
**CITY OF PECULIAR, MISSOURI,
The City,**

AND

**COMMERCE BANK, N.A.
As Trustee**

TRUST INDENTURE

Dated as of December 30, 2004

Relating to:

**\$140,000,000
(Aggregate Maximum Principal Amount)
City of Peculiar, Missouri
Taxable Industrial Revenue Bonds
(Aquila Project)
Series 2004**

TRUST INDENTURE

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TRUST INDENTURE

THIS TRUST INDENTURE dated as of December 30, 2004 (this "**Indenture**"), between **CITY OF PECULIAR, MISSOURI**, a fourth class city organized and existing under the laws of the State of Missouri (the "**City**"), and **COMMERCE BANK, N.A.**, a national banking association duly organized and existing and authorized to accept and execute trusts of the character herein set forth under the laws of the United States of America, with its principal corporate trust office located in Kansas City, Missouri, as Trustee (together with any other corporation that may from time to time become Trustee pursuant to the terms of this Indenture the "**Trustee**");

WITNESSETH:

WHEREAS, the City is authorized under Sections 100.010 through 100.200 of the Revised Statutes of Missouri and Article VI Section 27(b) of the Missouri Constitution (collectively, the "**Act**"), to issue revenue bonds to provide funds for the carrying out of a project under the Act and to sell, lease or mortgage to private persons, partnerships or corporations the facilities purchased, constructed or extended by the City for manufacturing, commercial, warehousing and industrial development purposes pursuant to the Act; and

WHEREAS, pursuant to the Act, the governing body of the City adopted an Ordinance on December 28, 2004 (the "**Ordinance**"), authorizing the City to issue its industrial development revenue bonds in a principal amount not to exceed \$140,000,000, for the purpose of purchasing, constructing, installing and equipping the project described on **Exhibit A** hereto (the "**Project**"), and authorizing the City to lease the Project to Aquila, Inc., a Delaware corporation (the "**Company**");

WHEREAS, pursuant to the Ordinance and the Act, the City is authorized to execute and deliver this Indenture for the purpose of issuing and securing the Bonds (as hereinafter defined), and to enter into the Lease Agreement of even date herewith (the "**Lease**"), with the Company under which the City as Lessor, will purchase, construct and equip the Project and will lease the Project to the Company, as Lessee, in consideration of rentals which will be sufficient to pay the principal of and interest on the Bonds;

WHEREAS, all things necessary to make the Bonds, when authenticated by the Trustee and issued as in this Indenture provided, the valid and legally binding obligations of the City, and to constitute this Indenture a valid and legally binding pledge and assignment of the Trust Estate herein made for the security of the payment of the principal of and interest on the Bonds, have been done and performed, and the execution and delivery of this Indenture and the execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, THIS TRUST INDENTURE WITNESSETH:

GRANTING CLAUSES

That the City, in consideration of the premises, the acceptance by the Trustee of the trusts hereby created, the purchase and acceptance of the Bonds by the owners thereof, and of other good and valuable consideration, the receipt of which is hereby acknowledged, and in order to secure the payment of the principal of and interest on the Bonds issued and outstanding under this Indenture from time to time according to their tenor and effect, and to secure the performance and observance by the City of all the covenants, agreements and conditions herein and in the Bonds contained, does hereby pledge and assign to

the Trustee the property described in paragraphs (a), (b) and (c) below (said property being herein referred to as the "**Trust Estate**"), to-wit:

(a) All right, title and interest in and to the Project together with the tenements, hereditaments, appurtenances, rights, privileges and immunities thereunto belonging or appertaining thereto;

(b) All right, title and interest of the City in, to and under the Lease (excluding the City's right to receive moneys for its own account and the City's rights to indemnification or to be protected from liabilities by insurance policies required by the Lease, as provided therein or herein), and all rents, revenues and receipts derived by the City from the Project, including, without limitation, all rentals and other amounts to be received by the City and paid by the Company under and pursuant to and subject to the provisions of the Lease; and

(c) All moneys and securities from time to time held by the Trustee under the terms of this Indenture, and any and all other real or personal property of every kind and nature from time to time hereafter, by delivery or by writing of any kind, pledged, assigned or transferred as and for additional security hereunder by the City or by anyone in its behalf, or with its written consent, to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

TO HAVE AND TO HOLD, all and singular, the Trust Estate with all rights and privileges hereby pledged and assigned or agreed or intended so to be, to the Trustee;

IN TRUST NEVERTHELESS, upon the terms and subject to the conditions herein set forth, for the equal and proportionate benefit, protection and security of the owners from time to time of the Bonds outstanding under this Indenture, without preference, priority or distinction as to lien or otherwise of any of the Bonds over any other of the Bonds except as expressly provided in or permitted by this Indenture;

PROVIDED, HOWEVER, that if the City shall well and truly pay, or cause to be paid, the principal of and interest on the Bonds, at the time and in the manner mentioned in the Bonds, according to the true intent and meaning thereof, or shall provide for the payment thereof (as provided in **Article XIII** hereof), and shall pay or cause to be paid to the Trustee all other sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon such final payments this Indenture and the rights thereby granted shall cease, determine and be void; otherwise, this Indenture shall be and remain in full force and effect.

THIS INDENTURE FURTHER WITNESSETH, and it is hereby expressly declared, covenanted and agreed by and between the parties hereto, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and that all the Trust Estate is to be held and applied under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the City does hereby agree and covenant with the Trustee and with the owners from time to time of the Bond, as follows:

ARTICLE I

DEFINITIONS

Section 101. Definitions of Words and Terms. Words and terms defined in **Section 1.1** of the Lease are hereby incorporated by reference unless otherwise defined below, in which case the words and terms below shall have the following meanings, unless some other meaning is plainly intended:

"Act" means, collectively, Sections 100.010 through 100.200 of the Revised Statutes of Missouri, and Article VI Section 27(b) of the Missouri Constitution, as amended.

"Additional Bonds" means any Bonds issued pursuant to **Section 209** of this Indenture.

"Authorized City Representative" means the Mayor, City Administrator, City Clerk or any other Person at the time designated to act on behalf of the City as evidenced by written certificate furnished to the Company and the Trustee containing the specimen signature of such person and signed on behalf of the City by its Mayor. Such certificate may designate an alternate or alternates each of whom shall be entitled to perform all duties of the Authorized City Representative.

"Authorized Company Representative" means any Person at the time designated to act on behalf of the Company as evidenced by written certificate furnished to the City and the Trustee containing the specimen signature of such person and signed on behalf of the Company by an authorized officer. Such certificate may designate an alternate or alternates each of whom shall be entitled to perform all duties of the Authorized Company Representative.

"Bond" or **"Bonds"** means the Taxable Industrial Revenue Bonds (Aquila Project) Series 2004 in the maximum principal amount of \$140,000,000, issued pursuant to **Section 208** of this Indenture and any Additional Bonds issued, authenticated and delivered under and pursuant to this Indenture.

"Bond Fund" means the fund designated as "City of Peculiar, Missouri, Taxable Industrial Revenue Bond Fund -- Aquila Project" and created in **Section 601** of this Indenture.

"Bondowner" means the registered owner of any Bond outstanding.

"Bond Purchase Agreement" means the agreement by that name with respect to the Bonds by and between the City and the purchaser identified therein.

"Business Day" means any day other than a Saturday or Sunday or legal holiday or a day on which banks located in the city in which the principal corporate trust office or the principal payment office of the Trustee are required or authorized by law to remain closed.

"City" means the City of Peculiar, Missouri and its successors and assigns.

"Company" means Aquila, Inc., a Delaware corporation, and its successors or assigns.

"Completion Date" means the date of execution of the certificate required pursuant to **Section 504** hereof.

"Construction Fund" means the fund designated as "City of Peculiar, Missouri, Construction Fund -- Aquila Project" and created in **Section 501** of this Indenture.

"Cumulative Outstanding Principal Amount" means the aggregate principal amount of all Bonds outstanding under the provisions of this Indenture, as reflected in the records maintained by the Trustee as provided in the Bond and this Indenture.

"Deed of Trust" means the Deed of Trust and Security Agreement dated as of the date hereof granted by the City to secure payment of the Bond.

"Economic Development Agreement" means the Economic Development Agreement dated December 30, 2004 between the City and the Company.

"Event of Default" means, with respect to this Indenture, any Event of Default as defined in **Section 901** hereof and, with respect to the Lease, means any Event of Default as described in **Section 12.1** of the Lease.

"Financing Document" means any loan agreement, credit agreement, security agreement, mortgage, participation agreement, lease agreement, sublease, hedging agreement or other document executed by or on behalf of a Financing Party for the Project.

"Financing Party" means any Person providing debt, lease or equity financing (including equity contributions or commitments) or hedging arrangements, or any renewal, extension or refinancing of any such financing or hedging arrangements, or any guarantee, insurance, letters of credit or credit support for or in connection with any financing or hedging arrangements, in connection with the development, construction, ownership, lease, operation or maintenance of the Project or interests or rights in the Lease, or any part thereof, including any trustee or agent acting on any such Person's behalf.

"Full Insurable Value" means the reasonable replacement cost of the Project, less physical depreciation, as determined in accordance with **Section 7.2(a)** of the Lease.

"Fund" means either the Bond Fund or the Construction Fund, as applicable.

"Government Securities" means direct obligations of, or obligations the payment of principal of and interest on which are unconditionally guaranteed by, the United States of America.

"Grant" has the meaning set forth in **Article 1** of the Economic Development Agreement.

"Indenture" means this Trust Indenture, as from time to time amended and supplemented by Supplemental Indentures in accordance with the provisions of **Article XI** hereof.

"Investment Securities" means any of the following securities:

(a) any Government Securities, including obligations of any of the federal agencies set forth in clause (b) below to the extent they are unconditionally guaranteed by the United States of America;

(b) obligations of the Fannie Mae, the Government National Mortgage Association, the Federal Financing Bank, the Federal Intermediate Credit Corporation, Federal Banks for Cooperatives, Federal Land Banks, Federal Home Loan Banks, Farmers Home Administration and Federal Home Loan Mortgage Corporation;

(c) direct and general obligations of any state of the United States of America, to the payment of the principal of and interest on which the full faith and credit of such state is pledged, provided that at the time of their purchase under this Indenture such obligations are rated in either of the two highest rating categories by a nationally-recognized bond rating agency;

(d) certificates of deposit, whether negotiable or nonnegotiable, issued by any bank or trust company organized under the laws of any state of the United States of America or any national banking association (including the Trustee), provided that such certificates of deposit shall be either (1) continuously and fully insured by the Federal Deposit Insurance Corporation, or (2) continuously and fully secured by such securities as are described above in clauses (a) through (c), inclusive, which shall have a market value at all times at least equal to the principal amount of such certificates of deposit and shall be deposited with the Trustee or a custodian bank, trust

company or national banking association; *provided* that the bank, trust company or national banking association holding each such certificate of deposit required to be so secured must be able to furnish to the Trustee written evidence satisfactory to it that the aggregate market value of all such obligations securing each such certificate of deposit will at all times be an amount at least equal to the principal amount of each such certificate of deposit and the Trustee shall be entitled to rely on each such undertaking;

(e) shares of a fund registered under the Investment Company Act of 1940, as amended, whose shares are registered under the Securities Act of 1933, as amended, having assets of at least \$100,000,000, and which shares, at the time of purchase, are rated by Standard & Poor's and Moody's in one of the two highest rating categories (without regard to any refinements or gradation of rating category by numerical modifier or otherwise) assigned by such rating agencies for obligations of that nature; and

(f) any other investment approved in writing by the Authorized City Representative and the Company (unless the Company fails to own a majority of the Bonds Outstanding, in which case the approval of a majority of the owners of the Outstanding Bonds shall be required in lieu of the Company's approval).

"Lease" means the Lease Agreement dated as of the date of this Indenture between the City, as Lessor, and the Company, as Lessee, as from time to time amended and supplemented by Supplemental Leases in accordance with the provisions thereof and of **Article XII** of this Indenture.

"Litigation" has the meaning set forth in **Article 1** of the Economic Development Agreement.

"Ordinance" has the meaning set forth in the recitals of this Indenture.

"Outstanding," when used with reference to Bonds, means, as of a particular date, all Bonds theretofore authenticated and delivered, except:

(a) Bonds theretofore cancelled by the Trustee or delivered to the Trustee for cancellation;

(b) Bonds deemed to be paid in accordance with the provisions of **Section 1302** hereof; and

(c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Indenture.

"Paying Agent" means the Trustee or any other bank or trust company designated from time to time by this Indenture as paying agent for the Bonds at which the principal of or interest on the Bond shall be payable.

"Person" means an individual, partnership, corporation, business trust, joint stock company, limited liability company, bank, insurance company, unincorporated association, joint venture or other entity of whatever nature.

"Project" has the meaning set forth in the recitals of this Indenture.

"Project Costs" means all costs of purchase, construction, installation and equipping of the Project, including the following:

(a) all costs and expenses necessary or incident to the acquisition of the Project Site and Project Equipment at the execution of the Lease and which the Company conveys to the City;

(b) fees and expenses of architects, appraisers, surveyors and engineers for estimates, surveys, soil borings and soil tests and other preliminary investigations and items necessary to the commencement of construction, preparation of plans, drawings and specifications and supervision of construction, as well as for the performance of all other duties of architects, appraisers, surveyors and engineers in relation to the purchase, construction, installing and equipping of the Project or the issuance of the Bonds;

(c) all costs and expenses of every nature incurred in constructing the Project (including the costs of all additions, modifications, fixtures, improvements, replacements and substitutions made to the Project during the term of the Lease pursuant to the terms thereof) and otherwise improving the Project Site, and equipping and installing the Project (including the costs of all machinery, equipment and other personal property required in addition to the Project Equipment), including the actual cost of labor, materials, machinery, furnishings and equipment as payable to contractors, builders and materialmen in connection with the purchase, construction, installing and equipping of the Project;

(d) an allowance for the Company's cost of funds used during the construction period of the Project, which may include interest accruing on the Bonds during such period;

(e) the cost of title insurance policies and the cost of any insurance maintained during the construction period in accordance with **Article VII** of the Lease, respectively;

(f) reasonable expenses of administration, supervision and inspection properly chargeable to the Project, underwriting expenses, legal fees and expenses, fees and expenses of accountants and other consultants, publication and printing expenses, and initial fees and expenses of the Trustee to the extent that said fees and expenses are necessary or incident to the issuance and sale of the Bonds or the purchasing, construction, installing and equipping of the Project;

(g) all other items of expense not elsewhere specified in this definition as may be necessary or incident to the authorization, issuance and sale of the Bonds; the purchase, construction, installing and equipping of the Project; and the financing thereof; and

(h) reimbursement to the Company or those acting for it for any of the above enumerated costs and expenses incurred and paid by them before or after the execution of the Lease.

"Project Equipment" means the machinery, equipment or other personal property described on **Exhibit B** attached hereto.

"Project Site" means all of the real estate described on **Exhibit C** attached hereto.

"Series 2004 Bond" means the Taxable Industrial Revenue Bond (Aquila Project), Series 2004 to be issued pursuant to Section 208 of this Indenture in the maximum principal amount of \$140,000,000.

"Supplemental Indenture" means any indenture supplemental or amendatory to this Indenture entered into by the City and the Trustee pursuant to **Article XI** hereof.

"Supplemental Lease" means any supplement or amendment to the Lease entered into pursuant to **Article XII** hereof.

"Table " means the Table of Cumulative Outstanding Principal on the Bond, the form of which is set forth in **Article IV** hereof.

"Trust Estate" has the meaning set forth in the Granting Clauses of this Indenture.

"Trustee" means Commerce Bank, N.A., a national banking association duly organized and existing and authorized to accept and execute trusts of the character herein set forth under the laws of the United States of America, and its successor or successors and any other corporation which at the time may be substituted in its place pursuant to and at the time serving as Trustee under this Indenture.

Section 102. Rules of Interpretation.

(a) Unless the context shall otherwise indicate, (i) the words importing the singular number shall include the plural, and *vice versa*, (ii) the words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation", (iii) references to any Person shall be construed to include that Person's successors and assigns, and (iv) any definition of or reference to any law, agreement, instrument or other document shall be construed as referring to such law, agreement, instrument or other document as from time to time amended, supplemented or otherwise modified.

(b) Wherever in this Indenture it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

(c) All references in this instrument to designated "Articles," "Sections", "Exhibits" and other subdivisions are, unless otherwise specified, to the designated Articles, Sections, Exhibits and subdivisions of this instrument as originally executed. 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, Exhibit or subdivision.

(d) The Table of Contents and the Article and Section headings of this Indenture shall not be treated as a part of this Indenture or as affecting the true meaning of the provisions hereof.

ARTICLE II

THE BONDS

Section 201. Title and Amount of Bonds. No Bonds may be issued under this Indenture except in accordance with the provisions of this Article. The Bonds authorized to be issued under this Indenture shall be designated as "City of Peculiar, Missouri Taxable Industrial Revenue Bond (Aquila Project) Series 2004." The maximum total principal amount of the Series 2004 Bond that may be issued hereunder is hereby expressly limited to \$140,000,000, plus the principal amount of any Additional Bonds.

Section 202. Nature of Obligation. The Bonds and the interest thereon shall be special obligations of the City payable solely out of the rents, revenues and receipts derived by the City from the Project and the Lease, and not from any other fund or source of the City, and are secured by a pledge and assignment of the Trust Estate to the Trustee in favor of the Bondowners, as provided in this Indenture. The

Bonds and the interest thereon shall not constitute general obligations of the City or the State of Missouri, and neither the City nor said State shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and are not payable in any manner by taxation.

Section 203. Denomination, Number and Dating of Bonds.

(a) The Series 2004 Bond shall be issuable in the form of one fully registered Bond without coupons in the maximum principal denomination of \$140,000,000. The Bonds shall be substantially in the form hereinafter set forth in **Article IV** of this Indenture.

(b) The Bonds shall be dated by the Trustee as of the date of initial delivery thereof as provided herein. If a Bond is at any time thereafter transferred, any Bond replacing such Bond shall be dated as of the date of authentication thereof.

Section 204. Method and Place of Payment of Bonds.

(a) The principal of and interest on the Bonds shall be payable in any coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for payment of public and private debts.

(b) Payment of the principal of the Bonds shall be made upon the presentation and surrender of such Bond at the principal payment office of any Paying Agent named in the Bond; **provided**, that so long as the Company or any entity controlled by or under common control with the Company is the sole Bondowner, the Trustee is authorized to make payments of principal on such Bond by internal bank transfer or by wire transfer to an account at a commercial bank or savings institution designated by such Bondowner and located in the continental United States; **provided, further**, that upon such payment by internal bank transfer or by wire transfer of principal on such Bond, the Trustee shall record the amount of such principal payment on the registration books for the Bonds maintained by the Trustee on behalf of the City. If any Bond is presented to the Trustee together with such payment, or for such payment, the Trustee shall enter the amount of such principal payment on the Table in the manner provided by **Section 402** hereof. Notwithstanding the foregoing, the registration books maintained by the Trustee shall be the official record of the Cumulative Outstanding Principal Amount on the Bond at any time, and the Bondowner is not required to present the Bond for action by the Trustee, as bond registrar, with each payment of principal on the Bond. Payment of the interest on the Bonds shall be made by the Trustee on each interest payment date to the person appearing on the registration books of the City hereinafter provided for as the registered owner thereof on the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date by check or draft mailed to such registered owner at such owner's address as it appears on such registration books. In the event that the Company or any entity controlled by or under common control with the Company is the sole Bondowner, the Trustee is authorized to make interest payments on any Bond by internal bank transfer or by wire transfer to an account at a commercial bank or savings institution designated by such Bondowner and located in the continental United States.

Section 205. Execution and Authentication of Bonds.

(a) The Bonds shall be executed on behalf of the City by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its City Clerk, and shall have the corporate seal of the City affixed thereto or imprinted thereon. In case any officer whose signature or facsimile thereof appears on the Bonds shall cease to be such officer before the delivery of such Bond, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such Person had remained in office until delivery. Any Bond may be signed by such Persons as at the actual time of the

execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such Persons may not have been such officers.

(b) The Bonds shall have endorsed thereon a Certificate of Authentication substantially in the form set forth in **Section 403** hereof, which shall be manually executed by the Trustee. No Bond shall be entitled to any security or benefit under this Indenture or shall be valid or obligatory for any purposes unless and until such Certificate of Authentication shall have been duly executed by the Trustee. Such executed Certificate of Authentication upon any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Indenture. The Certificate of Authentication on any Bond shall be deemed to have been duly executed if signed by any authorized signatory of the Trustee.

Section 206. Registration, Transfer and Exchange of Bonds.

(a) The Trustee shall keep books for the registration and for the transfer of Bonds as provided in this Indenture.

(b) The Bond may be transferred only upon the books kept for the registration and transfer of Bonds upon surrender thereof to the Trustee duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or such owner's attorney or legal representative in such form as shall be satisfactory to the Trustee. The Series 2004 Bond has not been registered under the Securities Act of 1933 or any state securities law, and the Series 2004 Bond may not be transferred unless the City and the Trustee are furnished a written legal opinion from counsel acceptable to the City, the Trustee and the Company, to the effect that such transfer is exempt from the registration requirements of the Securities Act of 1933 and any applicable state securities law. Notwithstanding the preceding sentence, the Series 2004 Bond may be transferred to any successor to the Company or any entity owned or under common ownership with the Company without the necessity of obtaining such an opinion. In connection with any such transfer of the Series 2004 Bond, the City and the Trustee shall receive an executed representation letter signed by the proposed assignee containing substantially the same representations contained in the representation letter delivered to the Trustee from the Owner upon the initial issuance of the Bond. Upon any such transfer, the City shall execute and the Trustee shall authenticate and deliver in exchange for such Series 2004 Bond a new fully registered Bond, registered in the name of the transferee, of any denomination or denominations authorized by this Indenture, in an aggregate principal amount equal to the outstanding principal amount of such Bond, of the same maturity and bearing interest at the same rate.

(c) In all cases in which Bonds shall be exchanged or transferred hereunder the provisions of any legend restrictions on the Bonds shall be complied with and the City shall execute and the Trustee shall authenticate and deliver at the earliest practicable time Bonds in accordance with the provisions of this Indenture. All Bonds surrendered in any such exchange or transfer shall forthwith be cancelled by the Trustee. The City or the Trustee may make a reasonable charge for every such exchange or transfer of Bonds sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, and such charge shall be paid by the transferee before any such new Bond shall be delivered. Neither the City nor the Trustee shall be required to make any such exchange or transfer of Bonds during the 15 days immediately preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, during the 15 days immediately preceding the selection of Bonds for such redemption or after such Bonds or any portion thereof has been selected for redemption.

(d) If any Bondowner fails to provide a certified taxpayer identification number to the Trustee, the Trustee may make a charge against the Bondowner sufficient to pay any governmental charge required to be paid as a result of such failure, which amount may be deducted by the Trustee from amounts otherwise payable to the Bondowner under its Bonds.

Section 207. Persons Deemed Owners of Bonds. As to any Bond, the person in whose name the same shall be registered as shown on the bond registration books required by **Section 206** hereof shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of and interest on any such Bond shall be made only to or upon the order of the Owner thereof or a legal representative thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

Section 208. Authorization of the Series 2004 Bond.

(a) There shall be issued and secured by this Indenture a series of Bonds in the aggregate maximum principal amount of \$140,000,000 for the purpose of providing funds for paying the costs of the Project, which Bonds shall be designated "City of Peculiar, Missouri Taxable Industrial Revenue Bond (Aquila Project) Series 2004." The Series 2004 Bond shall be dated as provided in **Section 203(b)** hereof, shall become due on June 1, 2035 (subject to prior redemption as hereinafter provided in **Article III**) and shall bear interest as specified in **Section 2.08(e)** hereof, payable on the dates specified in **Section 2.08(e)** hereof.

(b) The Trustee is hereby designated as the Paying Agent for the payment of the principal of and interest on the Series 2004 Bond.

(c) The Series 2004 Bond shall be executed without material variance from the form and in manner set forth in **Article IV** hereof and delivered to the Trustee for authentication, but prior to or simultaneously with the authentication and delivery of the Series 2004 Bond by the Trustee, there shall be filed with the Trustee the following:

(1) An original or certified copy of the ordinance passed by the governing body authorizing the issuance of the Bonds and the execution of this Indenture and the Lease;

(2) An original executed counterpart of this Indenture, the Lease, the Deed of Trust and the Bond Purchase Agreement;

(3) A representation letter from the purchaser of the Series 2004 Bond in substantially the form as Exhibit D hereto;

(4) A request and authorization to the Trustee on behalf of the City, executed by the Authorized City Representative, to authenticate the Series 2004 Bond and deliver the same to the purchaser identified in the Bond Purchase Agreement upon payment to the Trustee, for the account of the City, of the purchase price thereof specified in the Bond Purchase Agreement. The Trustee shall be entitled to conclusively rely upon such request and authorization as to names of the purchaser and the amount of such purchase price;

(5) An opinion of counsel nationally recognized on the subject of municipal bonds to the effect that the Series 2004 Bond constitutes a valid and legally binding limited and special revenue obligation of the City; and

(6) Such other certificates, statements, receipts and documents as the Trustee shall reasonably require for the delivery of the Series 2004 Bond.

(d) When the documents specified in subsection (c) of this Section shall have been filed with the Trustee, and when the Series 2004 Bond shall have been executed and authenticated as required by this Indenture, the Trustee shall deliver the Series 2004 Bond to or upon the order of the purchaser thereof, but only upon payment to the Trustee of the Closing Price (as defined in the Bond Purchase Agreement). The

proceeds of the sale of the Series 2004 Bond shall be immediately paid over to the Trustee, and the Trustee shall deposit and apply such proceeds as provided in **Article V** hereof.

(e) The Series 2004 Bond shall bear interest at the rate of 8% per annum on the Cumulative Outstanding Principal Amount thereof, and such interest shall be payable in arrears on each December 31 commencing on December 31, 2005, and continuing thereafter until the said Cumulative Outstanding Principal Amount is paid in full. Interest shall be calculated on the basis of a year of 360 days consisting of twelve months of 30 days each.

(f) The Trustee shall keep and maintain a record of the amounts deposited into the Construction Fund pursuant to the terms of the Indenture, or the value of property transferred to the City in exchange for the issuance of additional principal amount of the Series 2004 Bond, as "Principal Amount Issued" and shall enter the aggregate principal amount of the Series 2004 Bond then outstanding on its records as the "Cumulative Outstanding Principal Amount" on its records maintained for the Series 2004 Bond. On each date upon which a portion of the Cumulative Outstanding Principal Amount is paid to the registered owner hereof, pursuant to the redemption provisions of the Indenture, the Trustee shall enter on its records the principal amount paid on the Series 2004 Bond as "Principal Amount Paid Pursuant to Redemption Provisions," and shall enter the then outstanding principal amount of this Bond as "Cumulative Outstanding Principal Amount" on its records. The registered owner may from time to time enter the respective amounts deposited into the Construction Fund pursuant to the terms of the Indenture, or the value of property transferred to the City in exchange for the issuance of additional principal amount of the Series 2004 Bond, under the column headed "Principal Amount Issued" on the Table and may enter the aggregate principal amount of the Series 2004 Bond then outstanding under the column headed "Cumulative Outstanding Principal Amount" on the Table. On each date upon which a portion of the Cumulative Outstanding Principal Amount is paid to the registered owner hereof pursuant to the redemption provisions of the Indenture, the registered owner may enter the principal amount paid on the Series 2004 Bond under the column headed "Principal Amount Paid Pursuant to Optional Redemption Provisions" on the Table and may enter the then outstanding principal amount of the Series 2004 Bond under the column headed "Cumulative Outstanding Principal Amount" on the Table. However, the records maintained by the Trustee as to principal amount issued or principal amounts paid on the Series 2004 Bond shall be the official records of the Cumulative Outstanding Principal Amount for all purposes.

Section 209. Authorization of Additional Bonds.

(a) If permitted by law and upon written agreement by the City and the Company as to all applicable terms (including any contribution payments and payments in lieu of taxes), Additional Bonds may be issued under and equally and ratably secured by this Indenture on a parity with the Series 2004 Bond, and any other Additional Bonds which remain Outstanding after the issuance of such Additional Bonds, at any time or from time to time, upon compliance with the conditions hereinafter provided in this Section, for the purpose of (i) providing funds to pay the cost of completing the Project or the making of additional improvements to the Project or the acquisition and installation of additional Project Equipment or (ii) providing funds for refunding all or part of the Bonds then Outstanding of any series, including the payment of any premium thereon and interest to accrue to the designated redemption date and any expenses in connection with such refunding. Additional Bonds may be issued only with the written consent of the Company and the Bondowners of a majority in principal amount of the Outstanding Bonds.

(b) Before any Additional Bonds shall be issued under the provisions of this Section, the City shall pass an ordinance authorizing the issuance of such Additional Bonds, fixing the amount thereof and describing the Bonds, if any, to be refunded, authorizing the City to enter into a Supplemental Indenture for the purpose of issuing such Additional Bonds and, if required, authorizing the City to enter into a Supplemental Lease with the Company.