Trustee hereunder shall extend to and be enforceable by its directors, officers, employees and agents in each of its capacities hereunder. The Trustee shall not be required to give any bond or surety in respect of the performance of its powers and duties hereunder.

Section 9.4 Compensation. The Trustee shall be entitled to compensation agreed to in writing from time to time for its ordinary services hereunder consistent with the results of the process by which the Trustee was selected and any extraordinary services rendered hereunder and to reimbursement for all fees and expenses incurred in good faith hereunder, including the compensation, fees, expenses and disbursements of such agents, representatives, experts and counsel as the Trustee may employ in connection with the exercise and performance of its powers and duties hereunder. Subject to the provisions of any contract relating to the compensation of the Trustee, the Issuer shall cause the Company to pay to the Trustee as Administrative Expenses its reasonable fees, expenses, advances, disbursements and charges in accordance with the Loan Agreement upon the written request of the Trustee and provided the Issuer shall be furnished with sufficient funds to pay all costs and expenses (including attorneys' fees and expenses) reasonably incurred by the Issuer in connection therewith as such costs, fees and expenses accrue. If the Company shall fail to make any payment required by this Section, the Trustee may, but shall be under no obligation to, make such payment from any moneys in its possession under the provisions of this Indenture, and the Trustee shall be entitled to a lien therefor over any of the Bonds Outstanding hereunder.

Section 9.5 Trustee to Preserve Records. All records and files pertaining to the Company in the custody of the Trustee shall be open at all reasonable times to the inspection of the Issuer, the Company and their agents and representatives.

Section 9.6 Trustee May be Bondholder. The Trustee and its directors, officers, employees or agents may in good faith buy, sell, own, hold and deal in any of the Bonds issued under and secured by this Indenture or otherwise deal with the Issuer or the Company, and may join in the capacity of a Bondholder in any action which any Bondholder may be entitled to take with like effect as if such institution were not the Trustee under this Indenture.

Section 9.7 Trustee Not Responsible for Recitals. The recitals, statements and representations contained herein and in the Bonds shall be taken and construed as made by and on the part of the Issuer and not by the Trustee, and the Trustee shall not be under any responsibility for the correctness of the same.

Section 9.8 Trustee May Rely on Certificates. Subject to the provisions of Section 9.1(b), the Trustee may conclusively rely and shall be protected and shall incur no liability in acting or proceeding, or in not acting or not proceeding in good faith upon any resolution, order, judgment, decree, notice, request, instrument, opinion, consent, waiver, certificate, statement, affidavit, requisition, bond or other paper or document which it shall believe to be genuine and to have been adopted or signed by the proper board or person or to have been prepared and furnished pursuant to any of the provisions of the Loan Agreement or this Indenture, or upon the written opinion of any attorney, engineer, accountant or other expert believed by it to be qualified in relation to the subject matter, not only as to due execution, validity and effectiveness, but also as to the truth and accuracy of any information contained therein, and the Trustee shall not be under any duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument. The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, judgment, decree, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney at the sole cost of the Company and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation.

Section 9.9 Qualification of the Trustee. There shall at all times be a Trustee performing the obligations described hereunder. Any successor Trustee hereunder shall be a trust company or commercial bank (having trust powers and in good standing) organized and doing business under the laws of the United States of America or of any state, authorized under such laws to exercise corporate trust powers, having unimpaired capital and surplus of at least \$50,000,000, and subject to supervision or examination by federal or state authority. If such trust company or commercial bank publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section, the unimpaired capital and surplus of such association or corporation shall be deemed to be its unimpaired capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect specified in Section 9.10 hereof.

Section 9.10 Resignation and Removal of Trustee.

(a) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor

Trustee under Section 9.11 hereof and until notice of resignation or removal and appointment, as the case may be, shall have been provided to the Issuer.

(b) The Trustee may resign and be discharged from its duties and obligations hereunder at any time by giving written notice thereof to the Issuer, the Company and the Bondholders. If an instrument of acceptance by a successor Trustee shall not have been delivered to the Trustee within thirty (30) calendar days after the giving of such notice of resignation, the retiring Trustee (at the expense of the Company, including for the payment of counsel fees, costs and expenses) may petition any court of competent jurisdiction for the appointment of a successor Trustee and for other appropriate relief.

(c) The Trustee may be removed for cause at any time by an instrument or instruments in writing to the Trustee, with copies to the Issuer and the Company, signed by the owners of not less than a majority in aggregate principal amount of the Bonds then outstanding or by their attorneys, legal representatives or agents and delivered to the Trustee, the Issuer and the Company (such instruments to be effective only when received by the Trustee). The Company or the Issuer, at the direction of the Company, may also remove the Trustee, provided there is no event of default, at any time by delivery of an instrument or instruments in writing to the Trustee, signed by Company or the Issuer and the Company, as applicable.

(d) If at any time,

(i) the Trustee shall cease to be eligible under Section 9.9 hereof and shall fail to resign after written request therefor by the Company, or

(ii) the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (A) the Issuer, in its discretion and without obligation, may or the Company may remove the Trustee, or (B) any Bondholder may, on behalf of himself or herself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor.

(e) If the Trustee shall be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause other than resignation (it being understood that no vacancy may occur as a result of resignation since the Trustee may not resign unless a successor has been appointed) or if the Trustee tenders its resignation, the Issuer with the approval of the Company shall promptly appoint a successor provided the Issuer shall be furnished with sufficient funds to pay all costs and expenses (including attorneys' fees) reasonably incurred by the Issuer in connection therewith as such costs and expenses accrue. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee shall be appointed by an instrument or concurrent instruments in writing executed by the owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding and delivered to the Company, the successor Trustee shall, forthwith upon its acceptance of such appointment, become the successor Trustee and supersede the prior Trustee appointed by the Issuer. If no successor Trustee shall have been so appointed by the Issuer or the Bondholders and accepted appointment in the manner hereinafter provided, any Bondholder who has been a bona fide owner of a Bond for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee.

(f) The Issuer shall give notice of each resignation and each removal of the Trustee and each appointment of a successor Trustee by mailing written notice of such event by first class mail, postage prepaid, to all Bondholders upon the written request of the Trustee and provided the Issuer shall be furnished with sufficient funds to pay all costs and expenses (including attorney's fees) reasonably incurred by the Issuer in connection therewith as such costs and expenses accrue. Each notice shall include the name and address of the designated corporate trust office of the successor Trustee.

#### Section 9.11 Successor Trustee.

(a) Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor, and also to the Issuer and the Company, an instrument in writing accepting such appointment hereunder, and thereupon such successor Trustee, without any further act, shall become fully vested with all the rights, immunities, powers and trusts, and subject to all the duties and obligations, of its predecessors; but such predecessor shall, nevertheless, on the written request of its successor or of the Issuer and upon payment of the expenses, charges and other disbursements of such predecessor which are payable pursuant to the provisions of Section 9.4 hereof, execute and deliver an instrument transferring to such successor Trustee all the rights, immunities, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all property and moneys held by it hereunder to its successor, subject, nevertheless, to its preference, if any, provided for in Sections 9.2 and 9.4 hereof. Should any instrument in writing from the Issuer be required by any successor Trustee for more fully and certainly vesting in such Trustee the rights, immunities, powers and trusts hereby vested or intended to be vested in the predecessor Trustee any such instrument in writing shall and will be executed, acknowledged and delivered by the Issuer upon the written request of the Trustee and provided the Issuer shall be furnished with sufficient funds to pay all costs and expenses (including attorneys' fees) reasonably incurred by the Issuer in connection therewith as such costs and expenses accrue.

(b) Notwithstanding any of the foregoing provisions of this Article, any bank or trust company having power to perform the duties and execute the trusts of this Indenture and otherwise qualified to act as Trustee hereunder with or into which the bank or trust company acting as Trustee may be merged, converted or consolidated, or any corporation or association resulting from any merger, conversion or consolidation to which the Trustee shall be a party or any corporation or association to which all or substantially all of the corporate trust assets or corporate trust business as a whole or substantially as a whole of such bank or trust company may be sold, shall be deemed the successor of the Trustee and will have and succeed to the rights, powers, duties, immunities and privileges as its predecessor, without the execution or filing of any instrument or paper or the performance of any further act.

#### Section 9.12 Co-Trustee.

(a) It is the purpose hereof that there shall be no violation of any law of any jurisdiction (including particularly the laws of the State) denying or restricting the right of banks or trust companies to transact business as trustee in such jurisdiction. It is recognized that in case of litigation hereunder and in particular in case of the enforcement of this Indenture upon the occurrence of an Event of Default, it may be necessary that the Trustee appoint an additional individual or institution as a separate Trustee or co-Trustee. The following provisions of this Section are adapted to these ends.

(b) Upon the incapacity or lack of authority of the Trustee, by reason of any present or future law of any jurisdiction, to exercise any of the rights, powers and trusts herein granted to the Trustee or to hold title to the Trust Estate or to take any other action which may be necessary or desirable in connection therewith, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended to be exercised by or vested in or conveyed to the Trustee with



respect thereto shall be exercisable by and vest in a separate Trustee or co-Trustee appointed by the Trustee but only to the extent necessary to enable the separate Trustee or co-Trustee to exercise such rights, powers and trusts, and every agreement and obligation necessary to the exercise thereof by such separate Trustee or co-Trustee shall run to and be enforceable by either of them. No trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder.

(c) Should any deed, conveyance or instrument in writing from the Issuer be required by the separate Trustee or co-Trustee so appointed by the Trustee in order to more fully and certainly vest in and confirm to him or it such properties, rights, powers, trusts, duties and obligations, any and all such deeds, conveyances and instruments shall, on request, be executed, acknowledged and delivered by the Issuer upon the written request of the Trustee and provided the Issuer shall be furnished with sufficient funds to pay all costs and expenses (including attorneys' fees) reasonably incurred by the Issuer in connection therewith as such costs and expenses accrue. In case any separate Trustee or co-Trustee, or a successor to either, shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate Trustee or co-Trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new Trustee or successor to such separate Trustee or co-Trustee. No co-trustee or separate trustee hereunder shall be required to meet the terms of eligibility as a successor trustee under Section 9.9.

Section 9.13 Disclosure Documents. The Trustee shall have no responsibility with respect to any information, statement, or recital in any official statement, offering memorandum or other disclosure material prepared or distributed with respect to the Bonds, except as provided in Section 13.14 herein.

Section 9.14 Remarketing Agent. At the discretion of the Company, there shall be appointed by the Company a Remarketing Agent for the Bonds prior to the determination of an Interest Rate for an Interest Rate Period which requires the services of a Remarketing Agent. The Company shall appoint any Remarketing Agent for the Bonds, subject to the conditions set forth in Section 9.15 and the written consent of the Issuer (such approval not to be unreasonably withheld). The Issuer hereby approves Oppenheimer Inc., as Remarketing Agent if so appointed by the Company. Each Remarketing Agent appointed by the Company shall designate its principal office in the Remarketing Agreement. The Remarketing Agent shall signify its acceptance of the duties and obligations imposed upon it under this Indenture by a written instrument of acceptance (which may be the Remarketing Agreement) delivered to the Company, the Issuer and the Trustee under which the Remarketing Agent shall agree, particularly, to keep such books and records related to the remarketing of the Bonds as shall be consistent with prudent industry practice and to make such books and records related to the remarketing of the Bonds available for inspection by the Company, the Issuer and the Trustee at all reasonable times.

Section 9.15 Qualifications of Remarketing Agent; Resignation and Removal of Remarketing Agent. Each Remarketing Agent shall be either (i) a member of the National Association of Securities Dealers, having a combined capital stock, surplus and undivided profits of at least \$75,000,000 or (ii) a national banking association or state banking corporation having combined capital stock, surplus and undivided profits of at least \$100,000,000, and, in each case, authorized by law to perform all the duties imposed upon it by this Indenture and the Remarketing Agreement. A Remarketing Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving notice to the Issuer, the Company and the Trustee. Such resignation shall take effect on the tenth day after the receipt by the Company of the notice of resignation. A Remarketing Agent may be removed at any time on ten (10) days prior written notice, by an instrument signed by the Company and delivered to such Remarketing Agent, the Issuer and the Trustee. Notwithstanding the provisions of this paragraph, such removal shall not take effect prior to the date that a successor Remarketing Agent has been appointed by the Company and has accepted such appointment.

## ARTICLE 10 SUPPLEMENTAL INDENTURES

### Section 10.1 Supplemental Indentures Not Requiring Consent of Bondholders.

(a) The Issuer and the Trustee may, without the consent of, or notice to, any of the Bondholders, enter into an indenture or indentures supplemental to this Indenture as shall not be inconsistent with the terms and provisions hereof and shall not materially and adversely affect the interest of the Bondholders for any one or more of the following purposes:

- (i) To cure any ambiguity or formal defect or omission in this Indenture;
- (ii) To grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers or authority that may be lawfully granted to or conferred upon the Bondholders or the Trustee or either of them;
- (iii) To subject to the lien and pledge of this Indenture additional revenues, properties or collateral;
- (iv) To modify, amend or supplement this Indenture or any indenture supplemental hereto in such manner as to permit the qualification hereof or thereof under any federal statute hereafter in effect or under any state Blue Sky Law, and, in connection therewith, if they so determine, to add to this Indenture or any indenture supplemental hereto such other terms, conditions and provisions as may be permitted or required by any said federal statute or Blue Sky Law; provided, that any such indenture supplemental hereto referred to in this Section 10.1(a)(iv) shall not be to the prejudice of the owners of the Bonds;
- (v) To provide any other modifications which are not prejudicial to the interests of the Bondholders; and
- (vi) On a Mandatory Tender Date to provide additional details of the Bonds, including the establishment of a project fund, following the Mandatory Tender Date.

### Section 10.2 Supplemental Indentures Requiring Consent of Bondholders.

(a) Anything contained in this Indenture to the contrary notwithstanding, except for indentures supplemental hereto authorized by Section 10.1 of this Indenture and subject to the terms and provisions contained in this Section 10.2, and not otherwise, the owners of not less than a majority in aggregate principal amount of the Bonds then outstanding shall have the right from time to time, to consent to and approve the execution by the Issuer and the Trustee of such other indenture or indentures supplemental hereto as shall be deemed necessary and desirable by the Issuer 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 indenture supplemental hereto; provided, however, that nothing contained in this Section 10.2 shall permit, or be construed as permitting, without the consent of the owners of all the Bonds then outstanding: (i) an extension of the stated maturity or reduction in the principal amount of, or reduction in the rate or extension of the time of payment of interest on, any Bonds; or (ii) the creation of any lien on the Trust Estate or any part thereof pledged under this Indenture prior to or on a parity with the lien of this Indenture; or (iii) a reduction in the aforesaid aggregate outstanding principal amount of Bonds the owners of which are required to consent to any such indenture supplemental hereto. No such amendment shall modify the rights, duties or immunities of the Trustee

without the written consent of the Trustee. Notwithstanding anything to the contrary, with respect to Sections 10.1 and 10.2, the Trustee may, but shall not be obligated to, enter into any such supplemental indenture which adversely affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

(b) If at any time the Issuer shall request the Trustee to enter into any such supplemental indenture for any of the purposes of this Section 10.2, the Trustee shall, upon being satisfactorily indemnified by the Company with respect to expenses, cause notice of the proposed execution of such supplemental indenture to be given to the Bondholders in the manner provided in Section 13.8 of this Indenture. 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 ninety (90) days or such longer period as shall be prescribed by the Issuer following the giving of such notice, the owners of not less than a majority in aggregate principal amount of the Bonds outstanding at the time of the execution of any such supplemental indenture shall have consented to and approved the execution thereof as herein provided, no owner of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such supplemental indenture as in this Section 10.2 permitted and provided, this Indenture shall be and be deemed to be modified and amended in accordance therewith.

(c) So long as no event of default under the Loan Agreement has occurred and is continuing, no such supplement shall become effective unless the Company shall have given its prior written approval.

Section 10.3 Filing. Copies of any supplemental indenture shall be filed with the Trustee and delivered to the Issuer and the Company.

Section 10.4 Reliance on Counsel. The Trustee shall be provided with, and shall be fully protected in relying upon, an opinion of counsel satisfactory to the Trustee, who may be counsel for the Issuer, as conclusive evidence that any such proposed supplemental indenture complies with the provisions of this Article and that such supplemental indenture is the legal, valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms, prior to joining in the execution of such supplemental indenture.

Section 10.5 Supplement Binding. Upon the execution of any supplemental indenture pursuant to the provisions of this Article, this Indenture shall be deemed to be supplemented, modified and amended in accordance therewith, and the respective rights, duties and obligations under this Indenture of the Trustee, Issuer, the Company, and the owners of Bonds then outstanding shall thereafter be determined, exercised and enforced hereunder, subject in all respects to such modification and amendment.

Section 10.6 Supplemental Agreement. The Issuer and the Company, with the approval of the Trustee in certain events, may consent to supplemental loan agreements for the purposes and in the manner provided in Article 8 of the Loan Agreement and the Trustee agrees that it shall take the actions required of it as provided thereunder.

Section 10.7 Notice to Rating Agencies. No supplemental indenture shall be executed and delivered pursuant to Sections 10.1 or 10.2 hereof without prior written notice having been given (upon written direction of an Authorized Company Representative) by the Trustee to the Rating Agency of the Trustee's intention to execute such supplemental indenture not fewer than fifteen (15) days in advance of

the execution of said supplemental indenture. The Trustee agrees to the foregoing as a matter of courtesy and accommodation only and shall not be liable to any person for any failure to comply therewith.

Section 10.8 Amendments to Indenture or Loan Agreement with Consent of LGC Required. Notwithstanding any other provision of this Indenture to the contrary, the definition of "Maximum Rate," the maturity date for the Bonds, any requirement regarding notice to or consent of the LGC, and Sections 4.13, 11.8, 11.9 and this Section may not be amended without the written consent of the LGC. Similarly, notwithstanding the provisions of Article 10, the provisions with respect to the LGC contained in Sections 6.11 and 10.10 of the Loan Agreement may not be amended without the written consent of the LGC.

## ARTICLE 11 COVENANTS OF THE ISSUER

Section 11.1 Payment of Principal and Interest. The Issuer covenants that it will promptly pay, or cause to be paid, the principal of and the interest on every Bond at the places, on the dates and in the manner provided herein and in said Bonds according to the true intent and meaning thereof but solely from the revenues of the Trust Estate and not from any other fund or source. The Issuer further covenants that it will faithfully perform at all times all of its covenants, undertakings and agreements contained in this Indenture, the Loan Agreement or in any Bond executed, authenticated and delivered hereunder or in any proceedings of the Issuer pertaining thereto.

Section 11.2 Additional Security. The Issuer covenants, whenever and so often as reasonably required to do so by the Trustee, promptly to execute and deliver or cause to be delivered all such other and further instruments, documents or assurances, and to promptly do or cause to be done all such other further things, as may be necessary or reasonably required in order to further and more fully vest in the Trustee and the owners of the Bonds all rights, interest, powers, benefits, privileges and advantages conferred or intended to be conferred upon them by this Indenture.

Section 11.3 Cure Title Defects. The Issuer covenants to promptly, upon the request of the Trustee from time to time and at the expense of the Company, take or cause to be taken such action as may be necessary or proper to remedy or cure any material defect in or cloud upon the title to the Trust Estate or any part thereof, whether now existing or hereafter developing, and to prosecute all such suits, actions and other proceedings as may be appropriate for such purpose and to indemnify and save the Trustee, and every owner of Bonds, solely from the Trust Estate, harmless from all loss, cost, damage and expense, including attorneys' fees and expenses, which they or either of them may ever incur by reason of any such defect, cloud, suit, action or proceedings.

Section 11.4 Defend Against Actions. The Issuer covenants to defend or cause to be defended every suit, action or proceeding at any time brought against the Trustee, or any owner of Bonds upon any claim arising out of the receipt, application or disbursement of any of the revenues of the Trust Estate or involving the Issuer's, the Trustee's, or such Bondholders' rights under this Indenture or the Loan Agreement and to indemnify and save harmless, solely from the Trust Estate, the Trustee, and Bondholders against any and all liability claimed or asserted by any person whomsoever, arising out of such receipt, application or disbursement of any such revenues; provided, however, that the Trustee, or any owner of Bonds at its or his election may appear in and defend against any such suit, action or proceeding; and notwithstanding any contrary provision hereof, this covenant shall continue and remain in full force and effect until all indebtedness, liabilities, obligations and other sums secured hereby have been fully paid and satisfied, and this Indenture has been released of record and the lien hereof discharged.

Section 11.5 Non Impairment of Security. The Issuer covenants that so long as any of the Bonds issued pursuant to this Indenture are outstanding and unpaid, the Issuer will not voluntarily consent to any amendment to the Loan Agreement or otherwise take any action which will reduce the amount of moneys made available thereunder to the Trustee, or which will in any manner impair or adversely affect the rights of the Issuer or the Trustee, or the security provided by this Indenture to the owners from time to time of the Bonds.

Section 11.6 Limited Recourse on Obligations.

(a) Nothing in the Loan Agreement or this Indenture is intended to require or obligate nor shall anything therein be interpreted to require or obligate the Issuer for any purpose or at any time whatsoever, to provide, apply or expend any funds coming into the hands of the Issuer other than from the Trust Estate.

(b) Any other term or provision in this Indenture or in the Loan Agreement, the Tax Certificate, the Bond Purchase Agreement, the Bonds or elsewhere to the contrary notwithstanding:

(i) Any and all obligations (including without limitation, fees, claims, demands, payments, damages, liabilities, penalties, assessments and the like) of or imposed upon the Issuer or its directors, commissioners, members, officers, agents, employees, representatives, advisors or assigns, whether under this Indenture or any of the Loan Agreement, the Tax Certificate, the Bond Purchase Agreement, the Bonds or elsewhere and whether arising out of or based upon a claim or claims of tort, contract, misrepresentation, or any other or additional legal theory or theories whatsoever (collectively, the “*Obligations*”), shall in all events be absolutely limited obligations and liabilities, payable solely out of the following, if any, available at the time the Obligation in question is asserted:

(A) Bond proceeds and investments therefrom; and

(B) Payments derived from the Bonds, this Indenture (including the Trust Estate to the extent provided in this Indenture) and the Loan Agreement.

(ii) All amounts due with respect to the Obligations, including the principal, Redemption Price of and interest on the Bonds, are payable solely and exclusively from the Trust Estate pledged for their payment pursuant to this Indenture. The Obligations are special obligations of the Issuer and are payable solely from the sources referred to herein. The Obligations do not constitute a debt or a pledge of the faith and credit of the State or any political subdivision thereof and the Bondholders or owners of the Obligations have no right to have taxes levied by the general assembly of the State or taxing authority of any political subdivision of the State for the payment of the principal or redemption price of and interest on the Obligations. The Issuer has no taxing power.

(iii) In no event shall any director, commissioner, member, officer, agent, employee, representative or advisor of the Issuer, or any successor or assign of any such person or entity, be liable, personally or otherwise, for any Obligation.

(c) In no event shall this Indenture be construed as:

(i) depriving the Issuer of any right or privilege; or

(ii) requiring the Issuer or any director, commissioner, member, officer, agent, employee, representative or advisor of the Issuer to take or omit to take, or to permit or suffer the taking of, any action by itself or anyone else, which deprivation or requirement would violate or result in the Issuer's being in violation of the Act or any other applicable state or federal law.

Section 11.7 Issuer's Obligations Limited. No recourse shall be had for any claim based on this Indenture or the Bonds, including but not limited to the payment of the principal or redemption price of, or interest on, the Bonds, against any commissioner, member, officer, agent or employee, past, present or future, of the Issuer or of any successor body, as such, either directly or through the Issuer or any such successor body, under any constitutional provision, statute or rule of law or by the enforcement of any assessment or penalty or by any legal or equitable proceeding or otherwise. Notwithstanding anything herein to the contrary, no provision, covenant or agreement contained in this Indenture or in the Bonds or any obligations herein or therein imposed upon the Issuer, or the breach thereof, shall constitute or give rise to or impose upon the Issuer a pecuniary liability or a charge upon its or the State's general credit or the taxing powers of the State. The agreements, provisions and covenants set forth in this Indenture, and the Bonds are special obligations of the Issuer, payable solely from the Trust Estate.

Anything in this Indenture to the contrary notwithstanding, it is expressly understood and agreed by the parties hereto that (a) the Issuer may rely conclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Issuer by the Trustee, the Remarketing Agent or the Company as to the existence of any fact or state of affairs required hereunder to be noticed by the Issuer; (b) the Issuer shall not be under any obligation hereunder to perform any recordkeeping or provide any legal services, it being understood that such services shall be performed by the Trustee, the Remarketing Agent or the Company; and (c) none of the provisions of this Indenture shall require the Issuer to expend or risk its own funds or to otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers hereunder, unless it shall first have been adequately indemnified to its satisfaction against the cost, expenses and liability which may be incurred thereby.

Section 11.8 Bonds Constitute Limited Obligations; No Personal Liability. The Bonds constitute limited obligations of the Issuer, payable solely from the Trust Estate pursuant to this Indenture and the Loan Agreement. The Bonds and the interest thereon are not and shall never constitute an indebtedness of the LGC, the Issuer, the State or any political subdivision thereof within the meaning of any State constitutional or statutory limitation. The Bonds and the interest thereon are not and shall never constitute a charge against the LGC or the Issuer's general credit or a pecuniary liability of the LGC or the Issuer. The LGC and the Issuer have no taxing powers. Neither the faith and credit nor the taxing power of the State is pledged to the payment of the principal of or the interest on the Bond. It is further understood and agreed by the Company and the Owners of the Bonds that the LGC and the members of the governing body of the Issuer and the Issuer's officers and employees are not personally liable on the Bonds and are not personally liable for any act or omission related to the authorization or issuance of the Bonds, and are not liable for any expenses related hereto, all of which the Company agrees to pay. If, notwithstanding the provisions of this Section, the LGC, the Issuer, the members of the Issuer's governing body, the Issuer's officers or employees incur any expense, or suffer any losses, claims or damages or incurs any liabilities, the Company has agreed in the Loan Agreement to indemnify and hold harmless the LGC, the Issuer, the members of the Issuer's governing body, the Issuer's officers or employees from the same and will reimburse the LGC, the Issuer, the members of the Issuer's governing body, the Issuer's officers or employees in relation thereto, and this covenant to indemnify, hold harmless and reimburse the LGC, the Issuer, the members of the Issuer's governing body, the Issuer's officers or employees shall survive delivery of and payment for the Bonds.

Section 11.9 Immunity of Officers, Employees and Members of Issuer and LGC. No recourse shall be had for the payment of the principal of or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement contained in this Indenture against any past, present or future officer, director, member, employee or agent of the Issuer or the LGC, and all such liability of any such officers, directors, members, employees, or agents as such is hereby expressly waived and released as a condition of and in consideration for the execution of this Indenture and the issuance of such Bonds.

Section 11.10 Role of Issuer. The Issuer shall not be required to take any action not expressly provided for herein. The Issuer shall have no obligation to review, control or oversee the activities of Trustee in collecting any amounts payable pursuant to the Loan Agreement or the Indenture, or in making any payments on the Bonds. Furthermore, the Issuer shall not be obligated to take any action or execute any documents which might in its reasonable judgment involve it in any expense or liability unless it shall have been furnished with assurance of payment or reimbursement for any expense and with reasonable indemnity for liability of the Issuer, its incorporators, directors, officers and counsel.

Section 11.11 No Superior Pledge. The Issuer shall grant no security interest or lien of any type in the Payments other than the pledge set forth in Article 2 and shall issue no debt or obligation that is to be paid from the Payments other than payment of principal of and interest on the Bonds and the other payments required hereunder.

## ARTICLE 12 DEFEASANCE

### Section 12.1 Payment.

(a) When all of the Bonds shall have been paid and discharged, and there shall have been paid all fees, expenses and charges of the Trustee, then this Indenture shall cease, terminate and become null and void, and thereupon the Trustee shall release this Indenture including the cancellation and discharge of the lien hereof, and execute and deliver to the Issuer such instruments in writing as shall be requisite to satisfy the lien hereof and, if necessary, to enter on the records such satisfaction and discharge and to re convey to the Issuer any property or interest therein or other rights hereby conveyed and such other instruments to evidence such release and discharge as may be reasonably required by the Issuer, and the Trustee shall assign and deliver to the Issuer any property at the time subject to the lien of this Indenture that may then be in its possession, except amounts in any Fund otherwise required to be paid by this Indenture and except such cash and investments as are held by the Trustee for the payment of interest on and retirement of the Bonds.

(b) Notwithstanding the foregoing, the obligation of the Company to pay the fees and expenses of the Issuer and the Trustee in accordance with the terms of this Indenture (including Section 9.4) shall survive the defeasance of the Bonds, the discharge of this Indenture and the termination of the Loan Agreement.

Section 12.2 Provision for Payment. Any Bonds shall be deemed to have been paid and discharged within the meaning of Section 12.1, if the Trustee, or an escrow trustee, shall hold, in trust for and irrevocably committed thereto, moneys or Defeasance Obligations of such maturities and interest payment dates and bearing such interest as will, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom (likewise to be held in trust and committed, except as hereinafter provided), be sufficient (in the opinion of an independent certified public accountant) for the payment of such Bonds, at their maturity, of the principal thereof, together with the redemption premium, if any, and interest accrued to the date of maturity or redemption, as the case may

be, or if default in such payment shall have occurred on such date then to the date of the tender of such payment; provided, that if any Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been duly given or provisions satisfactory to the Trustee shall have been duly made for the giving of such notice. Any moneys held in accordance with the provisions of this Section shall be invested only in Defeasance Obligations the maturities or redemption dates and interest payment dates of which shall coincide as nearly as practicable with, but not later than, the time or times at which said moneys will be required for the aforesaid purposes. Any income or interest earned by the Defeasance Obligations held under this Section shall, as determined by the Trustee or the escrow trustee, to the extent not required for the purposes of this Section, be paid to the Company as overpayment of Payments.

## ARTICLE 13 MISCELLANEOUS

Section 13.1 Covenants of Issuer Binds its Successors. In the event of the dissolution of the Issuer, all of the covenants, stipulations, obligations and agreements contained in this Indenture by or on behalf of or for the benefit of the Issuer shall bind or inure to the benefit of the successor or successors of the Issuer from time to time and any officer, board, commission, authority, agency or instrumentality to whom or to which any power or duty affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law, and the word “*Issuer*” as used in this Indenture shall include such successor or successors.

Section 13.2 Preservation and Inspection of Documents. All documents received by the Trustee under the provisions of this Indenture shall be retained in its possession and shall be subject at all reasonable times to the inspection of the Issuer, the Company and any Bondholder and their agents and their representatives, any of whom may make copies thereof.

Section 13.3 Parties Interest Herein. Nothing in this Indenture expressed or implied, is intended or shall be construed to confer upon, or give to, any person or corporation, other than the Issuer, the Trustee, the Company and the Bondholders, any right, remedy or claim or by reason of this Indenture or any covenant, agreement, condition or stipulation therein.

Section 13.4 No Recourse on the Bonds. No recourse shall be had for the payment of the principal of or interest on the Bonds or for any claim based thereunder or under this Indenture against any trustee, director, officer, employee or agent of the Issuer or the Trustee.

Section 13.5 Entire Agreement; Severability. This Indenture and the exhibits hereto set forth the entire agreement and understanding of the parties related to this transaction and supersedes all prior agreements and understandings, oral or written. If any clause, provision or Section of this Indenture shall be held illegal or invalid by any court, the invalidity of such clause, provision or Section shall not affect any of the remaining clauses, provisions or Sections hereof and this Indenture shall be construed and enforced as if such illegal or invalid clause, provision or Section had not been contained herein. In case any agreement or obligation contained in this Indenture be held to be in violation of law, then such agreement or obligation shall be deemed to be the agreement or obligation of the Issuer or the Company, as the case may be, only to the extent permitted by law.

Section 13.6 Consents and Approvals. Whenever the written consent or approval of the Issuer, the Trustee or the Company shall be required under the provisions of this Indenture, such consent or approval shall not be unreasonably withheld or delayed.

Section 13.7 Notices.

(a) All notices, demands and requests to be given or made hereunder to or by the Company, the Issuer, the LGC, the Rating Agency or the Trustee, or their designated successors, shall be in writing and shall be properly made if hand delivered, sent by electronic mail (if so listed) or sent by United States mail, postage prepaid, and addressed as follows:

If to the Company: American Titanium Metal, LLC  
1270 Avenue of the Americas, Suite 700  
New York, NY 10020  
Attn: Teresa McBride  
Email: tm@mcbride.com

with a copy to: American Titanium Metal, LLC  
1270 Avenue of the Americas, Suite 700  
New York, NY 10020  
Attn: Barry Funt, Esquire  
Email: bf@mcbride.com

If to the Issuer: The Cumberland County Industrial Facilities and  
Pollution Control Financing Authority  
117 Dick Street  
Fayetteville, NC 28301  
Attention: Chairman and Secretary  
Email: rmoorefield@cumberlandcountync.gov  
Fax: 910-678-7758

If to the LGC: LGC, NC Local Government Commission  
3200 Atlantic Avenue  
Raleigh, NC 27604  
Attention: Secretary  
Email: SLGFD@nctreasurer.com

If to the Rating Agency: Moody's Investors Services, Inc.  
7 World Trade Center  
250 Greenwich Street  
New York, NY 10007  
Telephone: (212) 553-1653

If to the Trustee: Wilmington Trust, National Association  
One Fountain Plaza, 10th Floor  
Buffalo, NY 14203  
Attention: Corporate Trust

(b) Notice hereunder shall be deemed effective on the date of its receipt by the addressee. The above addresses may be changed at any time upon written notice of such change sent by electronic mail (if so listed), United States mail, postage prepaid, to the other parties by the party effecting the change.

(c) The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent by unsecured email, facsimile transmission or other similar unsecured electronic methods;

provided, however, that such instructions or directions shall be signed or given by an authorized representative of the party providing such instructions or directions and such party shall provide to the Trustee an incumbency certificate listing such authorized representative (it being understood, however, that the incumbency certificate provided in connection with the issuance of the Bonds shall be sufficient for this purpose), which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the party elects to give the Trustee email or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling.

(d) The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The party providing electronic instructions agrees: (i) to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including, without limitation, the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting instructions to the Trustee and that there may be more secure methods of transmitting instructions than the method(s) selected by the such party; and (iii) that the security procedures (if any) to be followed in connection with its transmission of instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances.

Section 13.8 Notices to Bondholders. For any Bonds that are held through the DTC system, any notices or other communications required or permitted to be given to the Bondholders pursuant to this Indenture shall be provided electronically through and pursuant to the requirements of such system. For any Bonds held in physical form, such notices or other communications shall be mailed by first class mail in a sealed envelope, postage prepaid, addressed to each such Bondholder as his address last appears on the Bond Register. In case, by reason of the suspension of or irregularities in regular mail service, it shall be impractical to mail notice to the Bondholders of any event when such notice is required to be given pursuant to any provision of this Indenture, then any manner of giving such notice as shall be satisfactory to the Trustee shall be deemed to be sufficient giving of such notice, including, without limitation, notification by electronic means. Any notice herein required may be omitted if the owners of all the Bonds entitled to such notice give to the Trustee a written waiver of such notice.

Section 13.9 Applicable Law. This Indenture shall be governed exclusively by the applicable laws of the State.

Section 13.10 Captions. The table of contents, captions and headings of the several articles and sections of this Indenture are for convenience only and shall not control, affect the meaning of or be taken as an interpretation of any provisions of this Indenture.

Section 13.11 Indenture to Constitute a Contract. This Indenture, upon execution by the Issuer and the Trustee shall constitute a third party beneficiary contract between the Issuer and the Trustee for the benefit of the owners of all Bonds issued hereunder.

Section 13.12 Performance on Legal Holidays. In any case where the date of maturity of interest on or principal of the Bonds, the Mandatory Tender Date, or the date fixed for redemption or purchase of any Bonds or the date fixed for the giving of notice or the taking of any action under this Indenture shall not be a Business Day, then payment of such interest, principal, Purchase Price and Redemption Price, the giving of such notice or the taking of such action need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the

date of maturity or the date fixed for redemption or purchase, and no interest on such payment shall accrue for the period after such date.

Section 13.13 Execution in Counterparts. This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement. An electronic signature of a party to this Indenture shall be as valid as an original signature of such party and shall be effective to bind such party to this Indenture. The exchange of copies of this Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture and signature pages for all purposes. For purposes hereof: (i) “electronic signature” means a manually signed original signature that is then transmitted by electronic means; and (ii) “transmitted by electronic means” means sent in the form of a facsimile or sent via the internet as a portable document format (“pdf”) or other replicating image attached to an electronic mail or internet message.

Section 13.14 Continuing Disclosure Undertaking. The Company has undertaken to comply with continuing disclosure requirements, and the Issuer shall have no liability to the holders of the Bonds or any other person with respect to such disclosure matters. Notwithstanding any other provision of this Indenture, failure of the Company to comply with the terms of the Continuing Disclosure Undertaking shall not be considered an Event of Default hereunder; however, the Participating Underwriter (as defined in the Continuing Disclosure Undertaking) or the holders of at least a majority in aggregate principal amount of Outstanding Bonds may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the Company to comply with its obligations under this Section 13.14. The Trustee shall have no responsibility for the failure of the Company to report any material event and shall have no responsibility as to any determination by the Company of whether any event would constitute material information for holders of the Bonds.

Section 13.15 Waiver of Jury Trial. EACH OF THE ISSUER, THE COMPANY, THE OWNERS AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE BONDS OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 13.16 Force Majeure. In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, pandemics, epidemics, recognized public emergencies, quarantine restrictions, nuclear or natural catastrophes or acts of God, interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services, and hacking, cyber-attacks, or other use or infiltration of the Trustee’s technological infrastructure exceeding authorized access.

Section 13.17 U.S.A. Patriot Act. The Issuer and the Company acknowledge that in accordance with Section 326 of the U.S.A. Patriot Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The Issuer and the Company agree that they will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the U.S.A. Patriot Act.

The Trustee understands that “E-Verify” is a federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with Section 64-25(5) of the General Statutes of North Carolina, as amended. To the extent required, the

Trustee uses E-Verify to verify the work authorization of its employees in accordance with Section 64-26(a) of the General Statutes of North Carolina, as amended. The Trustee will require that any subcontractor that it uses in connection with the transactions contemplated by this Indenture certify to such subcontractor’s compliance with E-Verify.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Authority has caused this Indenture to be executed by its duly authorized officer and the Trustee has caused this Indenture to be executed in its behalf by an authorized representative, all as of the day and year above written.

THE CUMBERLAND COUNTY INDUSTRIAL  
FACILITIES AND POLLUTION CONTROL  
FINANCING AUTHORITY

By: \_\_\_\_\_  
Name: Dr. Tracie Hines Lashley  
Title: Chair

WILMINGTON TRUST, NATIONAL  
ASSOCIATION, as Trustee

By: \_\_\_\_\_  
Name: M. Anthony Argenio  
Title: Vice President

**EXHIBIT A**

**FORM OF BOND**

As provided in the Indenture referred to herein, until the termination of the system of book-entry-only transfers through The Depository Trust Company, New York, New York, and notwithstanding any other provision of the Indenture to the contrary, this Bond may be transferred in whole but not in part, only to a nominee of DTC, or by a nominee of DTC to DTC or a nominee of DTC, or by DTC or a nominee of DTC to any successor securities depository or any nominee thereof.

THE PRINCIPAL OR REDEMPTION PRICE OF AND INTEREST ON THE BONDS ARE PAYABLE SOLELY AND EXCLUSIVELY FROM THE TRUST ESTATE PLEDGED FOR THEIR PAYMENT PURSUANT TO THE INDENTURE. THE BONDS ARE SPECIAL OBLIGATIONS OF THE ISSUER AND ARE PAYABLE SOLELY FROM THE SOURCES REFERRED TO IN THE INDENTURE AND HEREIN. THE BONDS DO NOT CONSTITUTE A DEBT OR A PLEDGE OF THE FAITH AND CREDIT OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF AND THE BONDHOLDERS OR OWNERS OF THE BONDS HAVE NO RIGHT TO HAVE TAXES LEVIED BY THE GENERAL ASSEMBLY OF THE STATE OR TAXING AUTHORITY OF ANY POLITICAL SUBDIVISION OF THE STATE FOR THE PAYMENT OF THE PRINCIPAL OR REDEMPTION PRICE OF AND INTEREST ON THE BONDS. ISSUER HAS NO TAXING POWER.

UNITED STATES OF AMERICA  
STATE OF NORTH CAROLINA

The Cumberland County Industrial Facilities and Pollution Control Financing Authority  
Solid Waste Disposal Facility Revenue Bonds  
(Project Aero)  
Series 2024

No. R-1 \$250,000,000

<u>Maturity Date</u>	<u>Dated Date</u>	<u>Date of Authentication</u>	<u>CUSIP</u>
December 1, 2027	November 3, 2025	November 3, 2025	230589AB9

Registered Owner: Cede & Co.

Principal Amount: Two Hundred Fifty Million and No/00 Dollars (\$250,000,000)

The Cumberland County Industrial Facilities and Pollution Control Financing Authority (the “*Issuer*”), a political subdivision and body corporate and politic of the State of North Carolina (the “*State*”), for value received, hereby promises to pay (but only out of the Trust Estate, as defined in the hereinafter described Indenture, and therefrom only to the extent provided for in the Indenture) to the Registered Owner (named above) or registered assigns, on the Maturity Date (stated above), the Principal Amount (stated above) subject to the rights of prior redemption as provided hereinafter, and interest on said Principal Amount from the Dated Date specified above or from the most recent Interest Payment Date (as defined in the hereinafter defined Indenture) on which interest has been paid or duly provided for, until payment of said Principal Amount has been made or duly provided for, at the Interest Rate (as defined in the hereinafter defined Indenture), using a year of 360 days comprised of twelve 30-day months, and on the dates set forth herein. The Initial Interest Rate of 3.125% shall be in effect for the

Initial Rate Period, which ends on the Initial Mandatory Tender Date (December 1, 2026). The principal of, premium, if any, and interest on this Bond are payable in such coin or currency of the United States of America as, at the respective times of payment, is legal tender for the payment of public and private debts. The principal of, and premium, if any, of this Bond when due shall be payable to the registered owner hereof or his assigns upon surrender hereof at the corporate trust office of Wilmington Trust, National Association, as trustee (the “Trustee”). Interest on this Bond, when due and payable, shall be paid by check mailed by the Trustee on each Interest Payment Date to the person in whose name this Bond is registered, at the address as it appears on the Bond Register maintained by the Trustee at the close of business on 15<sup>th</sup> day of the month next preceding such Interest Payment Date, or if such day is not a Business Day, the next preceding Business Day (the “Record Date”) irrespective of any transfer or exchange of this Bond subsequent to such Record Date and prior to such Interest Payment Date, unless the Issuer shall default in payment of interest due on such Interest Payment Date, provided that an owner of \$1,000,000 or more in aggregate principal amount of Bonds may request payment by wire transfer if such owner has requested such payment in writing to the Trustee, which request shall be made no later than the Record Date and shall include all relevant bank account information and shall otherwise be acceptable to the Trustee. Such notice shall be irrevocable until a new notice is delivered not later than a Record Date. In the event of a default, such defaulted interest shall be payable on a payment date established by the Trustee to the person in whose name this Bond is registered at the close of business on a special record date for the payment of such defaulted interest established by notice mailed by the Trustee to the registered owner of this Bond not fewer than fifteen (15) days preceding such special record date.

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

This Bond is one of the duly authorized issue of the Issuer’s Solid Waste Disposal Facility Revenue Bonds (Project Aero) Series 2024 (the “Bonds”), issued under and secured by the Indenture (hereinafter defined) pursuant to which the Issuer is issuing \$250,000,000 aggregate principal amount of said revenue bonds on behalf of American Titanium Metal, LLC, a Delaware limited liability company (the “Company”), to finance, in part, the costs of the acquisition, construction and equipping of a titanium reprocessing facility located in Cumberland County, North Carolina.

The proceeds of the Bonds have been loaned to the Company pursuant to a Loan Agreement dated as of December 1, 2024, as amended by the First Amendment to Loan Agreement dated as of November 1, 2025, each between the Issuer and the Company (together with any further amendments and supplements thereto, the “Loan Agreement”) for the foregoing purposes.

The Bonds are issued pursuant to (i) the laws of the State, particularly the Industrial and Pollution Control Facilities Financing Act, Chapter 159C of the General Statutes of North Carolina, as amended (the “Act”), and by appropriate action duly taken by the Board of the Issuer, which authorizes the execution and delivery of the Loan Agreement and the Indenture, and (ii) the Amended and Restated Trust Indenture dated as of November 1, 2025, between the Issuer and the Trustee (together with all amendments and supplements thereto called the “Indenture”), a fully executed counterpart of which is on file in the designated Corporate Trust Office of the Trustee, and to which Indenture reference is hereby made for a more complete description of the assigned revenues constituting the Trust Estate, the nature and extent of the security, the terms and conditions under which the Bonds are issued and secured, the rights, duties and immunities of the Trustee and the rights of the registered owners of the Bonds. The registered owner of this Bond shall have no rights to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as

provided in the Indenture, and by acceptance of this Bond, the owner hereof assents to all of the provisions of the Indenture. All terms not defined herein shall have the meanings assigned thereto in the Indenture. All acts, conditions and things required to happen, exist or be performed precedent to and in the issuance of this Bond have happened, exist and have been performed. This Bond is governed by and shall be construed in accordance with the laws of the State.

The Bonds are issuable as fully registered bonds without coupons, in Authorized Denominations, and shall be numbered from No. R-1 upwards. The Bonds are limited and special revenue obligations of the Issuer and are payable solely from (i) payments received by the Issuer from the Company pursuant to the Loan Agreement (except however, the Issuer’s rights to exculpation, indemnification and payment of expenses by the Company under the Loan Agreement) and (ii) all funds (other than the Rebate Fund) held by the Trustee under the Indenture and available for such payment, said payments and funds being herein referred to as the “Trust Estate”. The Loan Agreement, a fully executed counterpart of which is on file in the designated Corporate Trust Office of the Trustee, provides that the Company is unconditionally obligated to make payments, but solely from the Payments (as defined in the Loan Agreement) in an aggregate amount sufficient, for the payment in full of the principal and interest of all Bonds issued and outstanding under the Indenture, to the date of payment thereof, and certain costs, expenses and charges of the Issuer and the Trustee. The Loan Agreement imposes upon the Company certain obligations respecting the use and operation of the Project and the maintenance and repair of said Project.

THE PRINCIPAL OR REDEMPTION PRICE OF AND INTEREST ON THE BONDS ARE PAYABLE SOLELY AND EXCLUSIVELY FROM THE TRUST ESTATE PLEDGED FOR THEIR PAYMENT PURSUANT TO THE INDENTURE. THE BONDS ARE SPECIAL OBLIGATIONS OF THE ISSUER AND ARE PAYABLE SOLELY FROM THE SOURCES REFERRED TO IN THE INDENTURE AND HEREIN. THE BONDS DO NOT CONSTITUTE A DEBT OR A PLEDGE OF THE FAITH AND CREDIT OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF AND THE BONDHOLDERS OR OWNERS OF THE BONDS HAVE NO RIGHT TO HAVE TAXES LEVIED BY THE GENERAL ASSEMBLY OF THE STATE OR TAXING AUTHORITY OF ANY POLITICAL SUBDIVISION OF THE STATE FOR THE PAYMENT OF THE PRINCIPAL OR REDEMPTION PRICE OF AND INTEREST ON THE BONDS. ISSUER HAS NO TAXING POWER.

As long as any of the Bonds remain outstanding, there shall be permitted the exchange of Bonds at the designated Corporate Trust Office of the Trustee. Any Bond upon surrender thereof at the designated Corporate Trust Office of the Trustee with a written instrument of transfer satisfactory to the Trustee, duly executed by the registered owner or his legal representative duly authorized in writing, may, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of other Bonds in Authorized Denominations.

For every such exchange or transfer of Bonds, the Issuer or the Trustee may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. The Trustee shall not be required to register the transfer or exchange of (a) any Bonds during the fifteen (15) day period next preceding the selection of Bonds to be redeemed and thereafter until the date of the mailing of a notice of redemption of Bonds selected for redemption, or (b) any Bonds selected, called or being called for redemption in whole or in part, except in the case of any Bond to be redeemed in part, the portion thereof not so to be redeemed.



## Redemption

During the Initial Rate Period, the Bonds shall be subject to redemption by the Issuer at the option of the Company in whole but not in part on or after May 1, 2026, including on the Initial Mandatory Tender Date, at a redemption price equal to the principal amount of the Bonds to be redeemed plus interest accrued to the date of redemption, without premium (the “*Redemption Price*”).

During any subsequent Interest Rate Period, the Bonds shall be subject to redemption by the Issuer at the option of the Company, in whole but not in part on or after the first day of the third full calendar month prior to the applicable Mandatory Tender Date at the Redemption Price. The Company and the Issuer, in connection with a remarketing to a Term Rate or Fixed Rate, may waive or otherwise alter the right to direct the redemption of any such Bonds so changed to a Term Rate or Fixed Rate at any time without premium; provided, that notice describing the waiver or alteration shall be submitted to the Trustee and the Remarketing Agent, together with a Favorable Opinion of Bond Counsel, addressed to them.

With respect to a notice of redemption, notice of the call for any redemption, identifying the Bonds to be redeemed, shall be given to the Trustee at least twenty-five (25) days prior to the date fixed for redemption (or such shorter time as may be agreed upon by the Trustee) and, at least twenty (20) days before the date fixed for redemption, the Trustee shall cause a notice of redemption, signed by an authorized officer of the Trustee (1) for Bonds held through the DTC system, to be submitted electronically to all such Bondholders through the DTC system, and (2) for any Bondholders who have taken physical delivery of a Bond certificate pursuant to the terms of the Indenture, mailed, postage prepaid, to all such Bondholders of record at their addresses as they appear on the Bond Register, but any defect in such mailing of any such notice shall not affect the validity of the proceedings for the redemption of any Bond with respect to which no such failure has occurred; and provided also that no such notice shall be mailed unless (i) such notice is a Conditional Redemption (as defined below), or (ii) the Trustee has sufficient money and/or Government Securities on deposit (or has received evidence that an escrow bank has sufficient money and/or Government Securities on deposit) to pay the principal of, premium, if any, and interest on the Bonds being so redeemed. The notice of redemption shall set forth the complete title of the issue (including series designation), CUSIP number, the date of the issue, maturity, the date fixed for redemption, the Redemption Price to be paid, and the place or places of redemption, including the name, address and phone number of a contact person.

In the case of an optional redemption, the notice may state (i) that it is conditioned upon the deposit of money, in an amount equal to the Redemption Price of the Bonds to be redeemed and prepaid, with the Trustee on or before the redemption date or (ii) that the Company retains the right to rescind such notice on or prior to the scheduled redemption date (in either case, a “Conditional Redemption”), and such notice and optional redemption shall be of no effect if such money is not so deposited or if the notice is rescinded as hereinafter described. On or before the redemption date, funds sufficient to redeem such Bonds, including accrued interest thereon to the redemption date, shall be deposited with the Trustee. The Bonds thus called shall not, on or after the specified redemption date, bear any interest and, except for the purpose of payment, shall not be entitled to the lien of the Indenture. Any Conditional Redemption may be rescinded in whole, not in part, at any time on or before the redemption date if the Company delivers a certificate of the Company to the Issuer and the Trustee at least five (5) days prior to the redemption date instructing the Trustee to rescind the redemption notice. A certificate of the Company delivered by the Company to the Issuer and the Trustee less than five (5) days prior to the redemption date will have no force and effect and will not rescind any Conditional Redemption. The Trustee shall give prompt notice of any properly tendered notice of rescission to the affected registered owners. Any Bonds subject to Conditional Redemption where funds are not received on or before the redemption date sufficient to pay the Redemption Price or where the redemption has been rescinded by

the Company within the timeframe provided above shall remain Outstanding, and the rescission shall not constitute an Event of Default. Further, in the case of a Conditional Redemption, the failure of the Company to make available funds sufficient to redeem all of the Bonds so called for redemption on or before the redemption date shall not constitute an Event of Default, and the Trustee shall give immediate notice to the Securities Depository or the affected Bondholders that the redemption did not occur and that the Bonds called for redemption remain Outstanding. Any extraordinary costs, fees or expenses incurred by the Trustee in connection with a rescission of a redemption shall be paid by the Company.

The Trustee also shall provide a copy of such notice in an electronic format as prescribed by the Municipal Securities Rulemaking Board (the “MSRB”), together with such identifying information as is prescribed by the MSRB at least twenty (20) days prior to such redemption date; provided, however, that such notice shall not be a condition precedent to such redemption and failure to provide any such notice shall not affect the validity of any proceedings for the redemption of Bonds.

Any notice mailed as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Bondholder or registered owner receives such notice.

On or prior to the date fixed for redemption, funds shall be deposited with the Trustee to pay, and the Trustee is authorized and directed to apply such funds to the payment of, the Redemption Price of the Bonds called for redemption. Upon the giving of notice and the deposit of funds for redemption, interest on the Bonds or portions thereof thus called shall no longer accrue after the date fixed for redemption, and such Bonds or portions thereof shall no longer be deemed to be Outstanding.

## Mandatory Tender

On each Mandatory Tender Date, beginning with the Initial Mandatory Tender Date of December 1, 2026, each Bond shall be subject to mandatory tender for purchase at a purchase price equal to 100% of the principal amount thereof, together with any interest accrued and unpaid to the date of purchase, without premium (the “*Purchase Price*”). The Purchase Price shall be paid first from amounts held in the Remarketing Proceeds Fund, and, second, to the extent amounts in the Remarketing Proceeds Fund are not sufficient to pay such Purchase Price, from amounts in the Escrow Fund. By no later than 11:00 a.m., New York City time, on the Mandatory Tender Date, the Trustee shall apply amounts in the Remarketing Proceeds Fund to the payment of the Purchase Price, and, to the extent such funds are not sufficient to pay the Purchase Price, by 12:00 p.m. New York City time, the Trustee shall withdraw the remaining amounts necessary to pay the Purchase Price from the Escrow Fund.

All Bonds to be purchased on the Mandatory Tender Date shall be required to be delivered to the Corporate Trust Office of the Trustee at or before 1:45 p.m., New York City time, on the Mandatory Tender Date. If the owner of any Bond (or portion thereof) that is subject to purchase pursuant to this Section fails to timely deliver such Bond to the Trustee for purchase on the Mandatory Tender Date, such Bond shall nonetheless be deemed purchased on the Mandatory Tender Date. If on the Mandatory Tender Date the Trustee has on hand in the Remarketing Proceeds Fund and the Escrow Fund amounts sufficient to pay the Purchase Price for all Bonds to be purchased on the Mandatory Tender Date, the owners of any such Bonds shall have no further rights thereunder except the right to receive the Purchase Price thereof. Any Bonds paid from amounts in the Escrow Fund shall be deemed to be redeemed and not remarketed, and shall no longer be Outstanding.

No notice of a mandatory tender for purchase shall be required to be given to the owners of the Bonds for mandatory tender in connection with the Mandatory Tender Date.

Remarketing of Bonds

Any Bonds remarketed on the Initial Mandatory Tender Date shall be remarketed at a rate and for a period determined as set forth in the Indenture, and a new Bond reflecting such terms shall be delivered to the purchaser thereof.

Modifications or alterations of the Indenture or any agreement supplemental thereto or of the Loan Agreement or any agreement supplemental thereto may be made only to the extent and in the circumstances permitted by the Indenture and the Loan Agreement. So long as no event of nonperformance under the Loan Agreement has occurred and is continuing, no such supplement shall become effective unless the Company shall have given its prior written approval.

It is hereby certified, recited and declared that all acts, conditions and things required by the Constitution and laws of the State to exist, to have happened and to have been performed, precedent to and in the execution and delivery of the Indenture and the issuance of this Bond, do exist, have happened and have been performed in regular and due form as required by law.

IN WITNESS WHEREOF, The Cumberland County Industrial Facilities and Pollution Control Financing Authority has caused this Bond to be executed with the manual or facsimile signature of its Chairman, and its corporate seal or a facsimile thereof to be hereto affixed or printed, and attested by the manual or facsimile signature of its Secretary on November 3, 2025.

THE CUMBERLAND COUNTY INDUSTRIAL  
FACILITIES AND POLLUTION CONTROL  
FINANCING AUTHORITY

[SEAL]

By: \_\_\_\_\_  
Name: Dr. Tracie Hines Lashley  
Its: Chair

ATTEST:

By: \_\_\_\_\_  
Name: Rickey L. Moorefield  
Title: Secretary

CERTIFICATE OF AUTHENTICATION

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

Date of Authentication: WILMINGTON TRUST, NATIONAL  
November 3, 2025 ASSOCIATION, as Trustee

By: \_\_\_\_\_  
Authorized Signatory

ASSIGNMENT

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

\_\_\_\_\_  
(Please print or typewrite Name and Address,  
including Zip Code, and Federal Taxpayer Identification  
or Social Security Number of Assignee)

\_\_\_\_\_  
the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints

\_\_\_\_\_  
Attorney to register the transfer of the within Bond on the books kept for registration thereof,  
with full power of substitution in the premises.

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

Signature guaranteed by: \_\_\_\_\_

NOTICE: Signature must be guaranteed by a  
Participant in the Securities Transfer Agent  
Medallion Program.

NOTICE: The signature to this assignment must  
correspond with the name as it appears on the  
face of the within Bond in every particular,  
without alteration, enlargement or any change  
whatever.

[TRANSFER FEE MAY BE REQUIRED]

EXHIBIT B  
REQUEST FOR DISBURSEMENT

\$250,000,000  
The Cumberland County Industrial Facilities and  
Pollution Control Financing Authority  
Solid Waste Disposal Revenue Bonds  
(Project Aero), Series 2024

REQUISITION NUMBER: \_\_\_\_\_ DATE: \_\_\_\_\_

BORROWER NAME: American Titanium Metal, LLC (the "Company")

TO: Wilmington Trust, National Association (the "Trustee")

1. It is hereby certified in accordance with the Amended and Restated Trust Indenture dated as of November 1, 2025 (as amended and supplemented from time to time, the "Indenture"), between The Cumberland County Industrial Facilities and Pollution Control Financing Authority and the Trustee, that the following constitutes Project Costs (as defined in the Indenture) and are being submitted for payment or reimbursement to the Company in the amount(s) indicated below:

<u>PAYEE</u>	<u>PURPOSE</u>	<u>AMOUNT DUE</u>
--------------	----------------	-------------------

Total Amount of this Requisition	\$ _____
----------------------------------	----------

Note: Multiple payees may be submitted on one requisition provided all information is attached in spreadsheet format.

2. The amount stated above has been incurred, is due and payable, is a proper charge against the Project Fund.

You are authorized and directed to pay the above sum(s) to the party (parties) named in paragraph 1 from money in the Project Fund held under the terms of the Indenture.

**CERTIFIED BY:**

\_\_\_\_\_  
Company Representative

\_\_\_\_\_  
(type or print name)

Date: \_\_\_\_\_

Email address: \_\_\_\_\_

---

LOAN AGREEMENT

by and between

THE CUMBERLAND COUNTY INDUSTRIAL FACILITIES AND  
POLLUTION CONTROL FINANCING AUTHORITY

and

AMERICAN TITANIUM METAL, LLC

Dated as of December 1, 2024

in connection with:

\$250,000,000  
The Cumberland County Industrial Facilities  
and Pollution Control Financing Authority  
Solid Waste Disposal Revenue Bonds  
(Project Aero), Series 2024

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NOTE: THIS LOAN AGREEMENT HAS BEEN ASSIGNED TO, AND IS SUBJECT TO A SECURITY INTEREST IN FAVOR OF WILMINGTON TRUST, NATIONAL ASSOCIATION, AS TRUSTEE UNDER A TRUST INDENTURE DATED AS OF DECEMBER 1, 2024, BETWEEN THE CUMBERLAND COUNTY INDUSTRIAL FACILITIES AND POLLUTION CONTROL FINANCING AUTHORITY AND SUCH TRUSTEE, AS AMENDED OR SUPPLEMENTED FROM TIME TO TIME.

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## LOAN AGREEMENT

This LOAN AGREEMENT dated as of December 1, 2024 (together with any amendments hereto, this “*Loan Agreement*”), is between THE CUMBERLAND COUNTY INDUSTRIAL FACILITIES AND POLLUTION CONTROL FINANCING AUTHORITY, a body corporate and politic and political subdivision of the State of North Carolina (the “*Issuer*”), and AMERICAN TITANIUM METAL, LLC, a Delaware limited liability company (the “*Company*”).

### WITNESSETH:

**WHEREAS**, pursuant to Chapter 159C, General Statutes of North Carolina, as amended (the “*Act*”), Issuer has the power to issue revenue bonds for the purpose of financing, in whole or in part, the cost of the acquisition, construction and installation of a titanium reprocessing facility to be located in Cumberland County, North Carolina, comprising a “special purpose project” as defined in Section 159C-3(16) of the Act and generally described in Exhibit A attached hereto (the “*Project*”); and

**WHEREAS**, Issuer proposes to issue \$250,000,000 in aggregate principal amount of its Solid Waste Disposal Revenue Bonds (Project Aero), Series 2024 (the “*Bonds*”), to provide a loan of the proceeds thereof to the Company to finance all or part of the costs of the Project (as defined below); and

**WHEREAS**, the Company and the Issuer are empowered to consummate the transactions contemplated hereunder and to do all acts and exercise all powers and assume all obligations necessary or incident thereto; and

**WHEREAS**, on October 24, 2024, the Issuer adopted a resolution authorizing the sale and the issuance of the Bonds, the execution and delivery of instruments pertaining to the issuance thereof and other actions to be taken by the Issuer in connection with the authorization, issuance, sale and delivery of the Bonds and the application of the proceeds thereof; and

**WHEREAS**, all acts, conditions and things required by the laws of the State of North Carolina (the “*State*”) to happen, exist and be performed precedent to and in the execution and delivery of this Loan Agreement have happened, exist and have been performed as so required in order to make this Loan Agreement a valid and binding agreement in accordance with its terms; and

**WHEREAS**, each of the parties hereto represents that it is fully authorized to enter into and perform and fulfill the obligations imposed upon it under this Loan Agreement and the parties are now prepared to execute and deliver this Loan Agreement; and

**WHEREAS**, in consideration of the respective representations and agreements contained herein, the parties hereto, recognizing that under the Act this Loan Agreement shall not in any way obligate the State or any public corporation thereof, including, without limitation, the Issuer, to raise any money by taxation or use other public moneys for any purpose in relation to the Bonds and that neither the State nor the Issuer, shall pay or promise to pay any debt or meet any financial obligation to any person at any time in relation to the Bonds except from moneys received or to be received under the provisions of this Loan Agreement and a Trust Indenture dated as of December 1, 2024 (the “*Indenture*”) between the Issuer and Wilmington Trust, National Association, as trustee, or derived from the exercise of the rights of the Issuer thereunder, agree as follows:

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants herein contained, the parties hereto covenant and agree as follows:

## ARTICLE 1 DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.1 Definitions. All capitalized terms not otherwise defined herein shall have the meanings assigned thereto in the preamble hereto or in the Indenture. In addition to words and terms elsewhere defined in this Loan Agreement, the following words and terms as used in this Loan Agreement shall have the following meanings, unless some other meaning is plainly intended:

“*Event of Default*” shall have the meaning described in Section 9.1.

“*Governmental Authority*” shall mean any federal, State, regional, or local government, political subdivision, any governmental agency, department, authority, instrumentality, bureau, commission, board, official, or officer, any court, judge, examiner, or hearing officer, any legislative, judicial, executive, administrative, or regulatory body or committee or official thereof or private accrediting body.

“*Land*” shall mean the real property on which the Project is located.

“*Loan*” shall mean the aggregate amount of the moneys loaned to the Company pursuant to this Loan Agreement.

“*Properties*” shall mean any and all rights, title and interests in and to any and all of the Company’s property related to the Project, whether real or personal, tangible (including cash) or intangible, wherever situated and whether now owned or hereafter acquired, including, without limitation, its rights and interest in the Land and the Project. The term “*Properties*,” without intending to limit the generality of the foregoing, as of any particular time, shall include all buildings, structures, fixtures, furnishings, equipment and other property, movable and immovable, and all franchises, land, rights-of-way, privileges, servitudes, easements, licenses, rights and any other interests in immovable property owned, leased, subleased or otherwise acquired by the Company and used or useful in connection with or incident to the Project, or used or useful by the Company in connection with or incident to its authorized purposes.

“*Requirement of Law*” shall mean any federal, state or local statute, ordinance, rule or regulation, any judicial or administrative order (whether or not on consent), request or judgment, any common law doctrine or theory, and any provision or condition of any permit or other binding determination of any Governmental Authority.

### Section 1.2 Rules of Construction.

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

(b) Unless the context shall otherwise indicate, the word “person” shall include the plural as well as the singular number, and “person” shall mean any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

(c) Provisions calling for the redemption of Bonds or the calling of Bonds for redemption do not mean or include the payment of Bonds at their stated maturity or maturities.

(d) All references in this Loan Agreement to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and other subdivisions of this Loan Agreement. The

words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Loan Agreement as a whole and not to any particular Article, Section or other subdivision.

## ARTICLE 2 REPRESENTATIONS AND WARRANTIES

### Section 2.1 Representations and Warranties by the Issuer. Issuer represents and warrants that:

(a) It is an “authority” within the meaning of the Act, duly organized and validly existing thereunder, and is authorized by the Act to execute and to enter into this Loan Agreement and to undertake the transactions contemplated herein and to carry out its obligations hereunder.

(b) It has all requisite power, authority and legal right to execute and deliver the Bond Documents to which it is a party and all other instruments and documents to be executed and delivered by Issuer pursuant thereto, to perform and observe the provisions thereof and to carry out the transactions contemplated by the Bond Documents. All corporate action on the part of Issuer which is required for the execution, delivery, performance and observance by Issuer of the Bond Documents has been duly authorized and effectively taken, and such execution, delivery, performance and observation by Issuer do not contravene applicable law or any contractual restriction binding on or affecting Issuer.

(c) It has duly approved the issuance of the Bonds and the loan of the proceeds of the Bonds to Company to finance the acquisition, construction and equipping of the Project; no other authorization or approval or other action by, and no notice to or filing with, any Governmental Authority is required as a condition to the performance by Issuer of its obligations under any Bond Document.

(d) This Loan Agreement is, and each other Bond Document to which Issuer is a party when delivered will be, legal, valid and binding special obligations of Issuer enforceable against Issuer in accordance with its terms except as the enforceability thereof may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors’ rights generally.

(e) With respect to the Bonds, there are no other obligations of Issuer that have been, are being or will be (i) sold at substantially the same time, (ii) sold pursuant to the same plan of financing, and (iii) reasonably expected to be paid from substantially the same source of funds.

(f) There is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court, public board or body pending, or, to the best knowledge of Issuer, threatened against or affecting Issuer wherein an unfavorable decision, ruling or finding would adversely affect (i) the transactions contemplated by, or the validity or enforceability of, the Bonds and the Bond Documents to which it is a party or (ii) the tax-exempt status of interest on the Bonds, if applicable.

(g) In connection with the authorization, issuance and sale of the Bonds, Issuer has complied with all provisions of the Constitution and laws of the State, including the Act.

(h) Issuer has not assigned or pledged and will not assign or pledge its interest in this Loan Agreement for any purpose other than to secure the Bonds under the Indenture. The Bonds constitute the only bonds or other obligations of Issuer in any manner payable from the revenues to be derived from this Loan Agreement, and except for the Bonds, no bonds or other obligations have been or will be issued on the basis of this Loan Agreement.

(i) Issuer is not in default under any of the provisions of the laws of the State, where any such default would affect the issuance, validity or enforceability of the Bonds or the transactions contemplated by the Bond Documents to which it is a party.

(j) No representation is made herein as to compliance with the securities or “blue sky” laws of any jurisdiction.

(k) No officer or official of Issuer has any interest (financial, employment or other) in Company or the transactions contemplated by this Loan Agreement or the Indenture.

### Section 2.2 Representations and Warranties of the Company. The Company makes the following representations and warranties:

(a) The Company is duly organized and validly existing under the laws of the State of Delaware, is duly qualified to do business in the State, and is duly authorized to operate all of the Properties, has power to execute and deliver this Loan Agreement and the Tax Certificate and by proper action has been duly authorized to execute and deliver this Loan Agreement, the Bond Purchase Agreement and the Tax Certificate.

(b) Each of the statements made with respect to the Company in the recitals of this Loan Agreement is true, correct and complete in all material respects.

(c) The Company is not in breach of or in default under any of the provisions of: (i) the Certificate of Formation of the Company, as amended, or its operating agreement, as amended; (ii) any judgment, decree, order, statute, rule or regulation applicable to it or to its Properties in any material respect; or (iii) any material provision of any indenture, mortgage, loan agreement, financing agreement or other contract or instrument to which it is a party or by which it or any of its Properties are bound.

(d) The Company is not required in connection with the transactions contemplated by the Indenture and this Loan Agreement to obtain any consent not already obtained.

(e) The Company has or timely will obtain as required all authority, permits, licenses, consents and authorizations as are necessary to own, lease and operate its Properties and to carry out and consummate all the transactions contemplated by this Loan Agreement and the Indenture.

(f) This Loan Agreement and the Tax Certificate are legal, valid and binding obligations of the Company enforceable against the Company in accordance with their terms, and the authorization, execution and delivery hereof and thereof and compliance with the provisions hereof and thereof do not conflict with or constitute on the part of the Company a violation of, breach of, or default under: (i) any provision of any indenture, mortgage, deed of trust, loan agreement or other contract or instrument to which the Company is a party or by which it or any of its Properties are bound, which conflict, breach or default would have a material adverse effect on this transaction, the Bonds, or the Company’s ability to perform its obligations hereunder; (ii) any order, injunction or decree of any court or governmental authority; or (iii) the provisions of the Certificate of Formation of the Company, as amended, or its operating agreement, as amended.

(g) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or threatened against the Company, wherein an unfavorable decision, ruling or finding could reasonably be expected to materially and adversely affect (i) the validity or enforceability of this Loan Agreement, the Tax Certificate, the Bond Purchase Agreement or any other agreement or instrument to which the Company is a party used in consummation of the transactions

contemplated hereunder; (ii) the exemption of interest on the Bonds from federal income tax or (iii) any of the Company's properties, assets, operations or conditions, financial or otherwise, or its ability to perform its obligations under this Loan Agreement.

(h) The Company owns the Project intends to operate the Project, or cause the Project to be operated, as a "Special Purpose Project" and a "Solid Waste Disposal Facility" within the meaning of the Act, until the date on which all of the Bonds have been fully paid and are no longer Outstanding.

(i) No changes shall be made in the Project and no actions will be taken by Company which shall in any way affect the qualification of the Project as a "Special Purpose Project" and a "Solid Waste Disposal Facility" under the Act or impair the exclusion of interest on any of the Bonds from gross income for federal income tax purposes.

(j) The Company has obtained, or will obtain, no later than the date required by applicable law, all consents, approvals, authorizations, permits, licenses, certificates and orders of any governmental or regulatory authority that are required to be obtained by it as a condition precedent to the issuance of the Bonds or the execution and delivery of this Loan Agreement.

(k) The Company has obtained, or will obtain no later than the date required by applicable law, all federal, State and local licenses, permits and approvals required to construct and operate the Project, and such licenses, permits and approvals are in, or, in the case of those not yet obtained on the date hereof, will be in full force and effect and any appeal periods related to such licenses, permits and approvals have expired, except for those licenses, permits and approvals relating to the operating of the Project that Company will obtain in the ordinary course of business. The proposed construction and operation of the Project is not in violation of any zoning or land use restriction applicable thereto.

(l) The Project is located in Cumberland County, North Carolina and will not be moved during the term of this Loan Agreement.

(m) The Company is not a party to any contract or agreement or subject to any charter or other restriction, the performance of or compliance with which may have a material adverse effect on the validity or enforceability of the Bonds, the Indenture, this Loan Agreement or the Tax Certificate.

(n) The Company acknowledges that Issuer has no responsibility for the construction of the Project or the maintenance, repair and insurance of the Project.

(o) The Company agrees to perform all the covenants and agreements that are required to be performed by Company under the Indenture.

### ARTICLE 3 TERM, NATURE AND BENEFITS OF AGREEMENT; CONSTRUCTION OF PROJECT

Section 3.1 Term. The term of this Loan Agreement shall commence on the Closing Date for the Bonds and shall terminate (unless discharged upon prepayment of all sums due hereunder by the Company prior thereto as hereinafter provided) on the date on which the Bonds and all other sums secured hereunder shall have been paid or provision for their payment shall have been made in accordance herewith. Notwithstanding the foregoing, the indemnification provisions of this Loan Agreement shall survive the termination thereof and the defeasance of the Bonds under the Indenture.

### Section 3.2 Nature and Benefits.

(a) This Loan Agreement has been executed and delivered in part to induce concurrently herewith the purchase by others of the Bonds, and, accordingly, all covenants and agreements on the part of the Company and the Issuer, as set forth therein and herein, are hereby declared to be for the benefit of the Trustee for the owners from time to time of the Bonds. The Company consents and agrees to the assignment by the Issuer to the Trustee under the Indenture of all of the Issuer's right, title and interest (except for certain rights relating to exculpation, indemnification and payment of fees and expenses) in, to and under this Loan Agreement, and agrees that the provisions hereof may be enforced by the Trustee under the provisions of the Indenture. The Company agrees to do all things within its power in order to comply with, and to enable the Issuer to comply with, all requirements and to fulfill, and to enable the Issuer to fulfill, all covenants of the Indenture and the Bonds.

(b) This Loan Agreement is an obligation of the Company, payable solely from the Government Securities deposited into the Escrow Fund and this Loan Agreement shall remain in full force and effect until the Bonds and all Administrative Expenses have been fully paid or otherwise provided for or discharged.

Section 3.3 No Warranty of Condition or Suitability. Issuer recognizes that since the Project has been or will be acquired, constructed and installed by Company and by contractors and suppliers selected by Company in accordance with plans and specifications prepared by architects or engineers selected by Company, ISSUER MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION OR WORKMANSHIP OF ANY PART OF THE PROJECT OR ITS SUITABILITY FOR COMPANY'S PURPOSES OR THE EXTENT TO WHICH PROCEEDS DERIVED FROM THE SALE OF THE BONDS WILL PAY THE COST TO BE INCURRED IN CONNECTION THEREWITH.

### ARTICLE 4 DISBURSEMENT OF BOND PROCEEDS; PAYMENTS; CREDITS; OBLIGATIONS UNCONDITIONAL; PREPAYMENT

Section 4.1 Disbursement of Bond Proceeds. In order to provide funds for financing the Project, the Issuer, as soon as practicable after the execution of this Loan Agreement, will proceed to issue, sell and deliver the Bonds to the purchasers thereof and will deposit the proceeds thereof as provided by Section 4.1 of the Indenture with the Trustee for disbursement in accordance with the provisions of the Indenture. Upon the deposit of the proceeds of the Bonds with the Trustee in accordance with Article IV of the Indenture, the Company shall have no legal, beneficial or equitable interest in the proceeds of the Loan, the Escrow Fund or the property contained in the Escrow Fund.

### Section 4.2 Amounts Payable.

(a) Upon the terms and conditions of this Loan Agreement, the Issuer shall lend to the Company the proceeds of the sale of the Bonds. The proceeds of the Loan shall be deposited with the Trustee and applied in accordance with the Indenture. The Company's assumption of obligations under this Loan Agreement and its acquisition of rights to the Loan under this Loan Agreement occur contemporaneously with the deposit with the Trustee of the proceeds of the Bonds.

(b) The Company, for and in consideration of the issuance of the Bonds under the Indenture by the Issuer and the application of the proceeds thereof by the Issuer as provided in the Indenture for the benefit of the Company, hereby promises to repay the Loan by making the following payments (collectively called the "Payments") to or for the account of the Issuer in an amount sufficient for the

payment in full of all Bonds from time to time issued under the Indenture and then outstanding, including (i) the total interest becoming due and payable on the Bonds to the date of payment thereof and (ii) the total principal amount of the Bonds. The Payments shall be payable directly to the Trustee for the account of the Issuer in installments as follows:

(i) At such time as may be required by the Tax Certificate, but in any event not less often than annually, to the Rebate Fund the amount required to be deposited thereunder;

(ii) Semiannually, on or before the Business Day preceding each Interest Payment Date to the Debt Service Fund an amount equal to the interest due and payable on the Bonds on such Interest Payment Date; and

(iii) Annually, on or before the Business Day preceding each Principal Payment Date to the Debt Service Fund an amount equal to the principal due and payable on the Bonds on such Principal Payment Date.

(c) Each installment of the Payments payable by the Company hereunder shall be in an amount which, including moneys in the Debt Service Fund and the accounts therein then available, shall be designed to provide for the timely payment in full of the principal of and interest on the Bonds.

(d) Whenever the Company shall fail to pay the full amount of any installment of Payments payable under Sections 4.2(b)(ii) or 4.2(b)(iii) above by the day of the month in which such installment is due, the Trustee shall give immediate telephonic notice thereof, promptly confirmed in writing, to an Authorized Company Representative.

(e) The Company also agrees to pay (i) the annual fee of the Trustee for its ordinary services rendered as trustee and its ordinary expenses incurred under the Indenture, as and when the same become due, (ii) the reasonable fees, charges and expenses (including reasonable legal fees and expenses) of the Trustee, as bond registrar and paying agent, the reasonable fees of any other paying agent on the Bonds as provided in the Indenture, as and when the same become due, (iii) the reasonable fees, charges and expenses of the Trustee for the necessary extraordinary services rendered by it and extraordinary expenses (including, but not limited to reasonable attorneys' fees and expenses) incurred by it under the Indenture, as and when the same become due, and (iv) any amounts required to be deposited in the Rebate Fund to comply with the provisions of Section 4.10 of the Indenture. The Trustee's compensation shall not be limited by any provision of law regarding the compensation of a Trustee of an express trust.

Section 4.3 Credits Against Payments. A credit against and reduction of the Payments shall be derived only from the following sources:

(a) Accrued interest, if any, derived from the sale of the Bonds;

(b) Capitalized interest, if any;

(c) Surplus moneys (including investment earnings) contained in the Funds and Accounts held by the Trustee under the Indenture, including the Escrow Fund.

Section 4.4 Obligation to Make Payments.

(a) The obligation of the Company to repay the Loan shall be absolute and unconditional and shall not be subject to, nor shall the Company be entitled to assert, any defense (other than payment) or any rights of abatement, deduction, reduction, deferment, recoupment, setoff, offset or counterclaim by

the Company or any other person, nor shall the same be abated, abrogated, waived, diminished, postponed, delayed or otherwise modified under or by reason of any circumstance, contingency, act of God, event or occurrence that may arise or take place, irrespective of what statutory rights the Company may have to the contrary, including but without limiting the generality of the foregoing:

(i) Any damage to or destruction of part or all of the Project;

(ii) The taking or damaging of part or all of the Project or any temporary or partial use thereof by any public authority or agency in the exercise of the power of eminent domain, sequestration or otherwise;

(iii) Any assignment, novation, merger, consolidation, transfer of assets, leasing or other similar transaction of, by or affecting the Company;

(iv) Any change in the tax or other laws of the United States, the State or any governmental authority;

(v) Any failure of title or any lawful or unlawful prohibition of the Company's use of the Project or any portion thereof or the interference with such use by any person or any commercial frustration of purpose or loss or revocation of any permits, licenses or other authorizations required for the operation of the Project; and

(vi) Any failure of the Issuer, the Trustee or any other party to perform and observe any agreement or covenant, expressed or implied, or any duty, liability or obligation arising out of or in connection with this Loan Agreement or the Indenture the invalidity, unenforceability or disaffirmance of any of this Loan Agreement, the Indenture or the Bonds or for any other cause similar or dissimilar to the foregoing.

(b) Furthermore, the Company covenants and agrees that it will remain obligated under this Loan Agreement in accordance with its terms, and that it will not take or participate or acquiesce in any action to terminate, rescind or avoid this Loan Agreement.

Section 4.5 Prepayment of Payments.

(a) The Company is obligated to prepay the Payments, in whole, on any date on which the Bonds are subject to redemption pursuant to the Indenture.

(b) The prepayment price payable by the Company, in the event that the Bonds are redeemed pursuant to the Indenture, shall be an amount of money which, when added to the moneys and investments held by the Trustee pursuant to the provisions of the Indenture and available for such redemption, is sufficient to pay and discharge the Bonds to be redeemed (including the total principal amount of such Bonds and interest to accrue thereon to the date fixed for redemption of such Bonds to be redeemed) on the date fixed for redemption.

Section 4.6 Additional Payments. In addition to the payments described above, the Company shall also pay (a) all Costs of Issuance of the Bonds, and (b) all costs incurred by the Issuer in connection with the transactions described herein, including Administrative Expenses.



ARTICLE 5  
NON-ARBITRAGE

Section 5.1 Covenants as to Arbitrage.

(a) The Company hereby agrees to prepare and provide written instructions (including facsimile transmission) to the Trustee (the Trustee acting pursuant to such instructions shall incur no liability whatsoever) as to the investment and reinvestment of moneys held as part of any fund or account relating to the Bonds. Any such moneys so held as part of any fund or account shall be invested or reinvested by the Trustee in Government Securities as specified in the Indenture. The Company hereby covenants that it will comply with the terms of the Tax Certificate and that it will make such use of the proceeds of the Bonds and all other funds held by the Trustee under the Indenture, regulate the investment of such proceeds and take such other and further action as may be required so that the Bonds will not constitute arbitrage bonds under Section 148 of the Code and the regulations promulgated thereunder.

(b) If the Company determines that it is necessary to restrict or limit the yield on the investment of any money paid to or held by the Trustee hereunder or under the Indenture in order to avoid classification of the Bonds as arbitrage bonds within the meaning of the Code, the Company may issue to the Trustee an instrument to such effect (along with appropriate written instructions), in which event the Trustee will take such action as is necessary to restrict or limit the yield on such moneys in accordance with such instrument and instructions.

ARTICLE 6  
CERTAIN COVENANTS OF THE COMPANY

Section 6.1 General Covenants of Company. The Company further expressly represents, covenants and agrees:

(a) To materially comply with the terms, covenants and provisions of all contracts pertaining to, affecting or involving the Project or the business of the Company;

(b) Promptly, upon request by the Trustee or the Issuer, to execute and deliver or cause to be executed and delivered all such other and further instruments and documents, and to promptly do or cause to be done all such other and further things, as may be necessary or reasonably required in order to further and more fully vest in the Issuer, the Trustee and the owners of the Bonds all rights, interests, powers, benefits, privileges and advantages conferred upon them by this Loan Agreement and the Indenture;

(c) Promptly, upon request by the Trustee or the Issuer or as otherwise may be necessary, to take such action as may be necessary or proper to remedy or cure any material defect in or cloud upon its interest in the Project or any part thereof, whether now existing or hereafter developing, to prosecute all such suits, actions and other proceedings as may be appropriate for such purpose and to indemnify and save the Issuer and the Trustee harmless from all loss, cost, damage and expense, including attorney's fees, which they or any of them may ever incur by reason of any such defect, cloud, suit, action or proceeding;

(d) To defend against every suit, action or proceeding at any time brought against the Issuer or the Trustee based on any claim arising out of the receipt, application or disbursement of any of the Trust Estate or involving the Issuer's or the Trustee's rights or obligations under this Loan Agreement or under the Indenture (except in the case of the Issuer's or the Trustee's negligence or willful misconduct), to indemnify and hold harmless the Trustee and each officer, employee, agent, or other representative of the Trustee against claims, damages, losses, liabilities, taxes or expenses arising out of the Trustee's

responsibilities under this Loan Agreement, the Indenture or any other document entered into by the Trustee in connection with the Bonds (except in the case of the Trustee's negligence or willful misconduct), to indemnify and hold harmless the Issuer and any officer, employee, agent, servant or trustee of the Issuer against claims during the term of this Loan Agreement that may be occasioned by any cause (other than the negligence or willful misconduct of the Issuer, their officers, employees, agents, servants and trustees) pertaining to the construction, use, possession, operation, service, design or management or leasing or subleasing of the Project and any liabilities or losses resulting from violations by the Company of conditions, agreements and requirements of law affecting the Project or the ownership, occupancy or use thereof or arising from any defect in or from the operation of the Project, and to protect and insulate the Issuer and the members of its Board of Commissioners individually from any and all financial responsibility or liability whatsoever with respect to the Project;

(e) At all times to maintain the Company's rights to carry on the business of the Company and to duly procure all licenses and other authorizations required for the carrying on of its business and to provide all renewals and replacements and improvements to, and extensions of, the Project and to diligently maintain, preserve and renew all the rights, powers, privileges, approvals, licenses and franchises required for the carrying on of its business;

(f) To fulfill its obligations and to perform punctually its duties and obligations under this Loan Agreement and the Indenture and to otherwise carry on its business in accordance with the terms hereof to assure the continued proper operation, management, repair and maintenance of the Project;

(g) To cause compliance with all material provisions of applicable federal, State and local laws;

(h) To pay, discharge, indemnify and save the Issuer and the Trustee, except in the case of their negligence or willful misconduct, and their respective officers, agents, employees, servants and trustees harmless of, from and against any and all costs, claims, damages, expenses, liabilities, liens, obligations, penalties and taxes of every character and nature, by or on behalf of any person, firm, Company, entity or governmental authority regardless of by whom advanced, asserted, held, imposed or made, which may be imposed upon, incurred by or asserted against the Issuer and the Trustee and their respective officers, agents, employees, servants and trustees arising out of, resulting from or in any way connected with this Loan Agreement, the Bonds or the Indenture excepting willful misconduct and negligence on the part of the Issuer or the Trustee or their respective officers, agents, employees, servants and trustees. The Company also covenants and agrees, at its expense, to pay and to indemnify and to save the foregoing harmless of, from and against, all costs and reasonable counsel fees, expenses and liabilities incurred in any action or proceeding brought by reason of any such claim or demand; and

(i) To indemnify the Issuer and the Trustee as provided in this Section 6.1, regardless of whether payment of the Bonds has been made and this Loan Agreement has been terminated.

Section 6.2 Covenants Regarding Operation and Maintenance by the Company of its Properties. The Company acknowledges and agrees that it shall pay during the term hereof all Payments and other sums required hereunder. The Company also expressly covenants and agrees:

(a) That it shall (i) maintain or cause to be maintained the Project, and keep the Project in good repair and in good operating condition and make from time to time all necessary repairs thereto and renewals and replacements thereof; (ii) make or cause to be made from time to time any additions, modifications or improvements to the Project that the Company may deem desirable for its business purposes that do not materially impair the effective use of the Project; (iii) cause the Project at all times to be free from all liens, provided that the Company may in good faith contest any liens filed or established

against the Project, and in such event, may permit the items so contested to remain undischarged and unsatisfied during the period of such contest only if the obtains an injunction prohibiting, or otherwise prevents the enforcement of such liens, assessments or other charges and any appeal therefrom, and the Company furnishes the Trustee an opinion of independent counsel reasonably acceptable to the Trustee stating that by nonpayment of any such items the Project or any material part thereof will not be subject to loss or forfeiture to such an extent that Payments are materially adversely affected, in which event the Company will pay promptly and cause to be satisfied and discharged all such unpaid items. In the event the Company fails to satisfy these requirements, the Issuer or the Trustee may, but shall be under no obligation to, pay any such item and any amounts so advanced therefor by the Issuer or the Trustee shall become an additional obligation of the Company to the one making the advancement, which amount the Company agrees to pay together with interest thereon at the rate of the Trustee's prime lending rate, but solely from the Trust Estate;

(b) That the Issuer, the Trustee and their agents shall have the right to inspect the Project at any reasonable time during business hours in a manner which will not interfere unreasonably with the Company's use thereof;

(c) That no undertakings, including the construction and improvement of the Project, shall be commenced until the Company shall have first procured, so far as the same may be required from time to time, all necessary approvals and authorizations from municipal departments and governmental subdivisions having jurisdiction, and all construction undertakings shall be made and effected promptly and in a good and workmanlike manner and in compliance with all applicable permits, authorizations and laws in all material respects and in accordance with all such requirements as insurers of the Properties, and all components thereof, may reasonably establish;

(d) That it shall pay all taxes and assessments, whether general or special, and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Project;

(e) That it shall comply promptly with all material provisions of present and future laws, ordinances, orders, rules, regulations and requirements of every duly constituted governmental authority or agency and all material orders, rules and regulations of any regulatory, licensing, insurance underwriting or rating organization or other body exercising similar functions. The Company shall likewise perform and comply with all duties and obligations of any kind imposed by law, covenant, condition, agreement or easement and the requirements of all policies of insurance at any time in force with respect to the Project;

(f) That it shall not use or allow the Project to be used or occupied for any unlawful purpose or in violation of any private covenant, restriction, condition, easement or agreement covering or affecting the use of the Project. The Company likewise shall not suffer any act to be done or any condition to exist in the Project or any article to be brought therein or thereon which may be dangerous, unless safeguarded as required by law, or which, under law, constitutes a nuisance, public or private, or which may make void or voidable any insurance then in force with respect thereto;

(g) That it shall provide or cause to be provided all equipment, furnishings, supplies, facilities, services and personnel required for the proper refurbishment, repair and improvement of the Project in an economical and efficient manner, consistent with standards of operation and administration generally acceptable for facilities of comparable size and scope of operations; and

(h) That it shall take all action, if any, that may be required to obtain such consents, exceptions, exemptions or approvals of governmental authorities as may be necessary to permit it to

comply fully with all covenants, obligations and agreements of the Company contained in this Loan Agreement.

#### Section 6.3 Covenants, Representations and Warranties Relating to Federal Income Taxation.

(a) The Company covenants that it shall make such use of the proceeds of the Bonds, regulate investment of proceeds thereof and take such other and further actions as may be required by the Code and applicable temporary, proposed and final regulations and procedures, necessary to assure that interest on the Bonds is excludable from gross income for Federal income tax purposes. Without limiting the generality of the foregoing covenant, the Company hereby covenants, represents and warrants, as follows:

(i) The Company will not take, fail to take or permit the commission of any action within its control insofar as it is necessary to take or omit the taking of such action in order that interest on the Bonds will continue to be excludable from gross income for Federal income tax purposes;

(ii) The Company will timely file or cause to be filed a statement with the United States of America setting forth the information required pursuant to Section 149(e) of the Code;

(iii) The average term of the Bonds, calculated in proportion to the "issue price" (as defined in Section 1273 of the Code) of the bonds of each stated maturity of such Bonds, will not exceed 120% of the average reasonably expected economic life of the Project financed with the proceeds of the Bonds or the investment earnings thereon, weighted in proportion to the respective cost of each item comprising the Project financed with the proceeds of such Bonds. For purposes of the preceding sentence, the reasonably expected economic life of property shall be determined as of the later of (A) the date on which the Bonds are issued or (B) the date on which such property is placed in service (or expected to be placed in service);

(iv) The Company will not cause the Bonds to be treated as "federally guaranteed" obligations within the meaning of Section 149(b) of the Code (as may be modified in any applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service with respect to "federally guaranteed" obligations described in Section 149(b) of the Code);

(v) Based upon all facts and estimates now known or reasonably expected to be in existence on the date the Bonds are delivered, the Company reasonably expects that the proceeds of the Bonds will not be used in a manner that would cause the Bonds or any portion thereof to be an "arbitrage bond" within the meaning of Section 148 of the Code;

(vi) As provided in Article 5 hereof, the Company will monitor the yield on the investment of the proceeds of the Bonds and moneys pledged to the repayment of the Bonds, other than amounts not subject to yield restriction and will restrict the yield on such investments to the extent required by the Code or the regulations promulgated thereunder;

(vii) The Company (or any "related person," within the meaning of the Code) shall not, pursuant to an arrangement, formal or informal, purchase the Bonds in an amount related to the principal amounts advanced to the Company pursuant to this Loan Agreement;

(viii) The Company agrees to comply with all the terms and provisions of the Tax Certificate executed in connection with the issuance and sale of the Bonds, and to perform the

covenants and duties imposed on it contained therein. The Company shall cause copies of any calculations or filings which are required to be made pursuant to the Tax Certificate to be delivered to the Issuer within five (5) days of any such calculation or filing; and

(ix) The Company agrees to provide, or to engage qualified attorneys or consultants to provide, instructions to the Issuer and the Trustee regarding any actions necessary to insure that such moneys will not be used in a manner which will cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code. The Company shall be responsible for engaging qualified attorneys or consultants to calculate rebate payments as required by Section 148 of the Code.

(b) All officers, employees and agents of the Company are authorized and directed to provide certifications of facts and estimates that are material to the reasonable expectations of the Company as of the date the Bonds are delivered. In complying with the foregoing covenants, the Company may rely from time to time upon an opinion issued by nationally-recognized bond counsel to the effect that any action by the Company or reliance upon any interpretation of the Code or Regulations contained in such opinion will not cause interest on the Bonds to be includable in gross income for Federal income tax purposes under existing law.

Section 6.4 Information. The Company agrees, whenever reasonably requested by the Issuer or the Trustee, to provide access to inspect, examine and make copies of any and all books, accounts and records of the Company and to provide and certify or cause to be provided and certified such information concerning the Properties, the Project, the Company, its finances, and other topics as the Issuer or the Trustee, as the case may be, considers necessary to enable counsel to the Issuer or the Trustee, as the case may be, to issue its opinions and otherwise advise the Issuer or the Trustee, as the case may be, as to the transaction or the legal capacity of the parties to enter into the same, or to enable it to make any reports required by law, governmental regulation or the Indenture. When any such information is provided by the Company pursuant to this Section 6.4 the Company shall provide such information to the Issuer and the Trustee.

Section 6.5 Source of Payments. The Company agrees to pay or cause to be paid the payments required by this Loan Agreement, but solely from the Government Securities held in the Escrow Fund and all revenues, proceeds, gifts and other amounts arising from the Properties or assigned by the Company pursuant to this Loan Agreement, in the manner and at the times provided by this Loan Agreement.

#### Section 6.6 Annual Reports.

(a) Annually, within one hundred eighty (180) days from the end of each Fiscal Year, commencing with the end of the first full Fiscal Year following the issuance of the Bonds, the Company will have made a complete audit of its records and accounts by an independent certified public accountant. A signed counterpart of its audited financial statements shall be furnished to the Issuer and the Trustee, and a copy thereof shall be furnished by the Company to any Bondholder who requests the same in writing. Delivery of audited financial statements in accordance with the Continuing Disclosure Undertaking, including, without limitation, posting on the Electronic Municipal Market Access system of the Municipal Securities Rulemaking Board, found at <http://emma.msrb.org>, shall constitute delivery for purposes of compliance with this Section 6.6(a).

(b) Any independent accountant that audits and reports on the Company’s financial statements or provides any certificate, report or opinion under the Indenture or the Loan Agreement shall be a nationally recognized firm of independent certified public accountants (or their successors).

#### Section 6.7 Merger or Consolidation.

(a) The Company shall not merge into, or consolidate with, one or more corporations, or allow one or more of such corporations to merge into it, or sell or convey all or substantially all of its assets to any person or entity or acquire all or substantially all of the assets of any person or entity (any such merger, consolidation, sale, conveyance or acquisition being referred to as a “*Merger*”), unless:

(i) Any successor corporation to the Company (including, without limitation, any purchaser of all or substantially all the Properties of the Company) (the “*Successor Company*”) is a corporation, limited liability company or partnership organized and existing under the laws of the United States of America or a state thereof and shall execute and deliver to the Trustee an appropriate instrument, satisfactory to the Issuer and the Trustee, containing the agreement of such successor corporation to assume in solido, the due and punctual payment of the principal of and interest on all obligations of the Company (including, without limitation, the Bonds) according to their tenor and the due and punctual performance and observance of all the covenants and conditions of the Indenture and the Loan Agreement and Bond Documents to be kept and performed by the Company, accompanied by an opinion of counsel as to the validity and enforceability of such assumption (which counsel and opinion, including without limitation the scope, form, substance and other aspects thereof, are acceptable to the Issuer);

(ii) Immediately after such Merger, there would not be an Event of Default under the Indenture, the Loan Agreement or the Tax Certificate; and

(iii) There shall be delivered to the Issuer and the Trustee an opinion of Bond Counsel (which counsel shall be acceptable to the Trustee) to the effect that under existing laws the consummation of such Merger, whether or not contemplated on the original date of delivery of the Bonds, would not adversely affect the validity of the Bonds or the exclusion otherwise available from gross income of interest on the Bonds for federal or state income tax purposes.

(b) In case of any such Merger and upon any such assumption by the Successor Company, the Successor Company shall succeed to and be substituted for its predecessor, with the same effect as if it had been named in the Indenture and the Loan Agreement as the Company.

#### Section 6.8 Revenue Transfer to Trustee. The Company hereby covenants:

(a) Upon the occurrence of an Event of Default under the Indenture or this Loan Agreement, all funds pledged as security for the obligations of the Issuer and/or the Company under the Indenture or the Loan Agreement then on hand shall be transferred immediately to the Trustee, and held for application pursuant to the Indenture or the Loan Agreement solely to the payment obligations of the Issuer and/or the Company under the Indenture or the Loan Agreement and the payment of reasonable and necessary costs of operation of the Company’s facilities.

(b) To execute all necessary documents in order to effect a filing and reinscription of all necessary financing statements in such a manner as will preserve the effect of the financing statements from the date of original filing thereof. The Company shall notify the Issuer of the filing of such continuation statements or other filings with respect to its obligations under this Loan Agreement.

Section 6.9 Additional Company Representations and Covenants. Each component of the Project is, or when acquired, will be located within Cumberland County, North Carolina. The Project is a “Special Purpose Project” and a “Solid Waste Disposal Facility” under the Act and the Company will

operate the Project as a “Special Purpose Project” and a “Solid Waste Disposal Facility” within the meaning of the Act for so long as the Bonds remain outstanding.

(b) All material information given by the Company to the Issuer and the Trustee concerning the Project and the Company was and is on the date of execution of this Loan Agreement true and correct.

(c) The Company will permit the Issuer, if any, to discuss the affairs, finances and accounts of the Company or any information the Issuer, may reasonably request regarding the security for the Bonds with appropriate representatives and officers of the Company. The Company will permit the Issuer to have access to the Project and to make copies of all books and records relating to the Bonds and the Properties.

(d) The Company hereby agrees that the Issuer, shall have the right to direct an accounting regarding the Properties at the Company’s expense, such accounting to be conducted by a certified public accounting firm selected by the Issuer, if any, and completed within thirty (30) days after written notice of the direction from the Issuer, if any, and the Company’s failure to comply with such direction promptly after receipt of written notice from the Issuer, if any, shall be deemed a default hereunder; provided, however, that if such accounting cannot be completed within such 30-day period through no fault of the Company, then such period will be extended so long as the accounting is begun within such period and diligently pursued, but only if such extension would not materially adversely affect the interests of the Issuer, if any, or any registered owner of the Bonds.

(e) As soon as possible and in any event within five Business Days after the Company knows of, or reasonably should have known of, the occurrence of any default or any Event of Default, the Company shall deliver to the Trustee and Issuer, a written statement setting forth details of each such default or Event of Default and the action which the Company proposes to take with respect thereto.

(f) The Company covenants and agrees to perform each of its agreements and obligations set forth in the Indenture.

Section 6.10 Continuing Disclosure. The Company has agreed to provide the Continuing Disclosure Undertaking and to timely comply with the requirements set forth therein.

Section 6.11 Release and Indemnification Covenants.

(a) Company will, to the fullest extent permitted by law, protect, indemnify and save Issuer, Trustee and the LGC and their respective members, directors, commissioners, attorneys, officials, officers, agents, and employees and any person who controls Issuer, Trustee or LGC within the meaning of the Securities Act of 1933, harmless from and against all liabilities, losses, damages, costs, expenses (including attorneys’ fees and expenses of Issuer and Trustee), taxes, causes of action, suits, claims, demands and judgments in connection with the transaction contemplated by this Loan Agreement or arising from or related to the issuance or sale of the Bonds, including but not limited to:

(i) any injury to or death of any person or damage to property in or upon the Project or growing out of or connected with the use, non-use, condition or occupancy of the Project or any part thereof, including any and all acts or operations relating to the acquisition or installation of property or improvements. The foregoing indemnification obligations shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Company, customers, suppliers or affiliated organizations under any Workers’ Compensation Acts, Disability Benefit Acts or other employee benefit acts;

(ii) violation of any agreement, provision or condition of this Loan Agreement, the Bonds or the Indenture, except a violation by the party, or any affiliates or representatives of the party, seeking indemnification;

(iii) violation by Company of any contract, agreement or restriction which shall have existed at the commencement of the Term of Agreement or shall have been approved by Company;

(iv) violation by Company of any law, ordinance, court order or regulation affecting the Project or a part thereof or the ownership, occupancy or use thereof;

(v) any statement or information relating to the expenditure of the proceeds of the Bonds contained in the Tax Certificate or similar document, which statement or information has been furnished by Company to Issuer or Trustee and which, at the time made, is misleading, untrue or incorrect in any material respect; and

(vi) any untrue statement or alleged untrue statement of a material fact contained in any offering material relating to the sale of the Bonds (as from time to time amended or supplemented) or arising out of or based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary in order to make the statements therein not misleading, except for information in such offering material provided by, or on behalf of, Issuer or Trustee, or failure to properly register or otherwise qualify the sale of the Bonds or failure to comply with any licensing or other law or regulation which would affect the manner whereby or to whom the Bonds could be sold.

Promptly after receipt by Issuer, Trustee, LGC or any such other indemnified person, as the case may be, of notice of the commencement of any action with respect to which indemnity may be sought against Company under this Section, such person will notify Company in writing of the commencement thereof, and, subject to the provisions hereinafter stated, Company shall assume the defense of such action (including the employment of counsel, who shall be counsel subject to the approval of Issuer, which approval shall not be unreasonably withheld, and the payment of expenses). Insofar as such action shall relate to any alleged liability with respect to which indemnity may be sought against Company, Issuer, Trustee, LGC or any such other indemnified person shall have the right to employ separate counsel of their own choice in any such action and to participate in the defense thereof, and the fees and expenses of such counsel shall be at the expense of Issuer, Trustee or such other indemnified person. If Company shall not have employed counsel to take charge of the defense of any such action (following the notice specified above) or if Trustee shall have reasonably concluded that there may be defenses available to it which are different from or additional to those available to Company (in which case Company shall not have the right to direct the defense of such action on behalf of such Trustee), actual legal and other expenses incurred by Trustee shall be borne by Company. Company shall not be liable to indemnify any person for any settlement of any such action effected without Company’s consent.

The provisions of this Section shall survive payment and discharge of the Bonds.

(b) Notwithstanding the foregoing subparagraph (a) there is no agreement on the part of Company to indemnify or save harmless Trustee, its respective officers, agents, and employees and any person who controls Trustee within the meaning of the Securities Act of 1933 for any act of negligence or willful misconduct on the part of such party.

ARTICLE 7  
ASSIGNMENT

Section 7.1 Assignment of this Loan Agreement.

(a) The rights of the Company under this Loan Agreement may be assigned, sold or leased as a whole or in part but no such transfer shall constitute a release of the Company from its obligations hereunder.

(b) Each transferee of the Company's interest in this Loan Agreement shall assume the obligations of the Company hereunder to the extent of the interest assigned, sold or leased, and the Company shall, not more than sixty (60) nor fewer than thirty (30) days prior to the effective date of any such assignment or lease, furnish or cause to be furnished to the Issuer and the Trustee a true and complete copy of each such assignment or lease.

Section 7.2 Restrictions on Transfer of Issuer's Rights. The Issuer agrees that it will not during the term of this Loan Agreement sell, assign, transfer or convey its interests in this Loan Agreement except as provided in Section 7.3.

Section 7.3 Assignment by the Issuer. It is understood, agreed and acknowledged that the Issuer will assign to the Trustee pursuant to the Indenture certain of its rights, title and interests in and to this Loan Agreement (reserving its rights, however, pursuant to sections of this Loan Agreement providing that notices, reports and other statements be given to the Issuer and also reserving its rights to reimbursement and payment of costs and expenses under Section 9.5 hereof, its rights to indemnification under Section 6.1(d) hereof and its individual and corporate rights to exemption from liability under Section 10.12 hereof) and the Company hereby assents to such assignment and pledge.

ARTICLE 8  
SUPPLEMENTS AND AMENDMENTS

Section 8.1 Amendment to Agreement Without Consent. The Issuer and the Company, with the consent of the Trustee with respect to Sections 8.1(d) and 8.1(e) hereof, but without the consent of the owners of any of the Bonds outstanding under the Indenture, may enter into supplements to this Loan Agreement that shall not be inconsistent with the terms and provisions hereof for any of the purposes heretofore specifically authorized in this Loan Agreement or the Indenture, and in addition thereto for the following purposes:

(a) To cure any ambiguity or formal defect, inconsistency or omission in this Loan Agreement or to clarify matters or questions arising hereunder;

(b) To add covenants and agreements for the purpose of further securing the obligations of the Company hereunder;

(c) To confirm as further assurance any mortgage or pledge of additional property, revenues, securities or funds;

(d) To conform the provisions of this Loan Agreement in connection with the provisions of any supplements or amendments to the Indenture entered into pursuant to the provisions of Section 10.1 thereof;

(e) To provide any other modifications which are not prejudicial to the interests of the Bondholders;

(f) To conform the covenants and provisions of the Company contained herein to any different financial statement presentation required by the Financial Accounting Standard Board that is different than the presentation required as of the date of issuance of the Bonds, so long as the effect of such conformed covenants and provisions is substantially identical to the effect of the covenants and provisions as in effect on the date of issuance of the Bonds; or

(g) On the Initial Mandatory Tender Date to provide additional details of the Bonds following the Initial Mandatory Tender Date.

Section 8.2 Amendment to Agreement Upon Approval of a Majority of Bondholders.

(a) The provisions of this Loan Agreement may be amended in any particular with the written consent of the owners of not less than a majority of the aggregate principal amount of Bonds then Outstanding; provided, however, that no such amendment may be adopted that decreases the percentage of owners of Bonds required to approve an amendment, or that permits a change in the date of payment of the principal of or interest on any Bonds or of any redemption price thereof or the rate of interest thereon without the consent of the owners of all of the aggregate principal amount of the Bonds then Outstanding.

(b) If at any time the Issuer and the Company shall request the Trustee to consent to a proposed amendment for any of the purposes of this Section 8.2, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such proposed amendment to be given in the manner required by the Indenture to redeem Bonds. Such notice shall briefly set forth the nature of the proposed amendment and shall state that copies thereof are on file at the principal corporate trust office of the Trustee for inspection by all Bondholders. If, within sixty (60) days or such longer period as shall be prescribed by the Issuer following such notice, the owners of not less than a majority in aggregate principal amount of the Bonds outstanding at the time of the execution of any such proposed amendment shall have consented to and approved the execution thereof as herein provided, no owner 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, the Company or the Issuer from executing or approving the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such proposed amendment as in this Section permitted and provided, this Loan Agreement shall be and be deemed to be modified and amended in accordance therewith.

ARTICLE 9  
EVENTS OF DEFAULT AND REMEDIES

Section 9.1 Events of Default Defined. The terms "*Event of Default*" and "*Default*" shall mean any one or more of the following events:

(a) The Company shall default in the timely payment of any Payment pursuant to Article 4 of this Loan Agreement.

(b) An Event of Default shall exist under the Bond Documents.

(c) The Company shall fail duly to perform, observe or comply with any other covenant, condition or agreement on its part under this Loan Agreement (other than a failure to make any payment required under this Loan Agreement), and such failure continues for a period of thirty (30) days after the

date on which written notice of such failure, requiring the same to be remedied, shall have been given to the Company by the Trustee; provided, however, that if such performance, observation or compliance requires work to be done, action to be taken, or conditions to be remedied, which by their nature cannot reasonably be done, taken or remedied, as the case may be, within such thirty (30) day period, no Event of Default shall be deemed to have occurred or to exist if, and so long as the Company shall commence such performance, observation or compliance within such period and shall diligently and continuously prosecute the same to completion.

(d) The entry of a decree or order by a court having jurisdiction in the premises adjudging the Company a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Company under the United States Bankruptcy Code or any other applicable federal or state law, or appointing a receiver, liquidator, custodian, assignee, or sequestrator (or other similar official) of the Company or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order unstayed and in effect for a period of ninety (90) consecutive days.

(e) The institution by the Company of proceedings to be adjudicated a bankrupt or insolvent, or the consent by it to the institution of bankruptcy or insolvency against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under the United States Bankruptcy Code or any other similar applicable federal or state law, or the consent by it to the filing of any such petition or to the appointment of a receiver, liquidator, custodian, assignee, trustee or sequestrator (or other similar official) of the Company or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due.

Section 9.2 Remedies. Whenever any Event of Default under Section 9.1 hereof shall have happened and be continuing, any one or more of the following remedial steps may be taken:

(a) The Issuer or the Trustee may declare all installments of Payments under Section 4.2 hereof to be immediately due and payable, whereupon the same shall become immediately due and payable, without requirement for and irrespective of any acceleration of the Bonds;

(b) The Issuer or the Trustee may take whatever action at law or in equity may appear necessary or desirable to collect the Payments then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Company under this Loan Agreement;

(c) The Issuer or the Trustee (or the owners of the Bonds in the circumstances permitted by the Indenture) may exercise any option and pursue any remedy provided by the Indenture.

Section 9.3 No Remedy Exclusive; Selective Enforcement. No remedy conferred upon or reserved to the Issuer or the Trustee by this Loan Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement and as now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any event of nonperformance shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required. In the event the Issuer or the Trustee shall elect to selectively and successively enforce its rights under this Loan Agreement, such action shall not be deemed a waiver or discharge of any other lien, encumbrance or

security interest securing payment of the indebtedness secured hereby or thereby until such time that it shall have been paid in full all sums secured hereunder and thereunder. The foreclosure of any lien provided pursuant to this Loan Agreement without the simultaneous foreclosure of all such liens shall not merge the liens granted which are not foreclosed with any interest which the Issuer or the Trustee might obtain as a result of such selective and successive foreclosure.

Section 9.4 Indenture Overriding. All of the provisions of this Article are subject to and subordinate to the rights and remedies of the Bondholders and the Trustee pursuant to the Indenture.

Section 9.5 Agreement to Pay Attorneys' Fees and Expenses. In any Event of Default, if the Issuer and/or the Trustee employs attorneys or incurs other fees or expenses for the collection of amounts payable hereunder or the enforcement of the performance or observance of any covenants or agreements on the part of the Company herein contained, whether or not such suit is commenced, the Company agrees that it will on demand therefor pay to the Issuer and/or the Trustee the reasonable fees and expenses of such attorneys and such other reasonable fees or expenses so incurred by the Issuer and/or the Trustee. The provision of this Section shall survive the defeasance of the Bonds.

Section 9.6 Issuer and Company to Give Notice of Default. The Issuer and the Company severally covenant that they will, at the expense of the Company, promptly give to the Trustee written notice of any Event of Default under this Loan Agreement of which they shall have actual knowledge or written notice, but the Issuer shall not be liable for failing to give such notice.

Section 9.7 Correlative Waivers. If an Event of Default under the Indenture shall be cured or waived and any remedial action by the Trustee rescinded, any correlative Default under this Loan Agreement shall be deemed to have been cured or waived.

## ARTICLE 10 MISCELLANEOUS

Section 10.1 References to the Bonds Ineffective After Bonds Paid. Upon payment of the Bonds, in accordance with the provisions of the Indenture, all references in this Loan Agreement to the Bondholders shall be ineffective and the Issuer and any holder of the Bonds shall not thereafter have any rights hereunder, excepting those that shall have survived or theretofore vested.

Section 10.2 Amounts Remaining in Funds. It is agreed by the parties hereto that any amounts remaining in the Funds and Accounts existing pursuant to the Indenture upon the expiration or sooner cancellation or termination of this Loan Agreement, as provided herein, after payment in full of all Bonds then outstanding under the Indenture (or provisions for payment thereof having been made in accordance with the provisions of the Indenture), and all Payments required to be paid hereunder (other than amounts payable as arbitrage rebate pursuant to the Code), shall belong to and be paid to the Company. Notwithstanding the foregoing, the obligation of the Company to pay the fees and expenses of the Issuer and the Trustee in accordance with the terms of this Loan Agreement and the Indenture shall survive the defeasance of the Bonds, the discharge of the Indenture, and the termination of this Loan Agreement.

Section 10.3 Notices.

(a) All notices, demands and requests to be given or made hereunder to or by the Company, the Issuer, the LGC or the Trustee, or their designated successors, shall be in writing and shall be properly made if hand delivered, sent by electronic mail (if so listed) or sent by United States mail, postage prepaid, and addressed as follows:

To the Issuer: The Cumberland County Industrial Facilities  
and Pollution Control Financing Authority  
117 Dick Street  
Fayetteville, NC 28301  
Attn: Chairman and Secretary  
Email: [rmooresfield@co.cumberland.nc.us](mailto:rmooresfield@co.cumberland.nc.us)  
Fax: 910-678-7758

To LGC: North Carolina Local Government Commission  
3200 Atlantic Avenue  
Raleigh, NC 27604  
Attention: Secretary  
Email: [SLGFD@nctreasurer.com](mailto:SLGFD@nctreasurer.com)

To the Company: American Titanium Metal, LLC  
1270 Avenue of the Americas, Suite 700  
New York, NY 10020  
Attn: Teresa McBride  
Email: [tm@mcbride.com](mailto:tm@mcbride.com)

with a copy to: American Titanium Metal, LLC  
1270 Avenue of the Americas, Suite 700  
New York, NY 10020  
Attn: Barry Funt, Esquire  
Email: [bf@mcbride.com](mailto:bf@mcbride.com)

To the Trustee: Wilmington Trust, National Association  
285 Delaware Avenue, 3rd Floor  
Buffalo, New York 14202  
Attention: Corporate Trust Services

(b) Notice hereunder shall be deemed effective on the date of its receipt by the addressee. The above addresses may be changed at any time upon written notice of such change sent by electronic mail (if so listed), United States mail, postage prepaid, to the other parties by the party effecting the change.

Section 10.4 Binding Effect. This Loan Agreement shall inure to the benefit and shall be binding upon the Issuer, the Company and their respective successors and assigns, subject to the limitation that any obligation of the Issuer created by or arising out of this Loan Agreement shall not be a general debt of the Issuer, but shall be payable solely out of the proceeds derived from this Loan Agreement and the issuance of the Bonds under the Indenture.

Section 10.5 Performance on Legal Holidays. In any case where the date of maturity of interest on or principal of the Bonds or the date fixed for redemption or purchase of any Bonds or the date fixed for the giving of notice or the taking of any action under this Indenture shall not be a Business Day, then payment of such interest, principal and purchase price, the giving of such notice or the taking of such action need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption or purchase, and no interest on such payment shall accrue for the period after such date.

Section 10.6 Execution in Counterparts. This Loan Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument; provided, however, that upon the assignment and pledge to the Trustee provided for in Section 3.2 hereof, the Issuer shall deliver to the Trustee an executed counterpart of this Loan Agreement which executed counterpart shall be deemed to be collateral of which the Trustee has taken possession and no other counterpart shall be deemed to be collateral for any other purpose. An electronic signature of a party to this Loan Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Loan Agreement. For purposes hereof: (i) "electronic signature" means a manually signed original signature that is then transmitted by electronic means; and (ii) "transmitted by electronic means" means sent in the form of a facsimile or sent via the internet as a portable document format ("pdf") or other replicating image attached to an electronic mail or internet message.

Section 10.7 Applicable Law. This Loan Agreement shall be governed by and construed in accordance with the laws of the State.

Section 10.8 Severability. If any clause, provision or Section of this Loan Agreement be held illegal or invalid by any court, the invalidity of such clause, provision or Section shall not affect any of the remaining clauses, provisions or Sections hereof and this Loan Agreement shall be construed and enforced as if such illegal or invalid clause, provision or Section had not been contained herein. In case any agreement or obligation contained in this Loan Agreement be held to be in violation of law, then such agreement or obligation shall be deemed to be the agreement or obligation of the Issuer or the Company, as the case may be, only to the extent permitted by law.

Section 10.9 Captions. The table of contents, captions or headings of the several articles and sections of this Loan Agreement are for convenience only and shall not control, affect the meaning of or be taken as an interpretation of any provisions of this Loan Agreement.

Section 10.10 Limitation of Issuer's and LGC's Liability. In the exercise of the powers of Issuer hereunder or under the Indenture, including without limitation the application of moneys and the investment of funds, neither Issuer, the LGC, nor any of their members, directors, commissioners, officials, officers, employees or agents shall be accountable to Company for any action taken or omitted by any of them in good faith and with the belief that it is authorized or within the discretion or rights or powers conferred. Issuer and LGC and their members, directors, commissioners, officials, officers, employees and agents shall be protected in acting upon any paper or document believed to be genuine, and any of them may conclusively rely upon the advice of counsel and may (but need not) require further evidence of any fact or matter before taking any action. In the event of any default by Issuer hereunder, the liability of Issuer to Company shall be enforceable only out of Issuer's interest under this Loan Agreement and there shall be no other recourse for damages by Company against Issuer, its members, directors, commissioners, officials, officers, attorneys, agents and employees, or any of the property now or hereafter owned by it or them. All covenants, obligations and agreements of Issuer contained in this Loan Agreement or the Indenture shall be special obligations of Issuer, payable solely from the Trust Estate, and shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, director, commissioner, official, officer, agent or employee of Issuer, and no official executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof or by reason of the covenants, obligations or agreements of Issuer contained in this Loan Agreement or the Indenture.

Section 10.11 Consents and Approvals. Whenever the consent or approval of the Issuer, the Company or the Trustee shall be required under the provisions of this Loan Agreement, such consent or approval shall not be unreasonably withheld or delayed.

Section 10.12 Third Party Beneficiaries. It is specifically agreed between the parties executing this Loan Agreement that it is not intended by any of the provisions of any part of this Loan Agreement to make the public or any member thereof, other than the Trustee, and except as expressly provided herein or as contemplated in the Indenture, a third party beneficiary hereunder, or to authorize anyone not a party to this Loan Agreement to maintain or omit for personal injuries or property damage pursuant to the terms or provisions of this Loan Agreement. The duties, obligations and responsibilities, if any, of the parties to this Loan Agreement with respect to third parties shall remain as imposed by law.

Section 10.13 Exculpatory Provision.

(a) In the exercise of the powers of the Issuer, the Trustee and their current, former and future trustees, directors, commissioners, members, officers, employees and agents (each, an “*Indemnified Party*”) under this Loan Agreement, each Indemnified Party shall not be accountable or liable to the Company (i) for any actions taken or omitted by such Indemnified Party in good faith and believed by it or them to be authorized or within their discretion or rights or powers conferred upon them (other than the negligence or willful misconduct of such Indemnified Party), or (ii) for any claims based on this Loan Agreement against any such Indemnified Party, all such liability, if any, being expressly waived by the Company by the execution of this Loan Agreement. The Company shall indemnify and hold harmless each Indemnified Party against any claim or liability based on the foregoing asserted by any other person.

(b) In case any action shall be brought against an Indemnified Party in respect of which indemnity may be sought against the Company, such Indemnified Party shall promptly notify the Company in writing and the Company shall assume the defense thereof, including the employment of counsel of the Company’s choice and the payment of all fees and expenses. Such Indemnified Party shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be paid by such Indemnified Party unless the employment of such counsel has been authorized by the Company. The Company shall not be liable for any settlement of any such action without its consent but if any such action is settled with the consent of the Company or if there be final judgment for the plaintiff of any such action, the Company agrees to indemnify and hold harmless such Indemnified Party from and against any loss, damage, claim, expense, tax or liability by reason of such settlement or judgment.

(c) No recourse shall be had for the payment of the principal of or interest on any of the Bonds or for any claim based thereon or upon any obligations, covenants or agreements contained in this Loan Agreement against any past, present or future officer, director, commissioner, member, employee or agent of the Issuer, or of any successor public corporation, as such, either directly or through the Issuer or any successor public corporation, under any rule of law or equity, statute or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, directors, commissioners, members, employees, or agents as such is hereby expressly waived and released as a condition of and consideration for the execution of this Loan Agreement and the issuance of such Bonds.

Section 10.14 Accounts and Audits. The Issuer shall cause the Trustee to keep proper books of records and accounts (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions relating to the Bonds. The Issuer shall have access to the Company’s books and records with respect to the Project upon written request after reasonable notice.

Section 10.15 Date of Loan Agreement. The dating of this Loan Agreement as of December 1, 2024 is intended as and for the convenient identification of this Loan Agreement and is not intended to indicate that this Loan Agreement was executed and delivered on said date, this Loan Agreement being executed on the dates of the respective acknowledgments hereto attached.

Section 10.16 Reliance. It is expressly understood and agreed by the parties to this Loan Agreement that:

(a) the Issuer may rely conclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Issuer by the Trustee, any Bondholder or the Company as to the existence of a fact or state of affairs required under this Loan Agreement to be noticed by the Issuer;

(b) the Issuer shall not be under any obligation to perform any recordkeeping or to provide any legal service, it being understood that such services shall be performed or caused to be performed by the Trustee or the Company; and

(c) none of the provisions of this Loan Agreement shall require the Issuer to expend or risk its own funds (apart from the proceeds of Bonds issued under the Indenture) or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights under this Loan Agreement unless it first shall have been adequately indemnified to its satisfaction against the costs, expenses and liabilities which may be incurred by taking any such action.

Section 10.17 Issuer Not Liable. Notwithstanding any other provision of this Loan Agreement, the Indenture, the Continuing Disclosure Undertaking, the Bond Purchase Agreement or the Tax Certificate, (a) the Issuer shall not be required to take action under this Loan Agreement, the Indenture, the Continuing Disclosure Undertaking, the Bond Purchase Agreement or the Tax Certificate unless the Issuer (i) is requested in writing by an appropriate Person to take such action; and (ii) is assured of payment of or reimbursement for any expense incurred in taking such action, and (b) except with respect to any action for specific performance or any action in the nature of a prohibitory or mandatory injunction, neither the Issuer nor any official, officer, member, director, commissioner, agent, employee or servant of the Issuer shall be liable to the Company, the Trustee or any other Person for any action taken by the Issuer or by its officials, officers, members, directors, commissioners, agents, employees, or servants, or for any failure to take action under this Loan Agreement, the Indenture, the Continuing Disclosure Undertaking, the Bond Purchase Agreement, or the Tax Certificate. In acting or in refraining from acting under this Loan Agreement, the Indenture, the Continuing Disclosure Undertaking, the Bond Purchase Agreement or the Tax Certificate, the Issuer may conclusively rely on the advice of its counsel.

Section 10.18 No Violations of Law. Any other term or provision in this Loan Agreement to the contrary notwithstanding:

(a) In no event shall this Loan Agreement be construed as:

(i) depriving the Issuer of any right or privilege; or

(ii) requiring the Issuer or any director, commissioner, officer, member, agent, employee, representative or advisor of the Issuer to take or omit to take, or to permit or suffer the taking of, any action by itself or by anyone else; which deprivation or requirement would violate, or result in the Issuer’s being in violation of the Act or any other applicable state or federal law; and



(b) At no time and in no event will the Company permit, suffer or allow any of the proceeds of the Loan Agreement or the Bonds to be transferred to any Person in violation of, or to be used in any manner that is prohibited by, the Act or any other state or federal law.

Section 10.19 E-Verify. The Company understands that “E-Verify” is a federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with Section 64-25(5) of the General Statutes of North Carolina, as amended. The Company uses E-Verify to verify the work authorization of its employees in accordance with Section 64-26(a) of the General Statutes of North Carolina, as amended. The Company will require that any subcontractor that it uses in connection with the transactions contemplated by this Loan Agreement certify to such subcontractor’s compliance with E-Verify.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Issuer has caused this Loan Agreement to be executed by its Chairman and the Company has caused this Loan Agreement to be executed on its behalf by its Chief Executive Officer hereon, all as of the day and year above written.

THE CUMBERLAND COUNTY INDUSTRIAL  
FACILITIES AND POLLUTION CONTROL  
FINANCING AUTHORITY

By: \_\_\_\_\_  
Name: Dr. Tracie Hines Lashley  
Title: Chair

AMERICAN TITANIUM METAL, LLC

By: \_\_\_\_\_  
Name: Teresa McBride  
Title: Sole Member

**EXHIBIT A**

**PROJECT DESCRIPTION**

The proceeds of the Bonds will be used to finance a portion of the cost of the acquisition, construction and installation of a titanium mill and processing center to be located in Cumberland County, North Carolina.

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**FIRST AMENDMENT TO LOAN AGREEMENT**

**Dated as of November 1, 2025**

---

**between**

**THE CUMBERLAND COUNTY INDUSTRIAL FACILITIES AND  
POLLUTION CONTROL FINANCING AUTHORITY**

**and**

**AMERICAN TITANIUM METAL, LLC**

---

**in connection with the Amended and Restated Trust Indenture dated as of November 1, 2025,  
between The Cumberland County Industrial Facilities and Pollution Control Financing Authority  
and Wilmington Trust, National Association, relating to the remarketing of**

**\$250,000,000  
The Cumberland County Industrial Facilities  
and Pollution Control Financing Authority  
Solid Waste Disposal Revenue Bonds  
(Project Aero), Series 2024**

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## FIRST AMENDMENT TO LOAN AGREEMENT

This FIRST AMENDMENT TO LOAN AGREEMENT, dated as of November 1, 2025 (the “First Amendment to Loan Agreement”), is between THE CUMBERLAND COUNTY INDUSTRIAL FACILITIES AND POLLUTION CONTROL FINANCING AUTHORITY, a body corporate and politic and political subdivision of the State of North Carolina (the “Issuer”) and AMERICAN TITANIUM METAL, LLC, a Delaware limited liability company (the “Company”).

### PRELIMINARY STATEMENT

The Issuer and the Company entered into a Loan Agreement dated as of December 1, 2024 (the “Original Loan Agreement”), pursuant to which the proceeds of the Issuer’s \$250,000,000 original principal amount Solid Waste Disposal Revenue Bonds (Project Aero), Series 2024 (the “Bonds”), were loaned by the Issuer to the Company. The Bonds were issued pursuant to and are secured by a Trust Indenture dated as of December 1, 2024 (the “Original Indenture”), between the Issuer and Wilmington Trust, National Association, as trustee (the “Trustee”).

The Issuer and the Trustee are amending and restating the Original Indenture in its entirety pursuant to the Amended and Restated Trust Indenture of even date herewith (the Original Indenture, as amended and restated by the Amended and Restated Trust Indenture, and as the same may be further amended and supplemented in accordance with the provisions thereof, being referred to herein as the “Indenture”) between the Issuer and the Trustee and in connection therewith will be effecting a remarketing of the Bonds.

The Issuer and the Company, by their execution and delivery of this First Amendment to Loan Agreement, desire to effect certain amendments to the Original Loan Agreement.

### ARTICLE I

#### AMENDMENTS

SECTION 1.01 Amendments to Definitions. The following definitions in the Original Loan Agreement are hereby amended to read as follows:

“Indenture” means the Original Indenture, as amended and restated by the Amended and Restated Trust Indenture, dated as of November 1, 2025, between the Issuer and the Trustee, as the same may be further amended and supplemented from time to time.

### ARTICLE II

#### REPRESENTATIONS

2.01 Representations and Warranties of the Issuer. The Issuer represents, covenants and warrants for the benefit of the Company, the Trustee and the owners of the Bonds that the Issuer is a public body corporate and politic and a political subdivision of the State of North Carolina. Under the provisions of the Act, the Issuer is authorized to enter into the transactions contemplated

by this First Amendment to Loan Agreement to carry out its obligations hereunder. The Issuer has been duly authorized to execute and deliver this First Amendment to Loan Agreement. The Indenture and the Agreement are legal, valid and binding obligations of the Issuer.

2.02 Representations and Warranties of the Company. The Company represents, covenants and warrants for the benefit of the Issuer, the Trustee and the owners of the Bonds that the Company is a Delaware limited liability company. The Company is authorized to enter into the transactions contemplated by this First Amendment to Loan Agreement to carry out its obligations hereunder. The Company has been duly authorized to execute and deliver this First Amendment to Loan Agreement. The Indenture and the Agreement are legal, valid and binding obligations of the Company.

### ARTICLE III

#### MISCELLANEOUS

SECTION 3.01 Effective Date. This First Amendment to Loan Agreement shall be effective at the Effective Time.

SECTION 3.02 No Novation. This First Amendment to Loan Agreement shall not and is not intended to constitute a novation, release or discharge of the obligations of the Company under the Original Loan Agreement.

SECTION 3.03 Incorporation. Except as modified herein, all terms of the Original Loan Agreement shall remain unchanged and in full force and effect. Each and every term, covenant and condition of the Original Loan Agreement, not specifically amended hereby, is hereby incorporated herein by reference and that each of the Original Loan Agreement and this First Amendment to Loan Agreement shall be construed as one instrument.

SECTION 3.04 Company’s Consent to Amended and Restated Trust Indenture. By its execution and delivery hereof, the Company consents to the execution and delivery of the Amended and Restated Trust Indenture dated as of November 1, 2025 between the Issuer and the Trustee securing the Bonds.

IN WITNESS WHEREOF, The Cumberland County Industrial Facilities and Pollution Control Financing Authority has caused these presents to be signed in its name and on its behalf by its Chair, and American Titanium Metal, LLC has caused these presents to be signed in its name and on its behalf by its Chief Executive Officer, all as of the date first above written.

THE CUMBERLAND COUNTY INDUSTRIAL  
FACILITIES AND POLLUTION CONTROL  
FINANCING AUTHORITY

By: \_\_\_\_\_  
Name: [ \_\_\_\_\_ ]  
Title: Chair

AMERICAN TITANIUM METAL, LLC

By: \_\_\_\_\_  
Name: Teresa McBride  
Title: Sole Member

**APPENDIX B**

**FORM OF OPINION OF SPECIAL TAX COUNSEL**



Pope Flynn, LLC  
1411 Gervais Street, Suite 300  
Post Office Box 11509 (29211)  
Columbia, SC 29201  
MAIN 803.354.4900  
FAX 803.354.4899  
www.popeflynn.com

November 3, 2025

The Cumberland County Industrial Facilities and  
Pollution Control Financing Authority  
Fayetteville, North Carolina

American Titanium Metal, LLC  
New York, New York

Re: Remarketing of \$250,000,000 The Cumberland County Industrial Facilities and Pollution Control Financing Authority Solid Waste Disposal Revenue Bonds (Project Aero), Series 2024

Ladies and Gentlemen:

We have acted as special tax counsel to American Titanium Metal, LLC (the “**Borrower**”) in connection with the remarketing by the Cumberland County Industrial Facilities and Pollution Control Financing Authority (the “**Issuer**”) of its \$250,000,000 Solid Waste Disposal Revenue Bonds (Project Aero), Series 2024 (the “**Bonds**”). In such capacity, we have examined such law and such certified proceedings, certifications, and other documents as we have deemed necessary to give the opinions below.

The Bonds are being remarketed pursuant to (i) a Bond Purchase Agreement dated October 21, 2025, among the Borrower, the Issuer and Oppenheimer & Co. Inc., as remarketing agent, and (ii) an Amended and Restated Trust Indenture (the “**Indenture**”) dated as of November 1, 2025, between the Issuer and Wilmington Trust, National Association, as trustee. The Issuer and the Borrower entered into a Loan Agreement dated as of December 1, 2024, as amended by the First Amendment to Loan Agreement dated as of November 1, 2025 (as amended, the “**Loan Agreement**”), pursuant to which the proceeds of the Bonds were lent by the Issuer to the Borrower. Capitalized terms used herein and not otherwise defined have the meanings given such terms in the Indenture and the Loan Agreement.

Regarding questions of fact material to our opinion, we have relied on the representations of the Issuer and the Borrower contained in the Indenture and the Loan Agreement, and in the certified proceedings and other certifications of public officials and others furnished to us, including certifications provided to us on behalf of the Borrower, without undertaking to verify the same by independent investigation.

In rendering the opinion set forth herein, we have relied upon the approving opinion of McGuire Woods LLP, bond counsel to the Issuer, of even date herewith.

Based on the foregoing, we are of the following opinions:

1. Under existing law, interest on the Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the “*Code*”), except for interest on any Bond for any period during which the Bond is held by a “substantial user” of the facilities being financed by the Bonds or a “related person” within the meaning of Section 147(a) of the Code; however, interest on the Bonds is an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and may be taken into account for the purpose of computing the alternative minimum tax imposed on certain corporations. The opinion set forth in this paragraph is subject to the condition that the Issuer and the Company comply with all requirements of the Code that must be satisfied subsequent to the issuance of the Bonds in order that interest thereon be, and continue to be, excluded from gross income for federal tax purposes. The Issuer and the Company have covenanted to comply with such requirements. Failure to comply with certain of such requirements may cause interest on the Bonds to be includable in gross income for federal income tax purposes, in some cases retroactively to the date of issuance of the Bonds.

2. Under existing law, the Bonds, and the interest thereon, are exempt from all income taxation within the State of North Carolina.

The rights of the owners of the Bonds and the enforceability of the Bonds and the Bond Resolution are limited by bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting the rights and remedies of creditors, and by equitable principles, whether considered at law or in equity.

We express no opinion regarding any other federal, state or local tax consequences that may arise with respect to the Bonds.

We express no opinion herein regarding the accuracy, adequacy, or completeness of the Remarketing Circular dated October 21, 2025 relating to the Bonds. Further, we express no opinion regarding tax consequences arising with respect to the Bonds other than expressly set forth herein.

These opinions are given as of the date hereof, and we assume no obligation to revise or supplement the opinions to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

Sincerely,

Pope Flynn, LLC

## **APPENDIX C**

### **FORM OF APPROVING OPINION OF BOND COUNSEL**





November \_\_, 2025

The Cumberland County Industrial Facilities and  
Pollution Control Financing Authority  
Fayetteville, North Carolina

**\$250,000,000**

**The Cumberland County Industrial Facilities and Pollution Control Financing Authority  
Solid Waste Disposal Revenue Bonds (Project Aero), Series 2024**

Ladies and Gentlemen:

We have served as Bond Counsel to The Cumberland County Industrial Facilities and Pollution Control Financing Authority (the “Issuer”) in connection with the remarketing of its \$250,000,000 Solid Waste Disposal Revenue Bonds (Project Aero), Series 2024 (the “Bonds”) dated the date of their original delivery.

The Bonds will be reoffered pursuant to an Amended and Restated Trust Indenture dated as of November 1, 2025 (the “Indenture”), between the Issuer and Wilmington Trust, National Association, as trustee (the “Trustee”). The Issuer has loaned the proceeds of the Bonds to American Titanium Metal, LLC, a Delaware limited liability company (the “Company”), under a Loan Agreement dated as of December 1, 2024, as amended by a First Amendment to Loan Agreement dated as of November 1, 2025 (as amended, the “Loan Agreement”), each between the Issuer and the Company, to provide financing for the acquisition, construction and equipping of a titanium reprocessing facility in Cumberland County, North Carolina. Unless otherwise defined, each capitalized term used in this opinion shall have the meaning given it in the Indenture.

The Bonds are secured by the Indenture, which assigns to the Trustee, as security for the Bonds (i) all right, title and interest of the Issuer in, to and under the Loan Agreement (except for rights of the Issuer relating to exculpation, indemnification and payment of fees and expenses thereunder), all payments, proceeds, revenues, income, receipts, issues, benefits and other moneys received or derived by the Issuer under the Loan Agreement including, without limitation, the Payments to be paid by the Company to the Trustee pursuant to the Loan Agreement, (ii) all cash, moneys, securities and investments and earnings thereon that may at any time and from time to time, pursuant to the provisions of the Indenture, be paid to the Trustee or be held by the Trustee in the Funds created under the Indenture (other than the Rebate Fund), except as the interest of the Trustee in such cash, moneys, securities and investments may otherwise appear in the Indenture, and (iii) all proceeds of any and all of the foregoing (collectively, the “Trust Estate”).

In connection with this opinion, we have examined (i) the Constitution of North Carolina (the “Constitution”), (ii) the applicable laws of the State of North Carolina (the “State”), including, without limitation, the Industrial and Pollution Control Facilities Financing Act, Chapter 159C of the General Statutes of North Carolina, as amended (the “Act”), and (iii) copies of proceedings and other documents relating to the issuance, sale and remarketing of the Bonds by the Issuer, including resolutions adopted by

the Issuer on October 24, 2024 and September 18, 2025, relating to the Bonds, as we have deemed necessary to render the opinions contained herein.

As to questions of fact material to our opinion, we have relied upon and are assuming the accuracy of certifications and representations of the Issuer, the Company, officers of the Company and other public officials and certain other third parties contained in certificates and other documents delivered at closing, including, without limitation, certifications as to the use of proceeds of the Bonds, without undertaking to verify them by independent investigation.

We have assumed that all signatures on documents, certificates and instruments examined by us are genuine, all documents, certificates and instruments submitted to us as originals are authentic and all documents, certificates and instruments submitted to us as copies conform to the originals. In addition, we have assumed for purposes of this opinion that all documents, certificates and instruments relating to this financing have been duly authorized, executed and delivered by all parties other than the Issuer, and we have further assumed for purposes of this opinion the due organization, existence and powers of such other parties other than the Issuer.

Based on the foregoing, we are of the opinion that, under current law:

1. The Issuer is a validly existing political subdivision and body corporate and politic of the State duly created by the Act and is vested with the rights and powers conferred by the Act.

2. The Issuer has all requisite authority and power under the Act to issue the Bonds and to enter into and perform its obligations under the Indenture and the Loan Agreement and to apply the proceeds from the issuance of the Bonds as contemplated by the Indenture and the Loan Agreement.

3. The Bonds have been duly authorized and issued in accordance with the Act and the Indenture and, subject to the limitations set forth herein, constitute valid, binding and enforceable limited obligations of the Issuer, payable as to principal, premium, if any, and interest solely from the revenues, receipts and payments pledged to such purpose under the Indenture. The Bonds do not create or constitute a pledge of the faith and credit or taxing power of the State or any of its political subdivisions. Neither the State nor any of its political subdivisions, including the Issuer, is obligated to pay the principal of or premium, if any, or interest on the Bonds or other costs incident to them except from the revenues, receipts and payments pledged for such purpose.

4. The Indenture and the Loan Agreement have been duly authorized, executed and delivered by the Issuer and, subject to the limitations set forth herein, constitute valid and binding agreements of the Issuer, enforceable against the Issuer in accordance with their terms.

5. The Issuer's right, title and interest in the Trust Estate have been assigned to the Trustee and, subject to the limitations set forth herein, such assignment constitutes a valid and binding assignment by the Issuer, enforceable against the Issuer in accordance with its terms.

The enforceability of the obligations of the parties under the Bonds, the Indenture and the Loan Agreement and the Issuer's assignment of the Loan Agreement to the Trustee are subject to the provisions of applicable bankruptcy, insolvency, reorganization, moratorium and similar laws, now or hereafter in effect, relating to or affecting the enforcement of creditors' rights. The enforceability of such obligations is also subject to usual equitable principles, which may limit the specific enforcement of certain remedies but which do not affect the validity of such documents. Certain indemnity provisions may be unenforceable pursuant to court decisions invalidating such indemnity agreements on grounds of public policy.

Our services as Bond Counsel to the Issuer have been limited to rendering the foregoing opinion based on our review of such legal proceedings and other documents as we deem necessary to approve the validity of the Bonds and the enforceability of the Indenture and the Loan Agreement. We express no opinion as to the business or financial resources of the Issuer or the Company or the ability of the Issuer or the Company to provide for the payment of the Bonds or the accuracy, completeness or sufficiency of any information that may have been relied upon by any owner of the Bonds in making the decision to purchase the Bonds. The opinions set forth herein are made as of the date hereof, and we assume no obligation to supplement this opinion letter if any applicable laws change after the date hereof or if we become aware after the date hereof of any facts that might change the opinions expressed herein.

Very truly yours,

## **APPENDIX D**

### **FORM OF CONTINUING DISCLOSURE UNDERTAKING**

## AMENDED AND RESTATED CONTINUING DISCLOSURE UNDERTAKING

This Amended and Restated Continuing Disclosure Undertaking (this “Disclosure Undertaking”) is dated as of November 1, 2025 by American Titanium Metal, LLC, a Delaware limited liability company (the “Obligor”), in connection with the remarketing of \$250,000,000 aggregate principal amount of The Cumberland County Industrial Facilities and Pollution Control Financing Authority Solid Waste Disposal Revenue Bonds (Project Aero), Series 2024 (the “Bonds”) issued by The Cumberland County Industrial Facilities and Pollution Control Financing Authority (the “Issuer”) for the benefit of the Obligor. This Disclosure Undertaking amends and restates in its entirety that certain Continuing Disclosure Undertaking dated as of December 1, 2024, previously delivered by the Obligor in connection with the original issuance of the Bonds.

The Obligor has been asked to provide for the disclosure of certain information concerning the Bonds and other matters on an on-going basis as set forth herein for the benefit of Beneficial Owners (as hereinafter defined) to enable the Participating Underwriter (defined below) to comply with the provisions of Securities and Exchange Commission Rule 15c2-12, as amended from time to time (the “Rule”).

NOW, THEREFORE, the Obligor hereby agrees as follows:

**Section 1. Purpose of the Disclosure Undertaking.** This Disclosure Undertaking is being executed and delivered by the Obligor for the benefit of the Beneficial Owners (defined below) and in order to assist the Participating Underwriter in complying with the Rule. The Obligor acknowledges that the Issuer has undertaken no responsibility with respect to any reports, notices or disclosures provided or required under this Disclosure Undertaking, and the Issuer has no liability to any person, including any Beneficial Owner, with respect to any such reports, notices or disclosures.

**Section 2. Definitions.** In addition to the definitions set forth in the Amended and Restated Trust Indenture dated as of November 1, 2025 (as amended and supplemented from time to time, the “Indenture”), between the Issuer and Wilmington Trust, National Association, a national banking association, as trustee (the “Trustee”), pursuant to which the Bonds have been issued, which apply to any capitalized terms used in this Disclosure Undertaking unless otherwise defined in this Section 2, the following capitalized terms shall have the following meanings:

“Annual Report” shall mean, collectively, the filings described in Section 3(a) hereof.

“Beneficial Owner” shall mean, while the Bonds are held in a book-entry only system, the actual purchaser of each Bond, the ownership interest of which is to be recorded on the records of the direct and indirect participants of the Securities Depository, and otherwise shall mean the holder of Bonds.

“Commission” shall mean the Securities and Exchange Commission, or any successor body thereto.

“EMMA” shall mean the Electronic Municipal Market Access system and the EMMA Continuing Disclosure Service of MSRB, or any successor thereto approved by the United States Securities and Exchange Commission, as a repository for municipal continuing disclosure information pursuant to the Rule.

“Listed Events” shall mean any of the events listed in Section 4(a) of this Disclosure Undertaking.

“Loan Agreement” shall mean the Loan Agreement relating to the Bonds dated as of December 1, 2024, as amended by the First Amendment to Loan Agreement dated as of November 1, 2025, each by and between the Issuer and the Obligor, as it may be amended and supplemented from time to time.

“MSRB” shall mean the Municipal Securities Rulemaking Board, or any successor thereto.

“Official Statement” shall mean the final Remarketing Circular dated October 21, 2025 with respect to the Bonds, including all appendices thereto, as they may be amended or supplemented.

“Participating Underwriter” shall mean the original underwriter of the Bonds required to comply with the Rule in connection with the issuance of the Bonds.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the Commission under the Securities Exchange Act of 1934 (the “Exchange Act”), as the same may be amended from time to time.

### **Section 3. Provision of Annual Reports.**

(a) The Obligor shall file on EMMA annual information for each fiscal year of the Obligor ending on or after December 31, 2027, not later than the 180<sup>th</sup> day following the end of each fiscal year of the Obligor, consisting of financial and operating data relating to the Obligor’s business and properties comparable to the information contained in the Official Statement, together with the Obligor’s audited financial statements prepared in accordance with generally accepted accounting principles used in the United States of America (“GAAP”).

(b) The Obligor shall file, in a timely manner, with the MSRB and the Trustee, notice of failure by the Obligor to file any Annual Report by the date due.

### **Section 4. Reporting of Material Events.**

(a) The Obligor shall file, in a timely manner not in excess of ten business days after the occurrence of the event, with the MSRB and the Trustee notice of the occurrence of any of the following events (if applicable) with respect to the Bonds:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults, if material;
- (3) any unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on credit enhancement facilities reflecting financial difficulties;
- (5) substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701 TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (7) modifications to rights of holders of the Bonds, if material;
- (8) bond calls, if material, and tender offers;
- (9) defeasance of the Bonds or any portion thereof;
- (10) release, substitution, or sale of property securing repayment of the Bonds, if material;
- (11) rating changes with respect to the Bonds;
- (12) bankruptcy, insolvency, receivership or similar event of the Obligor;

- (13) the consummation of a merger, consolidation, or acquisition involving the Obligor or the sale of all or substantially all of the assets of the Obligor, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (14) appointment of a successor or additional trustee or the change of name of a trustee, if material;
- (15) the incurrence of a financial obligation of the Obligor, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the Obligor, any of which affect security holders, if material; and
- (16) a default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the Obligor, any of which reflect financial difficulties.

(b) The terms of none of the Loan Agreement, the Indenture and the Bonds require that any debt service reserve fund be established.

**Section 5. Termination of Reporting Obligation.** This Disclosure Undertaking shall remain in effect only for such period during which any of the Bonds are outstanding in accordance with their terms and the Obligor remains an obligated person with respect to the Bonds within the meaning of the Rule. The Obligor's obligations under this Disclosure Undertaking shall terminate upon the defeasance, prior redemption or payment in full of all of the Bonds. If the Obligor's obligations under this Disclosure Undertaking are assumed in full by some other entity, such entity shall be responsible for compliance with this Disclosure Undertaking in the same manner as if it were the Obligor and the Obligor shall have no further responsibility hereunder. The Obligor shall file, in a timely manner, with the MSRB and the Trustee, notice of the termination of this Disclosure Undertaking or the Obligor's obligations under this Disclosure Undertaking pursuant to an assumption of its obligations hereunder.

**Section 6. Amendment; Waiver.** Notwithstanding any other provision of this Disclosure Undertaking, the Obligor may amend this Disclosure Undertaking or waive any provision hereof, but only in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of the obligor with respect to the Bonds or the type of business conducted by said obligor, provided that (1) the undertaking, as amended or following such waiver, would have complied with the requirements of the Rule on the date of the issuance of the Bonds, after taking into account any amendments to the Rule as well as any change in circumstances, and (2) the amendment or waiver does not materially impair the interests of the holders of Bonds, in the opinion of counsel expert in federal securities laws reasonably satisfactory to the Obligor, or is approved by the Beneficial Owners of not less than a majority in aggregate principal amount of the outstanding Bonds.

In the event of any amendment to the type of financial or operating data provided in an Annual Report provided pursuant to Section 3(a) hereof, or any change in accounting principles reflected in such Annual Report, the Obligor agrees that the Annual Report will explain, in narrative form, the reasons for the amendment or change and the effect of such change, including comparative information, where appropriate. To the extent not otherwise included in such Annual Report, the Obligor will also provide timely notice of any change in accounting principles to the MSRB and the Trustee.

**Section 7. Additional Information.** Nothing in this Disclosure Undertaking shall be deemed to prevent the Obligor from disseminating any other information, using the means of dissemination set forth

in this Disclosure Undertaking or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Undertaking. If the Obligor chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Disclosure Undertaking, the Obligor shall have no obligation under this Disclosure Undertaking to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 8. **Default.** A default under this Disclosure Undertaking shall not be deemed an Event of Default under the Indenture or the Loan Agreement, and the sole remedy under this Disclosure Undertaking in the event of any failure of the Obligor to comply with this Disclosure Undertaking shall be an action to compel performance.

Section 9. **Beneficiaries.** This Disclosure Undertaking shall inure solely to the benefit of the Issuer, the Obligor, the Participating Underwriter, and Beneficial Owners, and shall create no rights in any other person or entity.

Section 10. **Dissemination Agent.** The Obligor may, from time to time, appoint or engage a dissemination agent to assist it in carrying out its obligations under this Disclosure Undertaking, and the Obligor may, from time to time, discharge any such dissemination agent, with or without appointing a successor dissemination agent.

Section 11. **Submission of Documents to the MSRB.** Unless otherwise required by law, all documents provided to the MSRB or EMMA pursuant to this Disclosure Undertaking shall be provided to the MSRB in an electronic format and shall be accompanied by identifying information, in each case as prescribed by the MSRB.

Section 12. **Governing Law.** This Disclosure Undertaking shall be governed by and construed in accordance with the laws of the State of North Carolina.

*[signatures on following page]*



IN WITNESS WHEREOF, the Obligor has caused its duly authorized officer to execute this Disclosure Undertaking, as of the day and year first written above.

**AMERICAN TITANIUM METAL, LLC**

By: \_\_\_\_\_  
Name: Teresa McBride  
Title: Sole Member