

**AMENDED AND RESTATED**  
**DECLARATION AND AGREEMENT OF TRUST**  
relating to  
**NYCTL 2021-A Residual Trust**  
by and among  
**THE CITY OF NEW YORK,**  
**WILMINGTON TRUST COMPANY,**  
as Delaware Trustee,  
and  
**EACH OF THE INDIVIDUAL SIGNATORIES HERETO,**  
as Trustee  
Dated as of February 24, 2022

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This AMENDED AND RESTATED DECLARATION AND AGREEMENT OF TRUST is dated as of February 24, 2022 and is by and among The City of New York, Wilmington Trust Company, as Delaware Trustee, Albert M. Rodriguez, as trustee, and Prescott D. Ulrey, as trustee.

WHEREAS, NYCTL 2021-A Residual Trust was formed pursuant to the Certificate of Trust, and was continued pursuant to the Declaration and Agreement of Trust (the “Original Agreement”), dated as of December 8, 2021, between Wilmington Trust Company, as Delaware Trustee, and The City of New York;

WHEREAS, as part of the purchase price of the Tax Liens paid to the City pursuant to the First Sale Agreement, the Issuer (as defined below) delivered the Ownership Interest to the City; and

WHEREAS, the parties desire to amend and restate the Original Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein contained, the parties hereto hereby amend and restate the Original Agreement in its entirety as follows:

## ARTICLE I

### DEFINITIONS

SECTION 1.1 Capitalized Terms. The following terms shall have the meaning set forth below:

“Agreement” shall mean this Amended and Restated Declaration and Agreement of Trust.

“Authorized Financial Officer” shall mean the Commissioner or Acting Commissioner of Finance of the City of New York, the First Deputy Commissioner of Finance of the City of New York, any Deputy or Assistant Commissioner or Associate Commissioner of Finance of the City of New York, the Tax Lien Ombudsperson of the City of New York, the Director or Acting Director of Management and Budget of the City of New York, any Deputy Director of Management and Budget of the City of New York, any person designated by the Commissioner of Finance of the City of New York to act for and on behalf of the Commissioner in the exercise of all functions, powers and duties which the Commissioner may have pursuant to Chapter 3 of Title 11 of the Administrative Code of New York City, or any other official of the Beneficial Owner customarily performing functions similar to those performed by any of the above-designated officials, and also, with respect to a particular matter, any other official to whom such matter is referred because of such official’s knowledge of and familiarity with the particular subject.

“Bank” shall mean the paying agent, collateral agent and custodian and lockbox bank under the Paying Agent and Custody Agreement, initially The Bank of New York Mellon.

“Basic Documents” shall mean the Purchase and Sale Agreement, the Servicing Agreements, the Paying Agent and Custody Agreement, the Indenture, the Bonds and the Bond Purchase Agreement, and the other documents, certificates and writings attached as exhibits to any of the foregoing or contemplated thereby or delivered in connection therewith.

“Beneficial Interest” shall mean an undivided beneficial ownership interest (expressed as a percentage) in the Trust that is owned by the Beneficial Owner.

“Beneficial Owner” shall mean the Person listed on the books and records of the Trust as the owner of the Beneficial Interest. As set forth in Section 3.1(a) hereof, as of the date of this Agreement, the sole initial Beneficial Owner is the City.

“Bill of Sale” shall mean the bill of sale attached as Exhibit A hereto.

“Bond Purchase Agreement”: The Bond Purchase Agreement, dated February 15, 2022, among the Trust, the Seller and the Initial Purchaser, in connection with the sale of the Bonds to the Initial Purchaser.

“Bonds” shall mean the bonds issued pursuant to the Indenture.

“Certificate of Trust” shall mean the Certificate of Trust of the Trust filed with the Secretary of State on December 8, 2021, pursuant to Section 3810(a) of the Statutory Trust Statute.

“City” shall mean The City of New York.

“Closing Date” shall have the meaning set forth in the Purchase and Sale Agreement.

“Code” shall mean the Internal Revenue Code of 1986.

“Controlling Trustees” shall mean the Trustees other than the Delaware Trustee.

“Corporate Trust Office” shall mean, with respect to the Delaware Trustee, the principal corporate trust office of the Delaware Trustee located at 1100 North Market Street, Rodney Square North, Wilmington, Delaware 19890-0001, Attention: Global Capital Markets, or at such other address as the Delaware Trustee may designate by notice to the Beneficial Owner and each of the Controlling Trustees, or the principal corporate trust office of any successor Delaware Trustee (the address of which such successor Delaware Trustee will notify the Beneficial Owner and each of the Controlling Trustees).

“Delaware Trustee” shall mean Wilmington Trust Company, as Trustee under this Agreement.

“Distribution Account” shall have the meaning assigned to such term in Section 5.1.

“Eligible Deposit Account” shall mean either (a) a segregated trust account held in the corporate trust department of the Delaware Trustee or the Indenture Trustee or (b) a segregated trust account with the corporate trust department of a depository institution organized under the laws of the United States of America or any one of the States thereof or the District of Columbia

(or any domestic branch of a foreign bank), having corporate trust powers and a senior long-term unsecured debt obligation rating of at least “BBB-” (or equivalent) from at least one nationally recognized securities rating agency, and acting as trustee for funds deposited in such account.

“Expenses” shall have the meaning assigned to such term in Section 8.1.

“First Sale Agreement” shall mean the Purchase and Sale Agreement, dated as of December 17, 2021, between the Issuer and the City.

“Indenture” shall mean the Indenture, dated as of February 24, 2022, among the Issuer, MTAG Services, LLC, Tower Capital Management, LLC and The Bank of New York Mellon, as Indenture Trustee.

“Indenture Trustee” shall mean the Indenture Trustee under the Indenture.

“Initial Capital Contribution” shall mean the amount contributed upon formation of the Trust pursuant to the Declaration and Agreement of Trust as described in Section 2.3 hereof.

“Initial Purchaser” J.P. Morgan Securities LLC as initial purchaser under the Bond Purchase Agreement.

“Issuer” shall mean NYCTL 2021-A Trust, a Delaware statutory trust, until a successor shall have become the Issuer pursuant to the applicable provisions of the Indenture, and thereafter “Issuer” shall mean such successor.

“Issuer Trust Agreement” shall mean the Amended and Restated Declaration and Agreement of Trust relating to the Issuer, dated as of February 24, 2022, between the City and the Issuer Trustee, as agreed to and accepted by the Trust for the purpose of acquiring the Ownership Interest.

“Issuer Trustee” shall mean Wilmington Trust Company, a Delaware trust company, not in its individual capacity but solely as issuer trustee under the Issuer Trust Agreement, and any successor Issuer Trustee thereunder.

“Majority-Owned Affiliate” shall mean an entity that another entity, directly or indirectly, majority controls, is majority controlled by or is under common majority control with.

“Opinion of Counsel” shall mean one or more written opinions of counsel who may, except as otherwise expressly provided in this Agreement, be employees of or counsel to the Trust or the City, and who shall be satisfactory to the Trustees, and which opinion or opinions shall be addressed to the Trust and the Trustees and in form and substance satisfactory to the Trustees.

“Original Agreement” shall have the meaning set forth in the first Whereas clause of this Agreement.

“Owner” and “Ownership Interest” shall have the respective meanings set forth in the Issuer Trust Agreement.

“Paying Agent and Custody Agreement” shall mean the Paying Agent and Custody Agreement, dated as of January 3, 2022, among the Issuer, The Bank of New York Mellon as paying agent and collateral agent and custodian, and each Servicer.

“Permitted Investments” shall mean (i) obligations of (or guaranteed by) the United States or any agency or instrumentality thereof, (ii) demand and time deposit accounts or certificates of deposit in U.S. banks or savings institutions, or (iii) money-market funds with total assets of \$50,000,000 or more.

“Person” shall mean any individual, corporation, estate, partnership, joint venture, association, joint stock company, limited liability company, trust, government or any agency or political subdivision thereof, or other entity or organization of any type, whether or not a legal entity.

“Program Manager” shall mean RESF Advisors, Inc., or any successor thereto.

“Purchase and Sale Agreement” shall mean, collectively, the First Sale Agreement and the Second Sale Agreement.

“Rating Agency” shall mean Moody’s or KBRA.

“Regulation RR”: Regulation RR under the Exchange Act, 17 C.F.R. Section 246.1, et seq.

“Responsible Officer” shall mean any officer within the Corporate Trust Office of the Delaware Trustee with direct responsibility for the administration of this Agreement and also means, with respect to a particular corporate trust matter, any other officer of the Delaware Trustee to whom such matter is referred because of that officer’s knowledge of and familiarity with the particular subject.

“Schedule B Tax Liens” shall have the meaning set forth in the Purchase and Sale Agreement.

“Second Sale Agreement” shall mean the Purchase and Sale Agreement, dated as of December 21, 2021, between the Issuer and the City.

“Secretary of State” shall mean the Secretary of State of the State of Delaware.

“Servicer” shall mean each of MTAG Services, LLC or Tower Capital Management, LLC, in its respective role as a Servicer under the applicable Servicing Agreement, or any successor of either of them.

“Servicing Agreement”: shall mean that certain Servicing Agreement, dated as of January 3, 2022, by and among the Issuer, MTAG Services, LLC and the Indenture Trustee, or that certain Servicing Agreement, dated as of January 3, 2022, by and among the Issuer, Tower Capital Management, LLC and the Indenture Trustee, as applicable.

“Statutory Trust Statute” shall mean Chapter 38 of Title 12 of the Delaware Code, 12 Del. Code, §§ 3801 et seq.



“Tax Liens” shall have the meaning set forth in the Purchase and Sale Agreement.

“Transaction Documents” shall mean this Agreement, the Issuer Trust Agreement, the Indenture, the Servicing Agreements, the Purchase and Sale Agreement, the Second Sale Agreement and the Paying Agent and Custody Agreement.

“Trust” shall mean the trust governed by this Agreement.

“Trust Assets” shall mean all property of whatever type or character that is transferred to or received or possessed by the Trust.

“Trustee” shall mean each of Wilmington Trust Company, Albert M. Rodriguez, and Prescott D. Ulrey, not in its, his, or her individual capacity but solely as trustee under this Agreement.

“Trustor” shall mean the City as trustor with respect to the Trust pursuant to this agreement.

#### SECTION 1.2 Other Definitional Provisions.

(a) As used in this Agreement, accounting terms not defined in this Agreement and accounting terms partly defined in this Agreement to the extent not defined, shall have the respective meanings given to them under generally accepted accounting principles. To the extent that the definitions of accounting terms in this Agreement are inconsistent with the meanings of such terms under generally accepted accounting principles, the definitions contained in this Agreement shall control.

(b) The words “hereof,” “herein,” “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement; Section and Exhibit references contained in this Agreement are references to Sections and Exhibits in or to this Agreement unless otherwise specified; and the term “including” shall mean “including without limitation.”

(c) The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such terms.

(d) Any agreement (including this Agreement), instrument, or statute defined or referred to herein means such agreement, instrument, or statute as from time to time amended, modified, or supplemented; references to a Person are also to its successors and assigns.

(e) The table of contents, captions, and headings herein are solely for convenience of reference and shall not affect the meaning or effect of this Agreement.

## ARTICLE II

### ORGANIZATION

SECTION 2.1 Name of Trust, Statement of Intent. The Trust governed pursuant to this Agreement shall be known as “NYCTL 2021-A Residual Trust” in which name the Trust may engage in the transactions contemplated hereby. The Trust constitutes a statutory trust under the Statutory Trust Statute. This Agreement constitutes the governing instrument of the Trust. The Trustees shall have all rights, powers and duties set forth herein and in the Statutory Trust Statute with respect to accomplishing the purposes of the Trust.

SECTION 2.2 Declaration of Trust. The Trustees hereby declare themselves as trustees of the Trust, to have all of their respective rights, powers and duties set forth herein. The Trustees hereby declare that they shall hold the Ownership Interest in trust upon and subject to the conditions set forth herein for the use and benefit of the Beneficial Owner, subject to the obligations of the Trust hereunder.

SECTION 2.3 Property of the Trust. Pursuant to the Original Agreement, the Trustor sold, assigned, transferred, conveyed and set over to the Trust the sum of \$1.00. The Delaware Trustee on behalf of the Trust acknowledged receipt, in trust, of the foregoing property, which was made part of the property of the Trust. The Trustor hereby sells, assigns, transfers, conveys and sets over to the Trust the Ownership Interest, without recourse. The Trust hereby acknowledges receipt, in trust, of the foregoing property, which shall be made part of the property of the Trust. The Trustor hereby agrees to sell, assign, transfer, convey and set over to the Trust on the Closing Date with respect to the Schedule B Tax Liens, without recourse, the increase in the Ownership Interest that the City will receive as a part of the purchase price for the Schedule B Tax Liens, and the Trust agrees to purchase such increase in the Ownership Interest. The purchase price shall be a corresponding increase in the value of the Beneficial Interest. The Trustor and the Trust hereby agree to execute the Bill of Sale on such date.

SECTION 2.4 Tax Treatment; Construction. It is the intention of the parties hereto that for income and franchise tax purposes, the Trust shall be treated as a grantor trust as defined under the Code that has been created as of the date of this Agreement or, failing that, an entity the entire income of which is excluded from gross income under Section 115 of the Code. All transactions contemplated by this Agreement will be reported consistently with such treatment. The provisions of this Agreement shall be construed and the affairs of the Trust shall be conducted so as to achieve treatment of the Trust as a grantor trust as defined under the Code or an entity the entire income of which is excluded from gross income under Section 115 of the Code.

SECTION 2.5 Title to Trust Property. Legal title to all of the property of the Trust shall be vested at all times in the Trust as a separate legal entity except where applicable law in any jurisdiction requires title to any part of such property to be vested in one or more trustees, in which case title shall be deemed to be vested in one or more of the Trustees, a co-trustee, or a separate trustee, as the case may be.

SECTION 2.6 Purposes, Powers, and Procedures.

(a) The purpose of the Trust is to acquire, hold, and dispose of the Initial Capital Contribution, the Ownership Interest, and proceeds therefrom and, in furtherance thereof, to engage in the following activities:

- (i) to accept the deposit of the Initial Capital Contribution;
- (ii) to establish and maintain the Distribution Account in accordance with the terms hereof;
- (iii) to accept the Ownership Interest from the Trustor and to hold and dispose of all or a portion of the Ownership Interest and the proceeds therefrom in accordance with this Agreement;
- (iv) to pay the organizational, start-up, and transactional expenses of the Trust;
- (v) to distribute the assets of the Trust as provided in Section 5.2;
- (vi) to provide, as the Owner of the Ownership Interest, written instructions (which written instructions may take the form of an unsigned direction or request transmitted by electronic mail) to the Issuer Trustee from time to time pursuant to the Issuer Trust Agreement;
- (vii) to engage in those activities, including entering into (including executing, delivering and performing) agreements, documents, instruments, certificates, and other writings, that are necessary, suitable, or convenient to accomplish the foregoing or are incidental thereto or connected therewith, including entering into (including executing, delivering and performing) agreements with financial advisors and other professionals with respect to matters involving the Trust; and
- (viii) subject to compliance with this Agreement, to engage in such other activities as may be required in connection with conservation of the property of the Trust and the making of distributions as provided herein.

(b) Notwithstanding any provision in this Agreement to the contrary (including, without limitation, this Section 2.6), the Trust has the full power and authority, and is hereby authorized, without the need for any consent, approval or other action by the Trust or any other Person, to engage in the activities set forth in Section 2.6(a) and to enter into, execute, deliver and perform (i) the Issuer Trust Agreement for the purpose of acquiring the Ownership Interest, and (ii) the Bill of Sale. The Trust shall not engage in any activity other than in connection with the foregoing or other than as required or authorized by the terms of this Agreement. None of the Trustees shall take any action that is inconsistent with the purposes of the Trust. Neither the Trustor nor the Beneficial Owner shall direct any Trustee to take any action that is inconsistent with the purposes of the Trust.

(c) Except as expressly otherwise provided in this Agreement or the Transaction Documents and notwithstanding any provision of law that otherwise so empowers the Trust, so long as the Ownership Interest is outstanding, the Trust shall perform as follows and be restricted as follows:

- (i) maintain its books, records, bank accounts, files, and other assets separate from those of any other Person;
- (ii) maintain its assets in its own separate name and in such a manner that it is not costly or difficult to segregate, identify, or ascertain such assets to the Trust;
- (iii) consider the interests of the Trust's creditors in connection with its actions;
- (iv) hold itself out to creditors and the public as a legal entity separate and distinct from any other Person, conduct business its own name, refrain from engaging in any activity that compromises the separate legal identity of the Trust or that suggests that the Trust is not a separate entity, and correct any known misunderstanding regarding its separate identity or the separate nature of the Trust;
- (v) prepare and maintain separate records and accounts, including financial statements, in accordance with generally accepted accounting principles, consistently applied; to the extent the Trust is included in consolidated financial statements or consolidated tax returns, such financial statements and tax returns will reflect the separateness of the respective entities and indicate that the assets of the Trust will not be available to satisfy the debts of any other Person;
- (vi) not contract or do business with vendors or service providers jointly with the City, the Trustor, the Issuer or any Beneficial Owner, and, except in circumstances that, individually and in the aggregate, are not material, not share overhead expenses with the City, the Issuer or any Beneficial Owner;
- (vii) transact all business with the City, the Trustor, the Issuer, each Beneficial Owner, or affiliates on an arm's-length basis and pursuant to written, enforceable agreements;
- (viii) conduct business solely in the name of the Trust; in that regard all written and oral communications of the Trust, including, without limitation, letters, invoices, purchase orders and contracts, shall be made solely in the name of the Trust;
- (ix) maintain a separate office through which its business shall be conducted, provided that such office may be an office of the Delaware Trustee, which office shall not be shared with City, the Trustor, the Issuer (provided that any office of the Delaware Trustee may also be the office of the Issuer Trustee) or the Beneficial Owner or any affiliates of the City, the Trustor, the Issuer or the Beneficial Owner;

- (x) compensate all Persons directly, from the Trust's own funds, for services provided to the Trust at the Trust's request by such Person, and, to the extent any such Person is also an employee, consultant, or agent of the City, the Trustor, the Issuer or the Beneficial Owner, allocate the compensation of such employee, consultant or agent between the Trust and the City, the Trustor, the Issuer or the Beneficial Owner on a basis that reflects the services rendered to the Trust and the City, the Trustor, the Issuer or the Beneficial Owner;
- (xi) not commingle the assets or funds of the Trust with those of any other Person;
- (xii) not assume, guarantee, or pay the debts or obligations of any other Person;
- (xiii) not grant a security interest in its assets for the benefit of any other Person;
- (xiv) not hold out its credit or assets as being available to satisfy the obligations of any other Person;
- (xv) pay its liabilities only out of its funds;
- (xvi) not acquire obligations of, not make loans or advances to, not borrow funds from, and not have its obligations or liabilities guaranteed by, any other Person; and
- (xvii) cause the agents and other representatives of the Trust, if any, to act at all times with respect to the Trust consistently and in furtherance of the foregoing.

(d) The Delaware Trustee, acting alone, is hereby authorized to execute and deliver on behalf of the Trust (i) the Issuer Trust Agreement for the purpose of acquiring the Ownership Interest, and (ii) the Bill of Sale.

(e) Unless the consent of each Beneficial Owner has been obtained, the Trustees shall not have the power to (i) institute proceedings to have the Trust declared or adjudicated bankrupt or insolvent, (ii) consent to the institution of bankruptcy or insolvency proceedings against the Trust, (iii) file a petition or consent to a petition seeking reorganization or relief on behalf of the Trust under any applicable federal or state law relating to bankruptcy, (iv) consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, or any similar official of the Trust or a substantial portion of the property of the Trust, (v) make any assignment for the benefit of the Trust's creditors, (vi) cause the Trust to admit in writing its inability to pay its debts generally as they become due, or (vii) take any action, or cause the Trust to take any action, in furtherance of any of the foregoing.

SECTION 2.7 Liability of the Beneficial Owner. The Beneficial Owner shall be entitled to the protections and limitations of liability as set forth in Section 3803 of the Statutory Trust Statute.

SECTION 2.8 Situs of Trust. All bank accounts maintained by the Delaware Trustee on behalf of the Trust shall be located in Delaware or New York. Payments will be received by the Trust only in Delaware or New York, and payments will be made by the Trust only from

Delaware or New York. The only office of the Trust will be at the Corporate Trust Office in Delaware.

### ARTICLE III

#### BENEFICIAL INTEREST

SECTION 3.1 Beneficial Owner. (a) A 100% Beneficial Interest is hereby issued to the City. The value of such Beneficial Interest shall be increased as provided in Section 2.3 and the Bill of Sale.

(b) The Beneficial Interest shall be personal property entitling the Beneficial Owner thereof only to those rights provided in this Agreement. The legal ownership of the Trust Assets is vested exclusively in the Trust as herein provided, and the Beneficial Owner shall have no interest therein other than the beneficial ownership interest in the Trust conferred by its Beneficial Interest. The Beneficial Owner shall have no right to compel any partition, division, dividend, or distribution of the Trust or any of the Trust Assets. The bankruptcy, liquidation, or dissolution of the Beneficial Owner shall not terminate the Trust or give such Beneficial Owner's legal representative any rights against the Trustees or the Trust Assets, except the right to succeed to the ownership of the Beneficial Owner's Beneficial Interest. Except as expressly provided herein, the Beneficial Owner by reason of its status as such shall have no right to participate in or direct the management or control of the business of the Trust or to act for or bind the Trust or the Trustees or otherwise to transact any business on behalf of the Trust.

(c) The Trust hereby agrees to perform, at the direction of the Controlling Trustees, the obligations of the holder of the Ownership Interest set forth in Section 2.09 of each Servicing Agreement.

SECTION 3.2 Registration of Beneficial Interest. Beneficial Interests in the Trust can be transferred only to New York State or any agency thereof, any agency or borough of the City, or any entity delivering to the Indenture Trustee a certification that its ownership of such interests would not cause the Trust to be unable to qualify as an entity described in Section 115 of the Code; provided that, for so long as the City is required to comply with Regulation RR, Beneficial Interests in the Trust subject to Regulation RR can be transferred only to a Majority-Owned Affiliate of the City and may not be hedged or pledged as collateral for any obligation except in compliance with Regulation RR; provided, further, if the City ceases to be required to comply with Regulation RR, the Beneficial Owner shall promptly notify the Delaware Trustee thereof in writing. The Delaware Trustee shall reflect on the books and records of the Trust the name and address of the Beneficial Owner, which shall serve as conclusive evidence of the beneficial ownership of the Beneficial Interest. Upon any transfer of the Beneficial Interest, the Delaware Trustee shall reflect on the books and records of the Trust the name and address of the new Beneficial Owner of the Beneficial Interest. The books and records of the Trust shall be conclusive as to the identity of the Beneficial Owner for the purpose of receiving distributions pursuant to this Agreement and for all other purposes whatsoever, and the Trustees shall not be affected by notice to the contrary.

SECTION 3.3 Voting Rights of Beneficial Owner. The Beneficial Owner shall be entitled to vote only on matters as to which, under this Agreement, the Beneficial Owner may direct the Trustees or consent of the Beneficial Owner is required.

#### ARTICLE IV

##### ADMINISTRATION OF TRUST

SECTION 4.1 Unanimous Consent of Controlling Trustees. With respect to the following matters, to fullest extent permitted by law, action shall be taken only upon the unanimous agreement of the Controlling Trustees:

- (a) the initiation of any claim or lawsuit by the Trust and the compromise of any action, claim or lawsuit brought by or against the Trust; or
- (b) the dissolution of the Trust, as set forth in Section 9.1(b);
- (c) the institution of bankruptcy or insolvency proceedings against the Trust or other actions set forth in Section 2.6 (e);
- (d) any amendment of this Agreement, as set forth in Section 11.1(a);
- (e) the sale of all or substantially all of the Trust Assets so long as any Bonds remain outstanding; or
- (f) the election by the Trust to file an amendment to the Certificate of Trust (unless such amendment is required to be filed under the Statutory Trust Statute).

SECTION 4.2 Consent by Beneficial Owner and the Controlling Trustees with Respect to Certain Matters. The Trustees shall not have the power to sell the Ownership Interest or the proceeds thereof except upon written instructions signed by the Beneficial Owner and the unanimous agreement of the Controlling Trustees. Except as set forth in Section 4.1, each Controlling Trustee, acting alone, shall have the power and authority and is hereby authorized, without the consent or approval of the Beneficial Owner or any other Person, to execute and deliver on behalf of the Trust, any and all agreements, instruments, documents, instruments, certificates, and other writings (including, without limitation, as Owner of the Ownership Interest, written instructions (which may take the form of an unsigned direction or request transmitted by electronic mail or may be set forth in a signed writing) to the Issuer Trustee) that are consistent with any of the purposes of the Trust set forth in Section 2.6 of this Agreement.

##### SECTION 4.3 Actions and Meetings of Trustees.

(a) Whenever it is provided in this Agreement that any action is to be taken by the Controlling Trustees, such action shall be taken at a meeting of the Controlling Trustees conducted in accordance with this Section.

(b) A majority of the Controlling Trustees shall be a quorum for the transaction of business at a meeting of the Controlling Trustees. Except where a larger vote is required by any

provision of this Agreement, and subject to any applicable requirements of law, the vote of a majority of the Controlling Trustees shall decide any question.

(c) Any Controlling Trustee may call a meeting of the Controlling Trustees by delivering to each Controlling Trustee at least three (3) days before the meeting a written notice of such meeting, stating the place, date, time, and purposes of the meeting. Such notice shall be delivered to each Controlling Trustee by leaving such notice with him or her or at his or her usual place of business or by mailing it, postage prepaid, and addressed to such Controlling Trustee at his or her address as it appears in the records of the Trust. No notice of any meeting of Controlling Trustees need be given to a Controlling Trustee if such Controlling Trustee executes a written waiver of notice, either before or after the meeting, and such waiver is filed with the records of the Trust. No Controlling Trustee shall call more than one meeting in any calendar month unless all the other Controlling Trustees consent.

(d) All meetings of the Controlling Trustees shall be held at (i) the principal office of the Trust, (ii) in New York City, New York, or (iii) at such other place within the United States as shall be agreed to by all of the Controlling Trustees; and in compliance with applicable law.

**SECTION 4.4 Restrictions on Beneficial Owner's Power.** The Beneficial Owner shall not direct the Trustees to take or to refrain from taking any action if such action or inaction would be contrary to any obligation of the Trust or the Trustees under this Agreement or would be contrary to Sections 2.4 or 2.6, nor shall the Trustees be obligated to follow any such direction, if given.

**SECTION 4.5 Authorized Financial Officer.** If and for so long as the City shall be the Beneficial Owner, any Authorized Financial Officer shall have and exercise all rights and responsibilities on behalf of the City as such Beneficial Owner hereunder, including the right to give and receive instructions and notices.

**SECTION 4.6 Right to Request Instructions.** In the event that the Delaware Trustee is unable to decide between alternative courses of action permitted or required by, or is unsure as to the application of, any provision of this Agreement or any other Transaction Document, or any such provision is ambiguous as to its application, or is, or appears to be, in conflict with any other applicable provision, or in the event that this Agreement permits any determination by the Delaware Trustee or is silent or is incomplete as to the course of action that the Delaware Trustee is required to take with respect to a particular set of facts, the Delaware Trustee may give notice in such form as shall be appropriate under the circumstances to the Controlling Trustees requesting instruction and, to the extent that the Delaware Trustee acts or refrains from acting in good faith in accordance with any such instruction received, the Delaware Trustee shall not be liable, on account of such action or inaction, to any Person. If the Delaware Trustee shall not have received appropriate instruction within 10 days of such notice or within such shorter period of time as reasonably may be specified in such notice or may be necessary under the circumstances, it may, but shall be under no duty to, take or refrain from taking such action, as it shall deem to be in the best interests of the Beneficial Owner, and shall have no liability to any Person for such action or inaction. The Controlling Trustees are hereby specifically authorized to instruct the Delaware Trustee to execute on behalf of the Trust, as the owner of the Ownership



Interest, written instructions to the Issuer Trustee from time to time pursuant to the Issuer Trust Agreement.

## ARTICLE V

### APPLICATION OF TRUST FUNDS; CERTAIN DUTIES

#### SECTION 5.1 Establishment of Distribution Account.

(a) The Delaware Trustee shall establish and maintain in the name of the Trust an Eligible Deposit Account (the “Distribution Account”).

(b) The Trust shall possess all right, title and interest in the Distribution Account and all money, instruments, investment property, and other property from time to time on deposit in or credited to the Distribution Account. Except as otherwise expressly provided herein, the Distribution Account shall be under the sole dominion and control of the Controlling Trustees. If, at any time, the Distribution Account ceases to be an Eligible Deposit Account, the Delaware Trustee shall establish a new Distribution Account as an Eligible Deposit Account and shall transfer to such new Distribution Account all money, instruments, investment property, and other property on deposit in or credited to the former Distribution Account.

SECTION 5.2 Application of Trust Funds. (a) All moneys received by the Trustees in respect of the Ownership Interest shall be deposited in the Distribution Account and distributed by the Controlling Trustees, subject to Section 8.4 hereof, in accordance with this Section.

(b) Moneys held in the Distribution Account shall be distributed (i) to pay the expenses and obligations of the Trust (including, without limitation, amounts owed by the Trust under Sections 8.1 and 8.2, and in the manner set forth in Section 8.4, of this Agreement, and amounts owed by the Trust to the Issuer Trustee under Section 8.04 of the Issuer Trust Agreement), (ii) to reimburse the City for fees and expenses paid by the City to the Issuer Trustee pursuant to Section 8.01 of the Issuer Trust Agreement and indemnity payments made by the City to the Issuer Trustee pursuant to Section 8.04 of the Issuer Trust Agreement, (iii) to make grants for the benefit of the City and its residents, or (iv) to the Beneficial Owner.

(c) All distributions shall be in a specific dollar amount and shall be approved at a meeting of the Controlling Trustees pursuant to Section 4.3.

(d) The Controlling Trustees shall not make any distribution pursuant to Section 5.2(b)(ii), (iii) or (iv) unless the Controlling Trustees reasonably believe that, after such distribution is made, the assets of the Trust will exceed its liabilities, the Trust will have sufficient current assets to pay its current operating expenses as they become due and to pay any other current obligations of the Trust as such obligations become due, and the Trust will in the future receive sufficient income to pay its future expenses and obligations.

(e) The Controlling Trustees shall not make any continuing appropriation or distribution of the funds in the Distribution Account.

(f) The Controlling Trustees shall have no obligation to make any particular distribution, and the making of any distribution is committed to the discretion of the Controlling Trustees.

(g) Notwithstanding any other provisions of this Section 5.2, the Delaware Trustee shall have the power and authority, and is hereby authorized, to withdraw moneys from the Distribution Account to pay the expenses of the Trust pursuant to Section 5.2(b)(i) and is hereby authorized and directed to pay all the expenses of the Trust pursuant to Section 5.2(b)(i) from moneys held in the Distribution Account.

**SECTION 5.3 Segregation of Moneys; Investments.** The Distribution Account shall be segregated from and shall not be commingled with any other funds held by the Delaware Trustee. Except as otherwise provided in this Section 5.3, proceeds derived from the Ownership Interest may be invested for a single time in Permitted Investments with a maturity not to exceed one year, but not later than the anticipated date on which such amounts will be disbursed. In the event that the consent of the Beneficial Owner is obtained by the Controlling Trustees, proceeds derived from the Ownership Interest which have been invested for a single time as set forth above may be reinvested in Permitted Investments for a period of longer than one year if an Opinion of Counsel is obtained stating that such investment will not cause the Trust to be classified as a publicly traded partnership or a taxable mortgage pool that is taxable as a corporation, or otherwise as an association or corporation (other than possibly as a corporation that is not subject to taxation on income derived from the exercise of an essential governmental function under section 115 of the Code). All investments and reinvestments shall be made solely at the direction of the Controlling Trustees, and the Delaware Trustee is hereby authorized to act pursuant to any such directions.

**SECTION 5.4 Accounting and Reports.**

(a) The Delaware Trustee shall (i) maintain (or cause to be maintained) the books of the Trust on a fiscal year basis, with a fiscal and taxable year ending June 30 and using the accrual method of accounting, (ii) cause to be filed such tax returns relating to the Trust and cause to be made such elections as may be required or appropriate from time to time under any applicable state or federal statute or any rule or regulation thereunder so as to maintain the Trust's characterization as a grantor trust for federal income tax purposes and (iii) cause such tax returns to be signed in the manner required by law.

(b) The Delaware Trustee shall satisfy its obligations with respect to this Section 5.4 and Section 7.2 by retaining, at the expense of the Trust, a firm of independent public accountants or other Person (the "Accountants") which shall perform the obligations of the Delaware Trustee under this Section. The Accountants will provide a letter in form and substance satisfactory to the Trustees and the Beneficial Owner, agreeing to perform such obligations. The Delaware Trustee shall be deemed to have fully discharged its obligations pursuant to this Section and Section 7.2 upon its retention of the Accountants, and the Trustees shall not have any liability with respect to the default or misconduct of the Accountants.

## ARTICLE VI

### AUTHORITY AND DUTIES OF TRUSTEES

SECTION 6.1 Number of Trustees. Subject to the provisions of Article X hereof, the number of Trustees shall be three, provided that at all times one of the Trustees shall be the Delaware Trustee.

SECTION 6.2 General Duties. It shall be the duty of each of the Trustees to discharge (or cause to be discharged) all of its responsibilities pursuant to the terms of this Agreement and to administer the Trust as provided herein.

#### SECTION 6.3 No Delaware Trustee Duties Except as Specified in this Agreement

(a) The Delaware Trustee shall not have any duty or obligation to manage, make any payment with respect to, register, record, sell, dispose of, or otherwise deal with the Ownership Interest, or to otherwise take or refrain from taking any action under, or in connection with, any document contemplated hereby to which it is a party, except as expressly provided by the terms of this Agreement, and no implied duties or obligations shall be read into this Agreement against the Delaware Trustee. The Delaware Trustee shall have no responsibility for filing any financing or continuation statement in any public office at any time, to otherwise perfect or maintain the perfection of any security interest or lien, or to record this Agreement.

(b) The Delaware Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Agreement, or to institute, conduct, or defend any litigation under this Agreement or otherwise or in relation to this Agreement, at the request, order, or direction of the Beneficial Owner or any other Person, unless the Delaware Trustee receives security or indemnity reasonably satisfactory to it against the costs, expenses, and liabilities that may be incurred by the Delaware Trustee therein or thereby.

SECTION 6.4 No Action Except Under Specified Documents. The Trustees shall not manage, control, use, sell, dispose of, or otherwise deal with any part of the property of the Trust except in accordance with the powers granted to and the authority conferred upon the Trustees pursuant to this Agreement. No Trustee shall be required to take any action hereunder if such Trustee shall have reasonably determined (but the Delaware Trustee shall have no obligation to make any such determination), or shall have been advised by counsel, that such action is likely to result in liability on the part of such Trustee, is contrary to the terms hereof, or is otherwise contrary to law.

SECTION 6.5 Restrictions. Each Trustee shall not take any action (a) that is inconsistent with the purposes of the Trust set forth in Section 2.6(a) or (b) that, to the actual knowledge of that Trustee, would result in the Trust being treated as an association or other entity subject to federal income tax. The Beneficial Owner and the Trustor (including any Authorized Financial Officer acting on its behalf) shall not direct any Trustee to take action that would violate the provisions of this Section 6.5.

SECTION 6.6 Communications with Rating Agencies. The Delaware Trustee shall not communicate with (including verbal communication) or provide information to any Rating Agency (or any of their respective officers, directors or employees) regarding the transactions contemplated hereby or under the Basic Documents or in any way relating to the Bonds, except in accordance with instruction by the Beneficial Owner, which instruction may direct the Delaware Trustee to consult with the Program Manager to ensure compliance with Rule 17g-5 under the Securities Exchange Act of 1934. The Delaware Trustee agrees to promptly (and in any event, within one Business Day) notify the Beneficial Owner of any written or oral communication it has received from a Rating Agency regarding the transactions contemplated hereby or under the Basic Documents or in any way relating to the Bonds.

## ARTICLE VII

### CONCERNING THE TRUSTEES

SECTION 7.1 Acceptance of Trusts and Duties. The Trustees accept the trusts hereby created and agree to perform their duties hereunder with respect to such trusts but only upon the terms of this Agreement. It is expressly understood and agreed that (i) any Person having any claim against the Trustees or the Trust by reason of the transactions contemplated in this Agreement shall have recourse solely against the assets of the Trust, and (ii) under no circumstances shall a Person serving as a Trustee be liable, in its individual capacity or in its capacity as Trustee, for the payment of any indebtedness, costs, or expenses of the Trustees or the Trust or for the breach or failure of any obligation, representation, warranty, or covenant made or undertaken by the Trustees or the Trust in this Agreement or otherwise. This limitation on liability shall not protect any Person serving as a Trustee that is not a natural person against any liability to the Beneficial Owner to which such Person would otherwise be subject by reason of (i) its own willful misconduct or gross negligence in the performance of its duties under this Agreement or (ii) in the case of the Delaware Trustee, the inaccuracy of any representation or warranty contained in Section 7.4 hereof expressly made by the Delaware Trustee. This limitation on liability shall not protect any Person serving as a Trustee that is a natural person against any liability to the Beneficial Owner to which such Person would otherwise be subject by reason of (i) its own willful misconduct in the performance of its duties under this Agreement or (ii) in the case of the Delaware Trustee, the inaccuracy of any representation or warranty contained in Section 7.4 hereof expressly made by the Delaware Trustee. Without limiting the generality of the foregoing, but subject to the exceptions set forth above in this Section:

(a) the Trustees shall not be liable for any error of judgment made by them or by a Responsible Officer of the Delaware Trustee;

(b) the Trustees shall not be liable with respect to any action taken or omitted to be taken by them in accordance with the instructions of the Beneficial Owner;

(c) the Delaware Trustee shall not be liable with respect to any action taken or omitted to be taken by it in accordance with the instructions of the Controlling Trustees;

(d) no provision of this Agreement shall require any Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its rights or powers

hereunder if such Trustee shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured or provided to it;

(e) under no circumstances shall the Trustees be liable for indebtedness evidenced by or arising under any of the Transaction Documents;

(f) the Trustees shall not be responsible for or in respect of the validity or sufficiency of this Agreement or for the form, character, genuineness, sufficiency, value, or validity of any of the property of the Trust, and the Trustees shall in no event assume or incur any liability, duty, or obligation, to any holder of Bonds or, other than as expressly provided for herein, to the Beneficial Owner;

(g) the Trustees shall not be liable for the default or misconduct of, or the monitoring or supervising, or the ensuring compliance by, the Beneficial Owner, the Trustor, the City, the Issuer, the Trust, any Servicer, the Bank or the Indenture Trustee under any of the Transaction Documents or otherwise and the Trustees shall have no obligation or liability to perform the obligations of the Trust under this Agreement that are not specifically assigned to them or that are delegated to or required to be performed by any other Person; and

(h) the right of the Trustees to perform any discretionary act enumerated in this Agreement shall not be construed as a duty; no Trustee that is not a natural person shall be answerable to the Beneficial Owner for other than such Trustee's own gross negligence or willful misconduct in the performance of any such act; and no Trustee that is a natural person shall be answerable to the Beneficial Owner for other than such Trustee's own willful misconduct in the performance of any such act.

**SECTION 7.2 Tax Returns and Information Returns.** Subject to Section 5.4(b), the Delaware Trustee (a) shall prepare or cause to be prepared, sign or cause to signed, and file or cause to be filed, all tax returns, including all applicable statements or schedules thereto, on behalf of the Trust (including, without limitation, federal and state income and franchise tax returns) and (b) to the extent required by law, shall prepare, or cause to be prepared, the applicable federal, state, or local information returns with respect to the Trust and all applicable statements or schedules thereto, and shall file or cause to be filed with the Internal Revenue Service or applicable state or local authorities and furnish to the Beneficial Owner such information returns, statements, and schedules at the time and in the manner required by the Code or applicable state or local law.

**SECTION 7.3 Books and Records.** The Delaware Trustee shall maintain, in the name of the Trust, all of the books and financial records of the Trust in its possession.

**SECTION 7.4 Representations and Warranties.** The Delaware Trustee hereby represents and warrants to the Beneficial Owner and the Controlling Trustees that:

(a) if it is not a natural person, (i) it is duly organized and validly existing in good standing under the laws of the State of Delaware, (ii) it has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement, (iii) it has taken all corporate action necessary to authorize the execution and delivery by it of this Agreement,

and this Agreement will be executed and delivered by one of its officers who is duly authorized to execute and deliver this Agreement on its behalf, and (iv) neither the execution nor the delivery by it of this Agreement, nor the consummation by it of the transactions contemplated hereby, nor compliance by it with any of the terms or provisions hereof will contravene any federal or Delaware law, governmental rule, or regulation governing the trust power of the Delaware Trustee or any judgment or order binding on it, or constitute any default under its charter documents or bylaws or any indenture, mortgage, contract, agreement, or instrument to which it is a party or by which any of its properties may be bound; and

(b) it has its principal place of business in Delaware and is in compliance with Section 3807(a) of the Statutory Trust Statute.

SECTION 7.5 Covenants. Each Trustee hereby covenants with the Beneficial Owner that:

(a) it will observe all applicable corporate or trust procedures and formalities; representatives, employees, and agents of the Trust appointed by such Trustee will, when acting on behalf of the Trust, hold themselves out to third parties as being representatives of the Trust and not representatives of the Beneficial Owner or the Trustor;

(b) it will, and the Delaware Trustee through its officers and directors will, act independently and in the best interests of the Trust and will conduct the Trust's business functions and operations and will manage the Trust's assets so as to fulfill the fiduciary and contractual obligations owed to the Trust and the Beneficial Owner, as specifically herein set forth; and

(c) it will not take any action that is not expressly permitted by the terms and provisions of this Agreement and that would give (i) any creditor of it (in its individual capacity) or the Beneficial Owner or the Trustor cause to believe mistakenly that any obligation to such creditor incurred by such Trustee (in its individual capacity) or the Beneficial Owner or the Trustor would be not only the obligation of such Trustee (in its individual capacity) or the Beneficial Owner or the Trustor, as the case may be, but also of the Trust, or (ii) any creditor of it (in its individual capacity) or the Beneficial Owner or the Trustor cause to believe mistakenly that such Trustee (in its individual capacity) or the Beneficial Owner or the Trustor were not or would not continue to remain separate and distinct from the Trust.

SECTION 7.6 Reliance; Advice of Counsel.

(a) A Trustee shall incur no liability to anyone in acting upon any signature, instrument, notice, resolution, request, consent, order, certificate, report, opinion, bond, or other document or paper reasonably believed by it to be genuine and reasonably believed by it to be signed by the proper party or parties. A Trustee may accept a certified copy of a resolution of the board of directors or other governing body of any party as conclusive evidence that such resolution has been duly adopted by such body and that the same is in full force and effect. As to any fact or matter the method of the determination of which is not specifically prescribed herein, a Trustee may for all purposes hereof rely on a certificate, signed by the president or any vice president or by the treasurer or other authorized officers of the relevant party, as to such fact or

matter and such certificate shall constitute full protection to such Trustee for any action taken or omitted to be taken by it in good faith in reliance thereon.

(b) In the exercise or administration of the trust continued hereby and in the performance of its duties and obligations under this Agreement, a Trustee (i) may act directly or through its agents or attorneys pursuant to agreements entered into with any of them, and such Trustee shall not be liable for the conduct or misconduct of such agents or attorneys (other than the employees of such Trustee) if such agents or attorneys shall have been selected by the Trustee in good faith, and (ii) may consult with counsel, accountants, and other skilled persons to be selected in good faith and employed by it, and such Trustee shall not be liable for anything done, suffered or omitted in good faith by it in accordance with the opinion or advice of any such counsel, accountants, or other such skilled persons.

SECTION 7.7 Not Acting in Individual Capacity. Except as otherwise expressly provided in this Agreement, in accepting its duties hereunder each Trustee acts solely as Trustee hereunder and not in its individual capacity, and all Persons having any claim against the Trustees by reason of the transactions contemplated by this Agreement shall look only to the property of the Trust for payment or satisfaction thereof.

SECTION 7.8 Trustees Not Liable for Ownership Interest Payments. The Trustees shall at no time have any responsibility or liability for or with respect to the sufficiency of the property of the Trust or its ability to generate the payments to be distributed under this Agreement.

SECTION 7.9 No Bankruptcy Filings. Each of the Trustees covenants and agrees that, to the fullest extent permitted by law, it will not at any time institute against the Issuer, or join in any institution against the Issuer or the Trust of, any bankruptcy, reorganization, arrangement, insolvency, or liquidation proceeding or other proceeding under any United States federal or state bankruptcy or similar law.

SECTION 7.10 Furnishing of Documents. The Delaware Trustee shall furnish to the Beneficial Owner promptly upon receipt of a written request therefor, duplicates or copies of all reports, notices, requests, demands, certificates, financial statements and any other instruments received by the Delaware Trustee under this Agreement or the Issuer Trust Agreement.

## ARTICLE VIII

### COMPENSATION OF TRUSTEES

SECTION 8.1 Trustees' Fees and Expenses. Each Trustee shall receive from the Trust as compensation for its services hereunder such fees as have been separately agreed upon by such Trustee with the Beneficial Owner, and each Trustee shall be entitled to be reimbursed by the Trust for its reasonable expenses hereunder, including the reasonable compensation, expenses, and disbursements of such agents, representatives, experts, and counsel as such Trustee may employ in connection with the exercise and performance of its rights and duties hereunder. Such fees and expenses of the Trustees shall be referred to herein as the "Expenses."

SECTION 8.2 Indemnification. The Trust and, solely to the extent that the Trust Assets are insufficient for such purposes, the Trustor, hereby agree, whether or not any of the

transactions contemplated hereby shall be consummated, to assume liability for, and hereby indemnify, protect, save and keep harmless each Trustee (each, an “Indemnified Person”) from and against any and all liabilities, obligations, losses, damages, penalties, taxes (excluding any taxes payable by such Trustee or measured by any compensation received by such Trustee in its individual capacity for its services hereunder), claims, actions, suits, costs, expenses, or disbursements (including, without limitation, reasonable legal fees and expenses and including, without limitation, any liability of an owner, any strict liability, and any liability without fault) of any kind or nature whatsoever which may be imposed on, incurred by, or asserted under this Agreement against such Indemnified Person in its individual capacity. Neither the Trust nor the Trustor shall be required to indemnify any Indemnified Person that is not a natural person for any such liability, loss, damage, penalty, tax, claim, action, suit, cost, expense, or disbursement which may result or arise from (i) the gross negligence or the willful misconduct of such Indemnified Person or (ii) solely in the case of the Delaware Trustee, from the inaccuracy of any representation or warranty contained in Section 7.4 hereof made by the Delaware Trustee. Neither the Trust nor the Trustor shall be required to indemnify any Indemnified Person that is a natural person for any such liability, loss, damage, penalty, tax, claim, action, suit, cost, expense, or disbursement which may result or arise from (i) the willful misconduct of such Indemnified Person or (ii) solely in the case of the Delaware Trustee, from the inaccuracy of any representation or warranty contained in Section 7.4 hereof made by the Delaware Trustee. The indemnities contained in this Section shall survive the termination of this Agreement and the resignation or removal of any of the Trustees.

SECTION 8.3 Payments to the Trustee. Any amounts paid to the Trustees pursuant to this Article VIII shall not be a part of the property of the Trust immediately after such payment.

SECTION 8.4 Lien to Secure Payment. Each Trustee shall have the right to set off and deduct from the Distribution Account the amount due to it (as determined by such Trustee in good faith and set forth in reasonable detail in a written statement presented to the Beneficial Owner and the Trustor) pursuant to this Article VIII; and each Trustee is hereby granted and shall be deemed to have a lien on, and a security interest in, the property of the Trust, to the extent of any such amounts from time to time due and unpaid, which lien and security interest is senior to any interest of the Beneficial Owner.

## ARTICLE IX

### TERMINATION OF TRUST AGREEMENT

#### SECTION 9.1 Termination of Trust Agreement.

(a) To the fullest extent permitted by law, neither the bankruptcy, liquidation or dissolution of the Beneficial Owner nor the transfer, by operation of law or otherwise, of any right, title, or interest of the Beneficial Owner in and to its undivided beneficial interest in the Trust shall (x) operate to dissolve the Trust or terminate this Agreement or (y) entitle such transferee or the Beneficial Owner’s legal representatives to claim an accounting or to take any action or proceeding in any court for a partition or winding up of all or any part of the Trust or its property or (z) otherwise affect the rights, obligations, and liabilities of the parties hereto. No creditor of the Beneficial Owner shall obtain legal title to or exercise legal or equitable remedies



with respect to the property of the Trust as a result of the Beneficial Owner holding a beneficial interest in the Trust.

(b) This Trust shall not be subject to dissolution while the Trust is the Owner of the Ownership Interest and thereafter shall be dissolved solely upon the written direction of the Beneficial Owner and all of the Controlling Trustees.

(c) Upon the dissolution of the Trust, and upon completion of winding up in accordance with the Statutory Trust Statute, any remaining property of the Trust shall be distributed as determined by the Controlling Trustees, and the Delaware Trustee shall cause the Certificate of Trust to be canceled by filing a certificate of cancellation with the Secretary of State in accordance with the provisions of Section 3810 of the Statutory Trust Statute. Upon such certificate of cancellation becoming effective, the Trust and this Agreement shall terminate and be of no further force or effect.

## ARTICLE X

### SUCCESSOR TRUSTEES AND ADDITIONAL TRUSTEES

SECTION 10.1 Eligibility Requirements for Delaware Trustee. There shall at all times be a Person acting as Delaware Trustee hereunder satisfying the provisions of Section 3807(a) of the Statutory Trust Statute. In case at any time the Delaware Trustee shall cease to be eligible in accordance with the provisions of this Section, the Delaware Trustee shall resign immediately in the manner and with the effect specified in Section 10.2.

#### SECTION 10.2 Resignation or Removal of Trustee.

(a) Each Trustee may at any time resign and be discharged from its duties hereunder by giving written notice thereof to the Beneficial Owner and the remaining Trustees. Upon receiving such notice of resignation, the Beneficial Owner shall promptly appoint a successor Trustee by written instrument, in duplicate, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor Trustee. If no successor Trustee shall have been so appointed and have accepted appointment within 30 days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

(b) If at any time the Delaware Trustee shall cease to be eligible in accordance with the provisions of Section 10.1 and shall fail to resign after written request therefor, or if at any time a Trustee shall die, shall be incapable of acting, or shall be adjudged insolvent, or a receiver or conservator of a Trustee or of its property shall be appointed, or any public officer shall take charge or control of a Trustee or of its property or affairs for the purpose of rehabilitation, conservation, or liquidation, then the Beneficial Owner may remove such Trustee.

(c) The Beneficial Owner may remove any Trustee at any time with or without cause upon written notice to all of the Trustees.

(d) If the Beneficial Owner shall remove a Trustee, the Beneficial Owner shall promptly appoint a successor Trustee by written instrument, in duplicate, one copy of which

instrument shall be delivered to the outgoing Trustee so removed and one copy to the successor Trustee.

(e) Any resignation or removal of a Trustee and appointment of a successor Trustee pursuant to any of the provisions of this Section shall not become effective until acceptance of appointment by the successor Trustee pursuant to Section 10.3 and payment of all fees and expenses owed to the outgoing Trustee.

#### SECTION 10.3 Successor Trustee.

(a) Any successor Trustee appointed pursuant to Section 10.2 shall execute, acknowledge and deliver to the Beneficial Owner, the Trustor, and its predecessor Trustee an instrument accepting such appointment under this Agreement, and thereupon the resignation or removal of the predecessor Trustee shall become effective, and such successor Trustee, without any further act, deed, or conveyance, shall become fully vested with all the rights, powers, duties, and obligations of its predecessor under this Agreement, with like effect as if originally named as Trustee. The predecessor Trustee shall upon payment of its fees and expenses deliver to the successor Trustee all documents, statements, money, and other property held by it under this Agreement; and the Beneficial Owner, the Trustor, the remaining Trustees, and the predecessor Trustee shall execute and deliver such instruments and do such other things as may reasonably be required for fully and certainly vesting and confirming in the successor Trustee all such rights, powers, duties, and obligations.

(b) No successor Delaware Trustee shall accept appointment as provided in this Section unless at the time of such acceptance such successor Delaware Trustee shall be eligible pursuant to Section 10.1.

(c) Upon acceptance of appointment by a successor Trustee pursuant to this Section, the successor Trustee shall mail notice thereof to the Indenture Trustee.

SECTION 10.4 Merger or Consolidation of Delaware Trustee. Any Person into which the Delaware Trustee may be merged or converted or with which it may be consolidated, or any Person resulting from any merger, conversion or consolidation to which the Delaware Trustee shall be a party, or any Person succeeding to all or substantially all of the corporate trust business of the Delaware Trustee, shall be the successor of the Delaware Trustee hereunder if eligible pursuant to Section 10.1, without the execution or filing of any instrument or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

#### SECTION 10.5 Appointment of Co-Trustee or Separate Trustee.

(a) Notwithstanding any other provisions of this Agreement, at any time, for the purpose of meeting any legal requirements of any jurisdiction in which any part of the property of the Trust may at the time be located, the Controlling Trustees and the Delaware Trustee acting jointly shall have the power and may execute and deliver all instruments to appoint one or more Persons approved by the Controlling Trustees and the Delaware Trustee to act as co-trustee, jointly with the Delaware Trustee, or as separate trustee, of all or any part of the property of the Trust, and to vest in such Person, in such capacity, such title to the Trust Estate or any part thereof and, subject to the other provisions of this Section, such powers, duties, obligations,

rights, and trusts as the Controlling Trustees and the Delaware Trustee may consider necessary or desirable. If the Controlling Trustees shall not have joined in such appointment within fifteen days after the receipt by them of a request so to do, the Delaware Trustee alone shall have the power to make such appointment. No co-trustee or separate trustee under this Agreement shall be required to meet the terms of eligibility as a successor Trustee pursuant to Section 10.1 and no notice of the appointment of any co-trustee or separate trustee shall be required pursuant to Section 10.3.

(b) Each separate trustee and co-trustee shall, to the extent permitted by law, be appointed and act subject to the following provisions and conditions:

- (i) all rights, powers, duties, and obligations conferred or imposed upon the Delaware Trustee shall be conferred upon and exercised or performed by the Delaware Trustee and such separate trustee or co-trustee jointly, and such separate trustee or co-trustee is not authorized to act separately without the Delaware Trustee joining in such act, except to the extent that under any law of any jurisdiction in which any particular acts are to be performed, the Delaware Trustee shall be incompetent or unqualified to perform such acts, in which event such rights, powers, duties, and obligations, including the holding of title to the property of the Trust or any portion thereof in any such jurisdiction, shall be exercised and performed singly by such separate trustee or co-trustee, but solely at the direction of the Delaware Trustee;
- (ii) no trustee under this Agreement shall be personally liable by reason of any act or omission of any other trustee under this Agreement; and
- (iii) the Beneficial Owner may at any time accept the resignation of or remove any separate trustee or co-trustee.

(c) Any notice, request or other writing given to the Trustees shall be deemed to have been given to each of the then separate trustees and co-trustees, as effectively as if actually given to each of them. Every instrument appointing any separate trustee or co-trustee shall refer to this Agreement and the conditions of this Article. Each separate trustee and co-trustee, upon its acceptance of the trusts conferred, shall be vested with the estates or property specified in its instrument of appointment, either jointly with the Delaware Trustee or separately, as may be provided therein, subject to all the provisions of this Agreement, specifically including every provision of this Agreement relating to the conduct of, affecting the liability of, or affording protection to, the Trustees. Each such instrument shall be filed with the Trustees and a copy thereof given to the Beneficial Owner.

(d) Any separate trustee or co-trustee may at any time appoint the Delaware Trustee as its agent or attorney-in-fact with full power and authority, to the extent not prohibited by law, to do any lawful act under or in respect of this Agreement on its behalf and in its name. If any separate trustee or co-trustee shall die, become incapable of acting, resign, or be removed, all of its estates, properties, rights, remedies, and duties shall vest in and be exercised by the Delaware

Trustee, to the extent permitted by law, without the appointment of a new or successor co-trustee or separate trustee.

## ARTICLE XI

### MISCELLANEOUS

#### SECTION 11.1 Amendments.

(a) This Agreement may be amended by the Beneficial Owner and all of the Trustees unanimously if the Trustees have received an Opinion of Counsel stating that the amendment will have no material adverse tax consequences to the Trust or to Bondholders.

(b) Promptly after the execution of any amendment to the Certificate of Trust, the Delaware Trustee shall cause the filing of such amendment with the Secretary of State.

(c) Prior to the execution of any amendment to this Agreement or the Certificate of Trust, the Trustees shall be entitled to receive and rely upon an Opinion of Counsel stating that the execution of such amendment is authorized or permitted by this Agreement. The Trustees may, but shall not be obligated to, enter into any such amendment that affects the Trustees' own rights, duties, or immunities under this Agreement or otherwise.

SECTION 11.2 No Legal Title to the Property of the Trust in Beneficial Owner. The Beneficial Owner shall not have legal title to any part of the property of the Trust. The Beneficial Owner shall be entitled to receive distributions with respect to its undivided Beneficial Interest only in accordance with this Agreement.

SECTION 11.3 Limitations on Rights of Others. The provisions of this Agreement are solely for the benefit of the Trustees, the Trustor, and the Beneficial Owner and nothing in this Agreement, whether express or implied, shall be construed to give to any other Person any legal or equitable right, remedy, or claim in the property of the Trust or under or in respect of this Agreement or any covenants, conditions, or provisions contained herein.

#### SECTION 11.4 Notices.

(a) Unless otherwise expressly specified or permitted by the terms hereof, all notices shall be in writing and shall be deemed given upon actual receipt, if to the Delaware Trustee, addressed to the Delaware Trustee at its Corporate Trust Office; if to the Controlling Trustees, addressed to the Controlling Trustees as follows: Albert M. Rodriguez, New York City Law Department, 100 Church Street, New York, New York 10007 and Prescott D. Ulrey, New York City Office of Management and Budget, 255 Greenwich Street, New York, New York 10007; if to the Beneficial Owner, addressed to the address listed in the books and records of the Trust maintained by the Delaware Trustee pursuant to Section 3.2; if to the Trustor, New York City Office of Management and Budget, 255 Greenwich Street, New York, New York 10007; if to the Indenture Trustee, addressed to it as specified in the Indenture; or, as to each party, at such other address as shall be designated by such party in a written notice conforming with this paragraph to each other party.

(b) Upon its receipt of written notice thereof or upon a Responsible Officer of the Delaware Trustee having actual knowledge thereof, the Delaware Trustee shall, subject to Section 6.6 hereof, promptly notify each rating agency then rating any Bond of (i) any transfer of the Beneficial Interest, (ii) the taking of any of the actions specified in Section 4.1 hereof, (iii) any sale by the Trust of the Ownership Interest, (iv) the appointment of any successor Trustee, (v) any merger or consolidation of the Delaware Trustee, (vi) any appointment of a co-trustee or separate trustee, and (vii) any amendment of this Agreement.

SECTION 11.5 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

SECTION 11.6 Separate Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

SECTION 11.7 Successors and Assigns. All covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the Trustees, their successors and assigns, the Beneficial Owner, its successors and permitted assigns, the Trustor, and its successors and permitted assigns. Any request, notice, direction, consent, waiver, or other instrument or action by the Beneficial Owner shall bind the successors and assigns of the Beneficial Owner.

SECTION 11.8 Power of Attorney. Each Controlling Trustee may appoint an attorney in fact pursuant to a power of attorney in substantially the form set forth in Schedule I hereto, with full power and authority, to the extent not prohibited by law, to do any lawful act under or in respect of this Agreement on behalf and in the name of such Controlling Trustee, and such delegation shall not cause the Controlling Trustee to cease to be a trustee or to possess such rights and powers or cause the person to whom such rights and powers have been delegated to be a trustee of the Trust.

SECTION 11.9 Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE, WITHOUT REFERENCE TO ITS CONFLICT OF LAW PROVISIONS, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS; PROVIDED, HOWEVER, THAT MATTERS REGARDING THE AUTHORITY OF THE CITY AND THE VALIDITY OF ACTIONS TAKEN BY THE CITY HEREUNDER SHALL BE GOVERNED BY NEW YORK LAW.

SECTION 11.10 Electronic Signatures. Each of the parties hereto agrees that the transaction consisting of this Agreement may be conducted by electronic means. Each party agrees, and acknowledges that it is such party's intent, that if such party signs this Agreement using an electronic signature, it is signing, adopting, and accepting this Agreement and that signing this Agreement using an electronic signature is the legal equivalent of having placed its

handwritten signature on this Agreement on paper. Each party acknowledges that it is being provided with an electronic or paper copy of this Agreement in a usable format.

[Signatures on following page]

IN WITNESS WHEREOF, the City and the Trustees have each caused this Amended and Restated Declaration and Agreement of Trust to be duly executed as of the date first above written.

WILMINGTON TRUST COMPANY,  
as Delaware Trustee

By:   
Name: Dorri Costello  
Title: Vice President

Albert M. Rodriguez, as Trustee

\_\_\_\_\_

Prescott D. Ulrey, as Trustee

\_\_\_\_\_

THE CITY OF NEW YORK

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

Approved as to form:

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

IN WITNESS WHEREOF, the City and the Trustees have each caused this Amended and Restated Declaration and Agreement of Trust to be duly executed as of the date first above written.

WILMINGTON TRUST COMPANY,  
as Delaware Trustee

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

Albert M. Rodriguez, as Trustee

Albert M. Rodriguez

Prescott D. Ulrey, as Trustee

\_\_\_\_\_

THE CITY OF NEW YORK

By: Annette Hill  
Name: Annette Hill  
Title: Associate Commissioner

Approved as to form:

By: Albert Rodriguez  
Name: Albert Rodriguez  
Title: Acting Corporation Counsel



IN WITNESS WHEREOF, the City and the Trustees have each caused this Amended and Restated Declaration and Agreement of Trust to be duly executed as of the date first above written.

WILMINGTON TRUST COMPANY,  
as Delaware Trustee

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

Albert M. Rodriguez, as Trustee

\_\_\_\_\_

Prescott D. Ulrey, as Trustee

\_\_\_\_\_ 

THE CITY OF NEW YORK

By: \_\_\_\_\_  
Name: Annette Hill  
Title: Associate Commissioner

Approved as to form:

By: \_\_\_\_\_  
Name: Albert Rodriguez  
Title: Acting Corporation Counsel

# SCHEDULE I

## POWER OF ATTORNEY

Reference is hereby made to the Amended and Restated Declaration and Agreement of Trust of NYCTL 2021-A Residual Trust (the “Trust Agreement”), dated as of February 24, 2022, among The City of New York, Wilmington Trust Company, as Delaware Trustee and Albert M. Rodriguez and Prescott D. Ulrey as Controlling Trustees. Capitalized terms used herein and not otherwise defined herein are used as defined in the Trust Agreement.

Pursuant to Section 11.8 of the Trust Agreement, Albert M. Rodriguez hereby appoints Annette Hill as attorney-in-fact with full power and authority, to the extent not prohibited by law, to do any lawful act that Albert M. Rodriguez could do as Controlling Trustee under or in respect of the Trust Agreement, including, without limitation, providing on behalf of the Trust, as the Owner of the Ownership Interest, written instructions (which may take the form of an unsigned direction or request transmitted by electronic mail or may be set forth in a signed writing) to the Issuer Trustee from time to time pursuant to the Issuer Trust Agreement, determining the scope and content of such written instructions and executing and delivering all instruments necessary to appoint a co-trustee or separate trustee.

Albert M. Rodriguez, as Trustee

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

POWER OF ATTORNEY

Reference is hereby made to the Amended and Restated Declaration and Agreement of Trust of NYCTL 2021-A Residual Trust (the “Trust Agreement”), dated as of February 24, 2022, among The City of New York, Wilmington Trust Company, as Delaware Trustee and Albert M. Rodriguez and Prescott D. Ulrey as Controlling Trustees. Capitalized terms used herein and not otherwise defined herein are used as defined in the Trust Agreement.

Pursuant to Section 11.8 of the Trust Agreement, Prescott D. Ulrey hereby appoints F. Jay Olson as attorney-in-fact with full power and authority, to the extent not prohibited by law, to do any lawful act that Prescott D. Ulrey could do as Controlling Trustee under or in respect of the Trust Agreement, including, without limitation, providing on behalf of the Trust, as the Owner of the Ownership Interest, written instructions (which may take the form of an unsigned direction or request transmitted by electronic mail or may be set forth in a signed writing) to the Issuer Trustee from time to time pursuant to the Issuer Trust Agreement, determining the scope and content of such written instructions and executing and delivering all instruments necessary to appoint a co-trustee or separate trustee.

Prescott D. Ulrey, as Trustee

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

EXHIBIT A

FORM OF BILL OF SALE

**BILL OF SALE**

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, THE CITY OF NEW YORK (the “Seller”) hereby sells to NYCTL 2021-A RESIDUAL TRUST (the “Purchaser”), without recourse, the increase in the Ownership Interest (as defined in the Amended and Restated Declaration and Agreement of Trust Relating to NYCTL 2021-A Trust, dated as of February 24, 2022, between Wilmington Trust Company, as Issuer Trustee, and the Seller) in NYCTL 2021-A Trust that the Seller received as part of the purchase price for the Schedule B Tax Liens (as defined in the Purchase and Sale Agreement, dated as of December 17, 2021, between NYCTL 2021-A Trust and the Seller), in return for a corresponding increase in the value of the Beneficial Interest (as defined in the Amended and Restated Declaration and Agreement of Trust Relating to the Purchaser, dated as of February 24, 2022, among the Seller, Wilmington Trust Company, as Delaware Trustee, and the other trustees signatory thereto) in the Purchaser.

This Bill of Sale shall be governed by the laws of the State of New York (other than provisions regarding conflicts of law, but not excluding Section 5-1401 of the General Obligations Law).

Dated: February 24, 2022

NYCTL 2021-A RESIDUAL TRUST

By: WILMINGTON TRUST COMPANY, not in its individual capacity, but solely as Delaware Trustee on behalf of NYCTL 2021-A Residual Trust

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

THE CITY OF NEW YORK

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

Approved as to form:

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