

**MASTER INDENTURE**

by and between

**ORANGE COUNTY TRANSPORTATION AUTHORITY,**  
as Issuer

**U.S. BANK NATIONAL ASSOCIATION,**  
as Trustee

relating to

Orange County Transportation Authority  
Bond Anticipation Notes  
(I-405 Improvement Project)

Dated as of September 1, 2021

## Table of Contents

Page

### ARTICLE I

#### EQUALITY OF SECURITY; DEFINITIONS; CONTENT OF CERTIFICATES

<b>Section 1.01.</b> Equality of Security.....	2
<b>Section 1.02.</b> Definitions .....	2
<b>Section 1.03.</b> Content of Certificates.....	14

### ARTICLE II

#### THE NOTES

<b>Section 2.01.</b> Authorization of Notes .....	15
<b>Section 2.02.</b> Terms of the Notes .....	15
<b>Section 2.03.</b> Form of Notes.....	15
<b>Section 2.04.</b> Execution of Notes .....	15
<b>Section 2.05.</b> Transfer of Notes.....	16
<b>Section 2.06.</b> Exchange of Notes.....	16
<b>Section 2.07.</b> Note Register .....	16
<b>Section 2.08.</b> Temporary Notes .....	17
<b>Section 2.09.</b> Notes Mutilated; Lost; Destroyed or Stolen.....	17
<b>Section 2.10.</b> Use of Securities Depository .....	17

### ARTICLE III

#### ISSUANCE OF NOTES

<b>Section 3.01.</b> Issuance of Notes.....	19
<b>Section 3.02.</b> Issuance of Additional Notes.....	19
<b>Section 3.03.</b> Proceedings for Issuance of Additional Notes .....	20
<b>Section 3.04.</b> Issuance of Refunding Notes.....	20
<b>Section 3.05.</b> Limitations on the Issuance of Obligations Payable From Collateral; Subordinate Obligations .....	22
<b>Section 3.06.</b> Application of Proceeds .....	22

Table of Contents  
(continued)

Page

**ARTICLE IV**

**REDEMPTION, TENDER AND PURCHASE OF NOTES**

<b>Section 4.01.</b> Terms of Redemption, Tender and Purchase .....	23
<b>Section 4.02.</b> Notice of Redemption.....	23
<b>Section 4.03.</b> Partial Redemption of Notes .....	24
<b>Section 4.04.</b> Effect of Redemption .....	24

**ARTICLE V**

**COLLATERAL**

<b>Section 5.01.</b> Pledge of Collateral .....	24
<b>Section 5.02.</b> Allocation of Collateral. ....	25
<b>Section 5.03.</b> Application of Interest Fund.....	28
<b>Section 5.04.</b> Application of Principal Fund. ....	28
<b>Section 5.05.</b> Establishment, Funding and Application of Reserve Funds. ....	30
<b>Section 5.06.</b> Application of Subordinate Obligations Fund.....	32
<b>Section 5.07.</b> Reserved. ....	33
<b>Section 5.08.</b> Application of Redemption Fund .....	33
<b>Section 5.09.</b> Rebate Fund.....	33
<b>Section 5.10.</b> Investment in Funds and Accounts.....	34

**ARTICLE VI**

**COVENANTS OF THE ISSUER**

<b>Section 6.01.</b> Punctual Payments.....	36
<b>Section 6.02.</b> Extension of Payment of Notes .....	36
<b>Section 6.03.</b> Waiver of Laws .....	36
<b>Section 6.04.</b> Further Assurances .....	36
<b>Section 6.05.</b> Against Encumbrances .....	36
<b>Section 6.06.</b> Accounting Records and Financial Statements. ....	36
<b>Section 6.07.</b> Application of Collateral. ....	37
<b>Section 6.08.</b> Tax Covenants .....	37

Table of Contents  
(continued)

	Page
<b>Section 6.09.</b> Continuing Disclosure .....	38
<b>Section 6.10.</b> Annual Budgets .....	38
<b>Section 6.11.</b> Standby Bond Purchase Agreement .....	38
<b>Section 6.12.</b> Compliance With Laws .....	38
<b>Section 6.13.</b> Payment of Taxes and Charges .....	39
<b>Section 6.14.</b> TIFIA Loan Agreement .....	39

**ARTICLE VII**

**EVENTS OF DEFAULT AND REMEDIES**

<b>Section 7.01.</b> Events of Default .....	39
<b>Section 7.02.</b> Application of the Collateral and Other Funds After Default; No Acceleration.....	40
<b>Section 7.03.</b> Trustee To Represent Noteholders .....	41
<b>Section 7.04.</b> Noteholders' Direction of Proceedings .....	41
<b>Section 7.05.</b> Limitation on Noteholders' Right to Sue .....	42
<b>Section 7.06.</b> Absolute Obligation of the Issuer .....	42
<b>Section 7.07.</b> Termination of Proceedings .....	42
<b>Section 7.08.</b> Remedies Not Exclusive.....	43
<b>Section 7.09.</b> No Waiver of Default .....	43
<b>Section 7.10.</b> Credit Enhancement Provider Directs Remedies Upon Event of Default.....	43

**ARTICLE VIII**

**THE TRUSTEE**

<b>Section 8.01.</b> Appointment, Duties Immunities and Liabilities of Trustee. ....	43
<b>Section 8.02.</b> Accounting Records and Monthly Statements .....	45
<b>Section 8.03.</b> Merger or Consolidation.....	45
<b>Section 8.04.</b> Liability of Trustee. ....	46
<b>Section 8.05.</b> Right of Trustee To Rely on Documents and Opinions .....	48
<b>Section 8.06.</b> Compensation and Indemnification of Trustee .....	48

Table of Contents  
(continued)

Page

**ARTICLE IX**

**MODIFICATION OR AMENDMENT OF THIS INDENTURE**

<b>Section 9.01.</b> Amendments Permitted.....	49
<b>Section 9.02.</b> Effect of Supplemental Indenture.....	51
<b>Section 9.03.</b> Endorsement of Notes; Preparation of New Notes.....	52
<b>Section 9.04.</b> Amendment of Particular Notes .....	52

**ARTICLE X**

**DEFEASANCE**

<b>Section 10.01.</b> Discharge of Indenture .....	52
<b>Section 10.02.</b> Discharge of Liability on Notes .....	53
<b>Section 10.03.</b> Deposit of Money or Securities .....	53
<b>Section 10.04.</b> Payment of Notes After Discharge of Indenture .....	54

**ARTICLE XI**

**MISCELLANEOUS**

<b>Section 11.01.</b> Liability of Issuer Limited to the Collateral .....	54
<b>Section 11.02.</b> Successor Is Deemed Included in All References to Predecessor.....	55
<b>Section 11.03.</b> Limitation of Rights .....	55
<b>Section 11.04.</b> Waiver of Notice .....	55
<b>Section 11.05.</b> Destruction or Delivery of Canceled Notes.....	55
<b>Section 11.06.</b> Severability of Invalid Provisions .....	55
<b>Section 11.07.</b> Notice to Issuer and Trustee .....	55
<b>Section 11.08.</b> Evidence of Rights of Noteholders.....	56
<b>Section 11.09.</b> Disqualified Notes .....	56
<b>Section 11.10.</b> Money Held for Particular Notes .....	56
<b>Section 11.11.</b> Funds and Accounts .....	57
<b>Section 11.12.</b> Limitations on Rights of Credit Enhancement Providers, Liquidity Facility Providers, Reserve Facility Providers .....	57
<b>Section 11.13.</b> Article and Section Headings and References.....	57
<b>Section 11.14.</b> Waiver of Personal Liability .....	58

Table of Contents  
(continued)

	Page
<b>Section 11.15.</b> Governing Law .....	58
<b>Section 11.16.</b> Business Day .....	58
<b>Section 11.17.</b> Effective Date of Indenture .....	58
<b>Section 11.18.</b> Execution in Counterparts .....	58

## MASTER INDENTURE

**THIS MASTER INDENTURE**, dated as of September 1, 2021 (this “*Indenture*”), is entered into by and between the **ORANGE COUNTY TRANSPORTATION AUTHORITY**, a regional transportation authority duly established and existing under the laws of the State of California (the “*Issuer*”), and **U.S. BANK NATIONAL ASSOCIATION**, a national banking association duly organized and existing under and by virtue of the laws of the United States of America, as trustee (the “*Trustee*”);

### WITNESSETH:

WHEREAS, the Issuer is duly established and existing under Section 130052 of the Public Utilities Code of the State of California (the “*State*”); and

WHEREAS, the Issuer is authorized to issue from time to time bonds or notes and incur from time to time other obligations secured by and payable in whole or in part from its assets and revenues (as more fully defined in Section 1.02 hereof); and

WHEREAS, the Issuer plans to issue from time to time notes and incur from time to time other obligations secured by and payable from the Collateral; and

WHEREAS, the Issuer has determined to enter into this Indenture in order to provide for the issuance, authentication and delivery of notes secured by and payable from the Collateral (the “*Notes*”), to establish and declare the terms and conditions upon which the Notes and other obligations secured by and payable from the Collateral shall be issued and secured and to secure the payment of the principal thereof, premium, if any, and interest on obligations secured by the Collateral on a basis subordinate to the Notes (as more fully defined in Section 1.02 hereof, “*Subordinate Obligations*”); and

WHEREAS, the execution and delivery of this Indenture has in all respects been duly and validly authorized by a resolution duly passed and approved by the Board of Directors of the Issuer; and

WHEREAS, the Issuer has determined that all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and the entering into of this Indenture do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Indenture;

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that in order to secure the payment of the principal of, premium, if any, and the interest on all Notes at any time issued, authenticated and delivered hereunder, to secure the payment of Subordinate Obligations (as more fully defined in Section 1.02 hereof) in accordance with terms hereof and to provide the terms and conditions under which all property, rights and interests hereby assigned and pledged are to be dealt with and disposed of, and to secure performance and observance of the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes hereinafter expressed, and in consideration of the premises and of the material covenants herein contained and of the purchase and acceptance of the Notes, and Subordinate Obligations by the owners or holders thereof, and

for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Issuer does hereby agree and covenant with the Trustee for the benefit of the respective owners, from time to time, of the Notes, or any part thereof, and for the benefit of the holders of Subordinate Obligations in accordance with terms hereof, as follows:

## ARTICLE I

### EQUALITY OF SECURITY; DEFINITIONS; CONTENT OF CERTIFICATES

**Section 1.01. Equality of Security.** In consideration of the acceptance of the Notes by the owners thereof from time to time, this Indenture shall be deemed to be and shall constitute a contract among the Issuer, the Trustee and the owners from time to time of the Notes and the covenants and agreements herein set forth to be performed by or on behalf of the Issuer or the Trustee shall be for the equal and proportionate benefit, security and protection of all owners of the Notes, without preference, priority or distinction as to security or otherwise of any of the Notes over any of the others by reasons of the Series, time of issue, sale or negotiation thereof or for any cause whatsoever, except as expressly provided therein or herein. Nothing herein shall prevent additional security being provided for the benefit of a particular Series of Notes under any supplement to this Indenture.

**Section 1.02. Definitions.** Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Indenture and of any Supplemental Indenture and of any certificate, opinion or other document herein mentioned, have the meanings herein specified, to be equally applicable to both the singular and plural forms of any of the terms herein defined.

*“Accreted Value”* means, with respect to any Capital Appreciation Note, the principal amount thereof plus the interest accrued thereon, compounded at the approximate interest rate thereon on each date specified therein. The Accreted Value at any date shall be the amounts set forth in the Accreted Value Table as of such date, if such date is a compounding date, and if not, as of the immediately preceding compounding date. For purposes of this Indenture, the term “principal of” shall also include Accreted Value, if appropriate.

*“Accreted Value Table”* means the table denominated as such which appears as an exhibit to, and to which reference is made in, a Supplemental Indenture providing for a Series of Capital Appreciation Notes issued pursuant to such Supplemental Indenture.

*“Alternate Credit Enhancement”* means, with respect, to a Series of Notes, any Insurance, letter of credit, line of credit, surety Note or other instrument, if any, which secures or guarantees the payment of principal of and interest on a Series of Notes, issued by an insurance company, commercial bank, pension fund or other institution, and delivered or made available to the Trustee, as a replacement or substitution for any Credit Enhancement then in effect.

*“Alternate Liquidity Facility”* means, with respect to a Series of Notes, a line of credit, letter of credit, standby purchase agreement or similar liquidity facility, issued by a commercial bank, insurance company, pension fund or other institution, and delivered or made available to the Trustee, as a replacement or substitute for any Liquidity Facility then in effect.



*“Annual Debt Service”* means, for any Fiscal Year, the aggregate amount (without duplication) of principal and interest on all Notes becoming due and payable during such Fiscal Year calculated utilizing the assumptions set forth under the definition of Debt Service.

*“Authorized Representative”* means the chief executive officer, chief financial officer and director of finance and administration of the Issuer or such other person as may be designated to act on behalf of the Issuer by resolution of the Board or by a written certificate delivered to the Trustee by an Authorized Representative.

*“Beneficial Owner”* means any Person who has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of any Note, including, without limitation, any Person holding Notes through nominees or depositories, including the Securities Depository.

*“Board”* means the Board of Directors of the Issuer.

*“Business Day”* means, except as is otherwise provided in the Supplemental Indenture pursuant to which a Series of Notes are issued, any day other than (a) a Saturday, Sunday, or a day on which banking institutions in the State or the State of New York or the jurisdiction in which the Corporate Trust Office of the Trustee is located are authorized or obligated by law or executive order to be closed; (b) for purposes of payments and other actions relating to Notes secured by a Credit Enhancement or supported by a Liquidity Facility, a day upon which commercial banks in the city in which is located the office of the issuing bank at which demands for payment under the Credit Enhancement or Liquidity Facility, as applicable, are to be presented are authorized or obligated by law or executive order to be closed; (c) a day on which the New York Stock Exchange is closed; or (d) a day on which the payment system of the Federal Reserve System is not operational.

*“Capital Appreciation Notes”* means the Notes of any Series designated as Capital Appreciation Notes in the Supplemental Indenture providing for the issuance of such Series of Notes and on which interest is compounded and paid at maturity or on prior redemption.

*“Certificate,” “Statement,” “Request,” “Requisition”* and *“Order”* mean, of the Issuer, respectively, a written certificate, statement, request, requisition or order signed in the name of the Issuer by an Authorized Representative. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument. If and to the extent required by Section 1.03 hereof, each such instrument shall include the statements provided for in Section 1.03 hereof.

*“Code”* means the Internal Revenue Code of 1986, as amended, and the regulations applicable thereto or issued thereunder, or any successor to the Internal Revenue Code of 1986. Reference to any particular Code section shall, in the event of such a successor Code, be deemed to be reference to the successor to such Code section.

*“Collateral”* means: (a) proceeds from draws under the TIFIA Loan Agreement so long as the TIFIA Loan Agreement is in full force and effect; (b) any legally available funds of the Issuer except (i) LTF Revenue, (ii) federal grant funds, (iii) any revenues and assets with respect to the SR 91 Express Lanes, and (iv) any revenues received from operation of the freeway callbox system

in Orange County and the freeway service patrol; (c) proceeds from the purchase and sale of Issuer bonds by OCLTA under and pursuant to the Standby Bond Purchase Agreement; and (d) all amounts held by the Trustee in the funds and accounts established hereunder, including investment earnings thereon, excluding amounts deposited to the Rebate Fund.

“*Continuing Disclosure Agreement*” means, with respect to each Series of Notes requiring an undertaking regarding disclosure under Rule 15c2-12, the Continuing Disclosure Agreement or Continuing Disclosure Certificate, dated the date of issuance of such Series of Notes, executed by the Issuer, as the same may be supplemented, modified or amended in accordance with its terms.

“*Corporate Trust Office*” or “*corporate trust office*” means the corporate trust office of the Trustee at U.S Bank National Association, 633 West Fifth Street, 24<sup>th</sup> Floor, Los Angeles, CA 90071. Attention: Global Corporate Trust or such other or additional offices as may be designated by the Trustee from time to time; provided, that for registration, transfer, exchange, surrender and payment of the Notes, Corporate Trust Office shall initially mean the corporate trust operations office of the Trustee in Saint Paul, Minnesota.

“*Costs of Issuance*” means all items of expense directly or indirectly payable by or reimbursable to the Issuer and related to the authorization, issuance, sale and delivery of a Series of Notes, including but not limited to advertising and printing costs, costs of preparation and reproduction of documents, filing and recording fees, travel expenses and costs relating to rating agency meetings and other meetings concerning such Series of Notes, initial fees, expenses and charges of the Trustee, legal fees and charges, fees and disbursements of consultants and professionals, financial advisor fees and expenses, rating agency fees, fees and charges for preparation, execution, transportation and safekeeping of Notes, surety, insurance, credit enhancement and liquidity costs, and any other cost, charge or fee incurred in connection with the issuance of a Series of Notes delivered in connection with a Series of Notes.

“*Costs of Issuance Fund*” means a fund by that name established pursuant to the provisions of a Supplemental Indenture to pay Costs of Issuance with respect to a Series of Notes being issued pursuant to such Supplemental Indenture.

“*Credit Enhancement*” means, with respect to a Series of Notes, any Insurance, letter of credit, line of credit, surety Note or other instrument, if any, that secures or guarantees the payment of principal of and interest on a Series of Notes, issued by an insurance company, commercial bank, pension fund or other institution, and delivered or made available to the Trustee, as from time to time supplemented or amended pursuant to its terms, or, in the event of the delivery or availability of an Alternate Credit Enhancement, such Alternate Credit Enhancement.

“*Credit Enhancement Provider*” means an Insurer, commercial bank, pension fund or other institution issuing (or having primary obligation, or acting as agent for the institutions obligated, under) a Credit Enhancement then in effect with respect to a Series of Notes.

“*Current Interest Notes*” means the Notes of any Series designated as Current Interest Notes in the Supplemental Indenture providing for the issuance of such Series of Notes and that pay interest to the Holders thereof on a periodic basis prior to maturity.

“*Debt Service*” means, when used with respect to any Notes as of any date of calculation and with respect to any Fiscal Year, the sum of (A) the interest falling due on such Notes during such Fiscal Year, and (B) the principal or Mandatory Sinking Account Payments required with respect to such Notes during such Fiscal Year; computed on the assumption that no portion of such Notes shall cease to be Outstanding during such Fiscal Year except by reason of the application of such scheduled payments; provided, however, that for purposes of such computation:

(a) Excluded Principal Payments (and the interest related thereto provided such interest is being paid from the same source as the Excluded Principal Payments) shall be excluded from such calculation and Assumed Debt Service shall be included in such calculation;

(b) in determining the principal amount due in each Fiscal Year, payment shall (unless a different clause of this definition applies for purposes of determining principal maturities or amortization) be assumed to be made in accordance with any amortization schedule established for such Notes, including any Mandatory Sinking Account Payments or any scheduled redemption or payment of Notes on the basis of Accreted Value, and for such purpose, the redemption payment or payment of Accreted Value shall be deemed a principal payment and interest that is compounded and paid as Accreted Value shall be deemed due on the scheduled redemption or payment date of such Capital Appreciation Bond;

(c) if any Notes bear, or if any Notes proposed to be issued will bear, interest at a variable interest rate and the interest on which is excluded or expected to be excluded from gross income for federal income tax purposes, the interest rate on such Notes for periods when the actual interest rate cannot yet be determined shall be assumed to be equal to the average of the SIFMA Swap Index for the five years preceding such date of calculation (provided, however, that if such index is no longer published, the interest rate on such Notes shall be calculated based upon such similar index as the Issuer shall designate in writing to the Trustee);

(d) if any Notes bear, or if any Notes proposed to be issued will bear, interest at a variable interest rate and the interest on which is included or expected to be included in gross income for federal income tax purposes, the interest rate on such Notes shall be calculated at an interest rate equal to 100% of the average One Month USD LIBOR Rate during the five years preceding such date of calculation or such higher rate as shall be specified in a Certificate of the Issuer delivered to the Trustee (provided, however, that if such index is no longer published, the interest rate on such Notes shall be calculated based upon such similar index as the Issuer shall designate in writing to the Trustee);

(e) if any Notes feature an option, on the part of the owners or an obligation under the terms of such Notes, to tender all or a portion of such Notes to the Issuer, the Trustee or other fiduciary or agent, and requires that such Notes or portion thereof be purchased if properly presented, then for purposes of determining the amounts of principal and interest due in any Fiscal Year on such Notes, the options or obligations of the owners of such Notes to tender the same for purchase or payment prior to the stated maturity or maturities shall be ignored and not treated as a principal maturity; and

(f) principal and interest payments on Notes shall be excluded to the extent such payments are to be paid from amounts on deposit with the Trustee or other fiduciary in escrow specifically therefor and interest payments shall be excluded to the extent that such interest payments are to be paid from the proceeds of Notes held by the Trustee or other fiduciary as capitalized interest specifically to pay such interest.

“*Event of Default*” means any of the events specified in Section 7.01 hereof.

“*Excluded Principal Payments*” means each payment of principal of Notes which the Issuer determines (in the Certificate of the Issuer delivered to the Trustee) that the Issuer intends to pay with moneys that are not Collateral (such as commercial paper, balloon indebtedness or bond anticipation notes) but from future debt obligations of the Issuer, grants from the State or federal government, or any agency or instrumentality thereof, or any other source of funds of the Issuer, upon which determination of the Issuer the Trustee may conclusively rely. No such determination shall affect the security for such Notes or the obligation of the Issuer to pay such payments from the Collateral or amounts on deposit in a reserve fund, if any, securing such Notes.

“*Fiscal Year*” means the period beginning on July 1 of each year and ending on the next succeeding June 30, or any other 12-month period hereafter selected and designated as the official fiscal year period of the Issuer, which designation shall be provided to the Trustee in a Certificate delivered by the Issuer.

“*Fitch*” means Fitch Inc., and its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a nationally recognized statistical ratings organization, then the term “Fitch” shall be deemed to refer to any other nationally recognized statistical ratings organization selected by the Issuer.

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

“*Indenture*” means this Master Indenture, dated as of September 1, 2021, by and between the Issuer and the Trustee, as originally executed or as it may from time to time be amended and/or supplemented by any Supplemental Indenture delivered pursuant to the provisions hereof.

“*Insurance*” means any financial guaranty insurance policy or municipal Note insurance policy issued by an Insurer insuring the payment when due of principal of and interest on all or a portion of a Series of Notes as provided in such financial guaranty insurance policy or municipal Note insurance policy.

“*Insurer*” means any provider of Insurance with respect to all or a portion of a Series of Notes.

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

“*Interest Payment Date*” has the meaning, with respect to each Series of Notes, specified in the Supplemental Indenture establishing the terms and provisions of such Series of Notes.

“*Investment Securities*” means any of the following:

(a) The following obligations may be used as Investment Securities for all purposes, including defeasance investments in refunding escrow accounts:

(i) cash;

(ii) direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America;

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

(A) Export-Import Bank;

(B) Farm Credit System Financial Assistance Corporation;

(C) Rural Economic Community Development Administration (formerly the Farmers Home Administration);

(D) General Services Administration;

(E) U.S. Maritime Administration;

(F) Small Business Administration;

(G) Government National Mortgage Association (“*GNMA*”);

(H) U.S. Department of Housing & Urban Development (“*PHA's*”)

(I) Federal Housing Administration; and

(J) Federal Financing Bank; and

(iv) direct obligations of any of the following federal agencies which obligations are not fully guaranteed by the full faith and credit of the United States of America:

(A) senior debt obligations issued by the Federal National Mortgage Association (“*FNMA*”) or Federal Home Loan Mortgage Corporation (“*FHLMC*”);

(B) obligations of the Resolution Funding Corporation (“*REFCORP*”);

(C) senior debt obligations of the Federal Home Loan Bank System; and

(D) senior debt obligations of other government sponsored agencies approved by each Credit Enhancement Provider then providing Credit Enhancement for a Series of Notes.

(b) The following obligations may be used as Investment Securities for all purposes other than defeasance investments in refunding escrow accounts:

U.S. dollar denominated deposit accounts, federal funds and bankers' acceptances with domestic commercial banks (including the Trustee and its affiliates) that have a rating (ratings on holding companies are not considered as the rating of the banks) on their short-term certificates of deposit on the date of purchase of "A-1" or "A-1+" by S&P and "P-1" by Moody's and that mature no more than 360 days after the date of purchase;

(i) commercial paper rated at the time of purchase in the single highest classification, "A-1" by S&P or "P-1" by Moody's and that matures not more than 270 days after the date of purchase;

(ii) investments in a money market fund rated at the time of investment "AAAm" or "AAAm-G" or better by S&P including funds for which the Trustee or an affiliate provides investment advice or other services;

(iii) Pre-refunded Municipal Obligations defined as follows: any Notes or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state that are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and:

(E) that are rated at the time of purchase, based on an irrevocable escrow account or fund (the "*escrow*"), in the highest rating category of S&P and Moody's or any successors thereto; or

(F) (i) that are fully secured as to principal and interest and prepayment premium, if any, by an escrow consisting only of cash or obligations described in paragraph (a)(ii) above, which escrow may be applied only to the payment of such principal of and interest and prepayment premium, if any, on such Notes or other obligations on the maturity date or dates thereof or the specified prepayment date or dates pursuant to such irrevocable instructions, as appropriate; and (ii) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and prepayment premium, if any, on the Notes or other obligations described in this paragraph on the maturity date or dates specified in the irrevocable instructions referred to above, as appropriate;

(iv) general obligations of states with a rating, at the time of purchase, of at least "A2"/"A" or higher by both Moody's and S&P;

(v) any investment agreement with a financial institution or insurance company that has at the date of execution thereof an outstanding issue of unsecured, uninsured and unguaranteed debt obligations or a claims paying ability rated (or the parent company or guarantor of which is rated) in either of the two highest long-term Rating Categories by Moody's and S&P;

(vi) the Local Agency Investment Fund managed by the Treasurer of the State of California, as referred to in Section 16429.1 of the Government Code of the State but only to the extent such investment is registered in the name of the Trustee;

(vii) shares in a common law trust established pursuant to Title 1, Division 7, Chapter 5 of the Government Code of the State that invests exclusively in investments permitted by Section 53601 of Title 5 Division 2, Chapter 4 of the Government Code of the State, as it may be amended;

(viii) the commingled investment fund of the County of Orange, California, which is administered in accordance with the investment policy of said County as established by the Treasurer thereof, as permitted by Section 53601 of the Government Code of the State, copies of which policy are available upon written request to said Treasurer; and

(ix) any other forms of investments, including repurchase agreements, approved in writing by each Credit Enhancement Provider then providing Credit Enhancement for a Series of Notes.

*“Issuer”* means the Orange County Transportation Authority, a regional transportation authority duly established and existing under the laws of the State, and any successor thereto. *“KBRA”* means the Kroll Bond Rating Agency, LLC, and its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a nationally recognized statistical ratings organization, then the term *“Kroll”* shall be deemed to refer to any other nationally recognized statistical ratings organization selected by the Issuer.

*“Liquidity Facility”* means, with respect to a Series of Notes, a line of credit, letter of credit, standby purchase agreement or similar liquidity facility, which secures or guarantees the payment of the purchase price of such Series of Notes under certain conditions specified therein, issued by a commercial bank, insurance company, pension fund or other institution, and delivered or made available to the Trustee, as from time to time amended or supplemented pursuant to its terms, or, in the event of the delivery or availability of an Alternate Liquidity Facility, such Alternate Liquidity Facility.

*“Liquidity Facility Notes”* means any Notes purchased with moneys drawn under (or otherwise obtained pursuant to the terms of) a Liquidity Facility, but excluding any Notes no longer considered to be Liquidity Facility Notes in accordance with the terms of the applicable Liquidity Facility. If designated as such in a Supplemental Indenture, Notes purchased with moneys drawn

under a Credit Enhancement in the form of a letter of credit or other similar instrument shall be treated as Liquidity Facility Notes.

“*Liquidity Facility Provider*” means the commercial bank, insurance company, pension fund or other institution issuing (or having primary obligation, or acting as agent for the institutions obligated, under) a Liquidity Facility then in effect with respect to a Series of Notes.

“*Liquidity Facility Rate*” means, with respect to a Series of Notes, the interest rate per annum, if any, specified in the Liquidity Facility delivered in connection with such Series of Notes as applicable to Liquidity Facility Notes.

“*LTF Revenues*” means the amounts received by the Issuer pursuant to the TDA from the county Local Transportation Fund, consisting of a portion of the revenues generated in (and apportioned to) Orange County from the one-fourth of 1% of the current California statewide sales tax in Orange County made available for public transportation operating and capital expenditures in Orange County, as allocated to the Issuer by the Orange Area Council of Governments.

“*Mandatory Sinking Account Payment*” means, with respect to Notes of any Series and maturity, the amount required by the Supplemental Indenture establishing the terms and provisions of such Series of Notes to be deposited by the Issuer in a Sinking Account for the payment of Term Notes of such Series and maturity.

“*Maturity Date*” means, with respect to a Series of Notes, the date of maturity or maturities specified in the Supplemental Indenture establishing the terms and provisions of such Series of Notes.

“*Maximum Annual Debt Service*” means the maximum amount of Annual Debt Service becoming due and payable on all Notes Outstanding during the period from the date of such calculation through the final maturity date of the Notes, calculated utilizing the assumptions set forth under the definition of Debt Service.

“*Maximum Rate*” means, with respect to any Notes, the lesser of (a) the rate designated as the Maximum Rate for such Notes in the Supplemental Indenture with respect to such Notes; and (b) the maximum rate of interest that may legally be paid on the Notes from time to time.

“*Moody’s*” means Moody’s Investors Service, Inc. and its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a nationally recognized statistical ratings organization, then the term “Moody’s” shall be deemed to refer to any other nationally recognized statistical ratings organization selected by the Issuer.

“*Note Obligation*” means, as of any given date of calculation, (a) with respect to any Outstanding Current Interest Note, the principal amount of such Note; and (b) with respect to any Outstanding Capital Appreciation Note, the Accreted Value thereof.

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



“*Notes*” means the Orange County Transportation Authority Bond Anticipation Notes (I-405 Improvement Project) authorized by, and at any time Outstanding pursuant to, this Indenture.

“*Notice Parties*” means, as and to the extent applicable, the Issuer, the Trustee, the Credit Enhancement Provider, if any, for the Series of Notes to which the notice being given relates, the auction agent, if any, for the Series of Notes to which the notice being given relates, the broker-dealer, if any, for the Series of Notes to which the notice being given relates, the Liquidity Provider, if any, for the Series of Notes to which the notice being given relates, and the remarketing agent, if any, for the Series of Notes to which the notice being given relates.

“*Obligations*” has the meaning given to such term in the definition of “Debt Service.”

“*OCLTA*” means the Orange County Local Transportation Authority, a local transportation authority duly formed and existing under Sections 180000 et seq. of the California Public Utilities Code.

“*Opinion of Bond Counsel*” means a written opinion of a law firm of national standing in the field of public finance selected by the Issuer.

“*Outstanding*” means, when used as of any particular time with reference to Notes (subject to the provisions of Section 11.09 hereof), all Notes theretofore, or thereupon being, authenticated and delivered by the Trustee under this Indenture except: (a) Notes theretofore canceled by the Trustee or surrendered to the Trustee for cancellation; (b) Notes with respect to which all liability of the Issuer shall have been discharged in accordance with Section 10.02 hereof, including Notes (or portions of Notes) referred to in Section 11.10 hereof; and (c) Notes for the transfer or exchange of or in lieu of or in substitution for which other Notes shall have been authenticated and delivered by the Trustee pursuant to this Indenture; provided, however, that if the principal of or interest due on any Notes shall be paid by the Credit Enhancement Provider pursuant to the Credit Enhancement issued in connection with such Notes, such Notes shall remain Outstanding for all purposes and shall not be considered defeased or otherwise satisfied or paid by the Issuer and the pledge of Collateral and all covenants, agreements and other obligations of the Issuer to the Holders shall continue to exist and shall run to the benefit of such Credit Enhancement Provider and such Credit Enhancement Provider shall be subrogated to the rights of such Holders.

“*Participating Underwriter*” means any of the original underwriters of a Series of Notes required to comply with Rule 15c2-12.

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

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

“*Project Fund*” means, with respect to any Series of Notes, a fund by that name established pursuant to the provisions of a Supplemental Indenture to hold the proceeds of a Series of Notes or a portion thereof prior to expenditure on the particular projects being financed with the proceeds of such Series of Notes.

*“Proportionate Basis”* means, when used with respect to the redemption of Notes, that the amount of Notes of each maturity to be redeemed shall be determined as nearly as practicable by multiplying the total amount of funds available for redemption by the ratio which the amount of Note Obligation of Notes of such maturity bears to the amount of all Note Obligation of Notes to be redeemed; provided, however that any Note may only be redeemed in an authorized denomination. For purposes of the foregoing, Term Notes shall be deemed to mature in the years and in the amounts of the Mandatory Sinking Account Payments, and Capital Appreciation Notes and Current Interest Notes maturing or subject to Mandatory Sinking Account Payments in the same year shall be treated as separate maturities. When used with respect to the payment or purchase of a portion of Notes, *“Proportionate Basis”* shall have the same meaning set forth above except that “pay” or purchase” shall be substituted for “redeem” or “redemption” and “paid” or “purchased” shall be substituted for “redeemed.”

*“Rating Agency”* means, as and to the extent applicable to a Series of Notes, each of [RATING AGENCY] and Moody’s, but, in each instance, only so long as each such Rating Agency then maintains a rating on such Series of Notes at the request of the Issuer.

*“Rating Category”* means: (a) with respect to any long-term rating category, all ratings designated by a particular letter or combination of letters, without regard to any numerical modifier, plus or minus sign or other modifier; and (b) with respect to any short-term or commercial paper rating category, all ratings designated by a particular letter or combination of letters and taking into account any numerical modifier, but not any plus or minus sign or other modifier.

*“Rebate Fund”* means the fund by that name established pursuant to Section 5.09 hereof.

*“Rebate Instructions”* means, with respect to any Series of Notes the interest on which is exempt from taxation under the Code, those calculations and directions required to be delivered to the Trustee by the Issuer pursuant to the Tax Certificate delivered in connection with such Series of Notes.

*“Rebate Requirement”* means, with respect to any Series of Notes the interest on which is exempt from taxation under the Code, the Rebate Requirement determined in accordance with the Tax Certificate delivered in connection with such Series of Notes.

*“Record Date”* has the meaning, with respect to each Series of Notes, specified in the Supplemental Indenture establishing the terms and provisions of such Series of Notes.

*“Redemption Fund”* means the fund by that name established pursuant to Section 5.08 hereof.

*“Redemption Price”* means, with respect to any Note (or portion thereof) the Note Obligation of such Note (or portion thereof) plus the applicable premium, if any, payable upon redemption thereof pursuant to the provisions of such Note and this Indenture.

*“Refunding Notes”* means a Series of Notes or a portion of a Series of Notes issued pursuant to the provisions set forth in Section 3.04 hereof.

“*Repository*” means the Municipal Securities Rulemaking Board or any other entity designated or authorized by the Securities and Exchange Commission or any successor agency thereto to receive reports and notices pursuant to Rule 15c2-12.

“*Revenue Fund*” means the fund by that name established pursuant to Section 5.01 hereof.

“*Reserve Fund*” means any debt service reserve fund established under and pursuant to a Supplemental Indenture meeting the requirements of Section 5.02 hereof.

“*Reserve Fund Requirement*” means the amount required to be deposited to a Reserve Fund as provided in a Supplemental Indenture.

“*Rule 15c2-12*” means Securities and Exchange Commission Rule 15c2-12, as amended and supplemented from time to time.

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

“*Serial Notes*” means Notes, maturing in specified years, for which no Mandatory Sinking Account Payments are provided.

“*Series*” means, whenever used herein with respect to Notes, all of the Notes designated as being of the same series, authenticated and delivered in a simultaneous transaction regardless of variations in maturity, interest rate, redemption and other provisions, and any Notes thereafter authenticated and delivered upon transfer or exchange or in lieu of or in substitution for (but not to refund) such Notes as herein provided.

“*Series 2021 Notes*” means the Orange County Transportation Authority Bond Anticipation Notes (I-405 Improvement Project), Series 2021 authorized by, and at any time Outstanding pursuant to, this Indenture.

“*Sinking Account*” means an account by that name established in the Principal Fund pursuant to Section 5.04(b) hereof for the payment of Term Notes.

“*S&P*” means S&P Global Ratings and its successors and assigns, except that if such entity shall be dissolved or liquidated or shall no longer perform the functions of a nationally recognized statistical ratings organization, then the term “*S&P*” shall be deemed to refer to any other nationally recognized statistical ratings organization selected by the Issuer.

“*Standby Bond Purchase Agreement*” means that certain Standby Bond Purchase Agreement dated as of September 1, 2021, by and between the Issuer and OCLTA.

“*State*” means the State of California.

“*Subordinate Obligations*” means any obligations of the Issuer issued or incurred in accordance with Section 3.05(d) hereof, which obligations are secured hereunder by the pledge

made pursuant to Section 5.01 hereof and payable from the Collateral on a basis subordinate to the Notes.

“*Subordinate Obligations Fund*” means the fund by that name established pursuant to Section 5.02 hereof.

“*Supplemental Indenture*” means any indenture hereafter duly executed and delivered, supplementing, modifying or amending this Indenture, but only if and to the extent that such supplemental indenture is authorized hereunder.

“*Tax Certificate*” means each Tax Certificate delivered by the Issuer at the time of issuance and delivery of a Series of Notes the interest on which is exempt from taxation under the Code, as the same may be amended or supplemented in accordance with its terms.

“*Term Notes*” means Notes payable at or before their specified maturity date or dates from Mandatory Sinking Account Payments established for that purpose and calculated to retire such Notes on or before their specified maturity date or dates.

“*TIFIA Loan Agreement*” means that certain TIFIA Loan Agreement dated as of \_\_\_\_\_, 2021, by and between the Issuer as Borrower and the United States Department of Transportation, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau as TIFIA Lender.

“*Trustee*” means U.S. Bank National Association, a national banking association duly organized and existing under and by virtue of the laws of the United States of America, or its successor, as Trustee as provided in Section 8.01 hereof.

**Section 1.03. Content of Certificates.** Every certificate provided for in this Indenture with respect to compliance with any provision hereof shall include: (a) a statement that the person making or giving such certificate has read such provision and the definitions herein relating thereto; (b) a brief statement as to the nature and scope of the examination or investigation upon which the certificate is based; (c) a statement that, in the opinion of such person, he or she has made or caused to be made such examination or investigation as is necessary to enable him to express an informed opinion with respect to the subject matter referred to in the instrument to which his signature is affixed; and (d) a statement as to whether, in the opinion of such person, such provision has been complied with.

Any such certificate given by an officer of the Issuer may be based, insofar as it relates to legal or accounting matters, upon a certificate or opinion of or representation by counsel, an accountant, a financial advisor, an investment banker or an independent consultant, unless such officer knows, or in the exercise of reasonable care should have known, that the certificate, opinion or representation with respect to the matters upon which such certificate or statement may be based, as aforesaid, is erroneous. Any such certificate or opinion made or given by counsel, an accountant, a financial advisor, an investment banker or an independent consultant may be based, insofar as it relates to factual matters (with respect to which information is in the possession of the Issuer) upon a certificate or opinion of or representation by an officer of the Issuer, unless such counsel, accountant, financial advisor, investment banker or independent consultant knows, or in the exercise of reasonable care should have known, that the certificate or opinion or representation

with respect to the matters upon which such person's certificate or opinion or representation may be based, as aforesaid, is erroneous. The same officer of the Issuer, or the same counsel, accountant, financial advisor, investment banker or independent consultant, as the case may be, need not certify to all of the matters required to be certified under any provision of this Indenture, but different officers, counsel, accountants, financial advisors, investment bankers or independent consultants may certify to different matters, respectively.

## ARTICLE II

### THE NOTES

**Section 2.01. Authorization of Notes.** Notes may be issued hereunder as fully registered Notes without coupons, in book-entry form or otherwise, from time to time as the issuance thereof is approved by the Issuer. The maximum principal amount of Notes which may be issued hereunder is not limited; subject, however, to any limitations contained in the Law and to the right of the Issuer, which is hereby reserved, to limit the aggregate principal amount of Notes which may be issued or Outstanding hereunder. The Notes are designated as "Orange County Transportation Authority Bond Anticipation Notes (I-405 Improvement Project)" each Series thereof to bear such additional designation as may be necessary or appropriate to distinguish such Series from every other Series of Notes. The Notes may be issued in such Series as from time to time shall be established and authorized by the Issuer, subject to the covenants, provisions and conditions herein contained.

**Section 2.02. Terms of the Notes.** The Notes of each Series shall bear interest, if any, at such rate or rates or determined in such manner and payable at such intervals as may be determined by the Issuer at the time of issuance thereof pursuant to the Supplemental Indenture under which issued, not to exceed the Maximum Rate, and shall mature and become payable on such date or dates and in such year or years as the Issuer may determine by the Supplemental Indenture creating such Series. Principal of and interest on such Notes shall be payable in such manner as may be specified in the Supplemental Indenture creating such Series. The Notes of each Series shall be issued in such denominations as may be authorized by the Supplemental Indenture creating such Series.

Unless otherwise provided in the Supplemental Indenture delivered in connection with such Series of Notes, the Notes of each Series shall be initially registered in the name of "Cede & Co.," as nominee of the Securities Depository and shall be evidenced by one Note certificate for each maturity of each Series of Notes bearing interest at a particular rate of interest per annum. Registered ownership of any Series of Notes, or any portion thereof, may not thereafter be transferred except as set forth in Section 2.10 hereof, or in the event the use of the Securities Depository is discontinued, in accordance with the provisions set forth in Section 2.05 hereof.

**Section 2.03. Form of Notes.** The Notes of any Series shall be in such form or forms as may be specified in the Supplemental Indenture creating such Series.

**Section 2.04. Execution of Notes.** The Notes shall be executed in the name and on behalf of the Issuer by the facsimile or manual signature of an Authorized Representative. Unless otherwise provided in any Supplemental Indenture, the Notes shall then be delivered to the Trustee

for authentication by the Trustee. In case any of the officers who shall have signed any of the Notes shall cease to be such officer or officers of the Issuer before the Notes so signed shall have been authenticated or delivered by the Trustee or issued by the Issuer, such Notes may nevertheless be authenticated, delivered and issued and, upon such authentication, delivery and issue, shall be as binding upon the Issuer as though those who signed the same had continued to be such officers of the Issuer, and also any Note may be signed on behalf of the Issuer by such persons as at the actual date of execution of such Note shall be the proper officers of the Issuer although at the nominal date of such Note any such person shall not have been such officer of the Issuer.

Except as may otherwise be provided in a Supplemental Indenture establishing the terms and provisions of a Series of Notes, only such of the Notes as shall bear thereon a certificate of authentication substantially in the form recited in the Supplemental Indenture creating such Series of Notes, manually executed by the Trustee, shall be valid or obligatory for any purpose or entitled to the benefits of this Indenture, and such certificate of authentication when manually executed by the Trustee shall be conclusive evidence that the Notes so authenticated have been duly executed, authenticated and delivered hereunder and are entitled to the benefits of this Indenture.

**Section 2.05. Transfer of Notes.** Any Note may, in accordance with its terms, be transferred, upon the register required to be kept pursuant to the provisions of **Section 2.07** hereof, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Note for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Trustee.

Whenever any Note or Notes shall be surrendered for transfer, the Issuer shall execute and the Trustee shall authenticate and deliver a new Note or Notes, of the same Series, tenor, maturity and interest rate and a like aggregate principal amount; provided that, unless otherwise provided in any Supplemental Indenture, no registration of transfer may occur during the period established by the Trustee for selection of Notes for redemption, or of any Note or portion of a Note so selected for redemption. The Trustee shall require the Noteholder requesting such transfer to pay any tax or other governmental charge required to be paid with respect to such transfer.

**Section 2.06. Exchange of Notes.** Notes may be exchanged at the Corporate Trust Office of the Trustee for a like aggregate principal amount of Notes of other authorized denominations of the same Series, tenor, maturity and interest rate; provided that, unless otherwise provided in any Supplemental Indenture, no exchange may occur during the period established by the Trustee for selection of Notes for redemption, or of any Note or portion of a Note so selected for redemption. The Trustee shall require the Noteholder requesting such exchange to pay any tax or other governmental charge required to be paid with respect to such exchange.

**Section 2.07. Note Register.** Unless otherwise provided in a Supplemental Indenture delivered in connection with a Series of Notes, the Trustee will keep or cause to be kept, at its Corporate Trust Office sufficient books for the registration and transfer of each Series of Notes, which shall at all times be open to inspection during normal business hours by the Issuer and each Credit Enhancement Provider upon reasonable prior notice; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on such books, Notes as hereinbefore provided.

**Section 2.08. Temporary Notes.** The Notes may be issued in temporary form exchangeable for definitive Notes when ready for delivery. Any temporary Note may be printed, lithographed or typewritten, shall be of such denomination as may be determined by the Issuer, shall be in registered form and may contain such reference to any of the provisions of this Indenture as may be appropriate. A temporary Note may be in the form of a single Note payable in installments, each on the date, in the amount and at the rate of interest established for the Notes maturing on such date. Every temporary Note shall be executed by the Issuer and authenticated by the Trustee upon the same conditions and in substantially the same manner as the definitive Notes. If the Issuer issues temporary Notes, the Issuer will execute and deliver definitive Notes as promptly thereafter as practicable, and thereupon the temporary Notes may be surrendered, for cancellation, in exchange therefor at the Corporate Trust Office of the Trustee and the Trustee shall authenticate and deliver in exchange for such temporary Notes an equal aggregate principal amount of definitive Notes of authorized denominations of the same Series, tenor and maturity or maturities. Until so exchanged, the temporary Notes shall be entitled to the same benefits under this Indenture as definitive Notes authenticated and delivered hereunder.

**Section 2.09. Notes Mutilated; Lost; Destroyed or Stolen.** If any Note is mutilated, the Issuer, at the expense of the Holder of said Note, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Note of like Series, tenor, maturity and interest rate in exchange and substitution for the Note so mutilated, but only upon surrender to the Trustee of the Note so mutilated. Every mutilated Note so surrendered to the Trustee shall be canceled by the Trustee and delivered to, or upon the Order of, the Issuer. If any Note is lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Issuer and to the Trustee and, if such evidence be satisfactory to both and indemnity satisfactory to both is given, the Issuer, at the expense of the Holder, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Note of like Series, tenor, maturity and interest rate in lieu of and in substitution for the Note so lost, destroyed or stolen (or if any such Note shall have matured or shall have been called for redemption, instead of issuing a substitute Note, the Trustee may pay the same without surrender thereof upon receipt of the aforementioned indemnity). The Issuer may require payment of a sum not exceeding the actual cost of preparing each new Note issued under this Section and of the expenses which may be incurred by the Issuer and the Trustee in the premises. Any Note issued under the provisions of this Section in lieu of any Note alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the Issuer whether or not the Note so alleged to be lost, destroyed or stolen be at any time enforceable by anyone, and shall be entitled to the benefits of this Indenture with all other Notes secured by this Indenture. Neither the Issuer nor the Trustee shall be required to treat both the original Note and any replacement Note as being Outstanding for the purpose of determining the principal amount of Notes which may be issued hereunder or for the purpose of determining any percentage of Notes Outstanding hereunder; both the original and replacement Note shall be treated as one and the same.

**Section 2.10. Use of Securities Depository.** Unless otherwise provided in a Supplemental Indenture delivered in connection with a Series of Notes, notwithstanding any provision of this Indenture to the contrary:

- (a) The Notes shall be delivered and registered as provided in Section 2.02 hereof. Registered ownership of any Series of Notes, or any portion thereof, may not thereafter be transferred except:

(i) to any successor of the Securities Depository or its nominee, or to any substitute depository designated pursuant to Section 2.10(a)(ii) below (each, a “***substitute depository***”); provided that any successor of the Securities Depository or substitute depository is qualified under any applicable laws to provide the service proposed to be provided by it;

(ii) to any substitute depository designated by the Issuer upon (A) the resignation of the Securities Depository or its successor (or any substitute depository or its successor) from its functions as depository, or (B) a determination by the Issuer that the Securities Depository or its successor (or any substitute depository or its successor) is no longer able to carry out its functions as depository; provided that any such substitute depository is qualified under any applicable laws to provide the services proposed to be provided by it; or

(iii) to any Person as provided below, upon (A) the resignation of the Securities Depository or its successor (or substitute depository or its successor) from its functions as depository; provided that no substitute depository can be obtained; or (B) to the extent permitted by law, a determination by the Issuer that it is in the best interests of the Issuer to remove the Securities Depository or its successor (or any substitute depository or its successor) from its functions as depository.

(b) In the case of any transfer pursuant Section 2.10(a)(i) or (ii) hereof, upon receipt of the Outstanding Notes by the Trustee, together with a Statement of the Issuer to the Trustee, a single new Note for each maturity of each Series of Notes bearing a particular rate of interest per annum then Outstanding shall be executed and delivered in the aggregate principal amount of the Notes of such Series then Outstanding, registered in the name of such successor or such substitute depository, or their nominees, as the case may be, all as specified in such Statement of the Issuer. In the case of any transfer pursuant to Section 2.10(a)(iii) hereof, upon receipt of the Outstanding Notes by the Trustee together with the Statement of the Issuer to the Trustee, new Notes of each Series then Outstanding shall be authorized and prepared by the Issuer and authenticated and delivered by the Trustee in such authorized denominations and registered in the names of such Persons as are requested in such a Statement of the Issuer, numbered in such manner as the Trustee shall determine, subject to the limitations of Section 2.02 hereof.

(c) In the case of partial redemption or an advance refunding of any Series of the Notes evidencing all or a portion of such amount Outstanding, the Securities Depository shall make an appropriate notation on such Notes indicating the date and amounts of such reduction in principal, in form acceptable to the Trustee.

(d) The Issuer and the Trustee shall be entitled to treat the Person in whose name any Note is registered as the Noteholder thereof for all purposes of this Indenture and any applicable laws, notwithstanding any notice to the contrary received by the Trustee or the Issuer; and the Issuer and the Trustee shall have no responsibility for transmitting payments to, communicating with, notifying or otherwise dealing with any Beneficial Owners of the Notes. Neither the Issuer nor the Trustee will have any responsibility or



obligations, legal or otherwise, to the Beneficial Owners or to any other party including the Securities Depository or its successor (or substitute depository or its successor), except for the Holder of any Note.

(e) So long as the Outstanding Notes are registered in the name of Cede & Co. or its registered assign, the Issuer and the Trustee shall cooperate with Cede & Co., as sole registered Noteholder, and its registered assigns in effecting payment of the principal of, redemption premium, if any, purchase price and interest on the Notes by arranging for payment in such manner that funds for such payments are properly identified and are made immediately available on the date they are due.

### ARTICLE III

#### ISSUANCE OF NOTES

**Section 3.01. Issuance of Notes.** Whenever the Issuer determines to issue a Series of Notes hereunder, the Issuer (a) shall authorize the execution of a Supplemental Indenture specifying the principal amount, and prescribing the forms of Notes of such Series and providing the terms, conditions, distinctive designation, denominations, date, maturity date or dates, interest rate or rates (or the manner of determining the same), the Maximum Rate, redemption provisions, tender provisions, if any, and place or places of payment of principal or Redemption Price, if any, of and interest on such Notes, and any other provisions respecting the Notes of such Series not inconsistent with the terms of this Indenture; (b) shall execute such Supplemental Indenture; and (c) shall deliver such Supplemental Indenture to the Trustee for execution.

**Section 3.02. Issuance of Additional Notes.** Subsequent to the issuance of the Series 2021 Notes but only so long as the Series 2021 Notes are no longer Outstanding, the Issuer may by Supplemental Indenture establish one or more additional Series of Notes, payable from Collateral and secured by the pledge made under this Indenture equally and ratably with the Series 2021 Notes, and the Issuer may issue, and the Trustee may authenticate and deliver to the purchasers thereof, Notes of any Series so established, in such principal amount as shall be determined by the Issuer, but only with respect to each additional Series of Notes issued subsequent to the Series 2021 Notes issued hereunder, upon compliance by the Issuer with the provisions of this Section 3.02, Section 3.03 hereof and any additional requirements set forth in said Supplemental Indenture and subject to the specific conditions set forth below, each of which is hereby made a condition precedent to the issuance of any such additional Series of Notes:

(a) No Event of Default shall have occurred and then be continuing (or the issuance of such additional Series of Notes will cure any such Event of Default).

(b) Subject to the provisions of Section 5.05 hereof, if a Supplemental Indenture providing for the issuance of such Series requires either (i) the establishment of a Note Series Reserve Fund to provide additional security for such Series of Notes; or (ii) that the balance on deposit in an existing Note Series Reserve Fund be increased, forthwith upon the receipt of the proceeds of the sale of such Series, to an amount at least equal to the Reserve Requirement with respect to such Series of Notes and all other Notes secured by such Note Series Reserve Fund to be considered Outstanding upon the issuance of such

additional Series of Notes, then the Supplemental Indenture providing for the issuance of such additional Series of Notes shall require deposit of the amount necessary. Said deposit shall be made as provided in the Supplemental Indenture providing for the issuance of such additional Series of Notes and may be made from the proceeds of the sale of such Series of Notes or from other funds of the Issuer or from both such sources or may be made in the form of a Reserve Facility.

(c) The aggregate principal amount of Notes issued hereunder shall not exceed any limitation imposed by the Law or any other law or by any Supplemental Indenture.

(d) Principal payments of each additional Series of Notes shall be due on April 15 or October 15 in each year in which principal is to be paid if and to the extent deemed practical in the reasonable judgment of the Issuer with regard to the type of Note to be issued, and, if the interest on such Series of Notes is to be paid semiannually, such interest payments shall be due on April 15 and October 15 in each year to the extent deemed practical in the reasonable judgment of the Issuer with regard to the type of Note to be issued.

Nothing in this Section or in this Indenture contained shall prevent or be construed to prevent the Supplemental Indenture providing for the issuance of an additional Series of Notes from pledging or otherwise providing, in addition to the security given or intended to be given by this Indenture, additional security for the benefit of such additional Series of Notes or any portion thereof.

**Section 3.03. Proceedings for Issuance of Additional Notes.** Subsequent to the issuance of the Series 2021 Notes, before any additional Series of Notes shall be issued and delivered, the Issuer shall deliver each of the documents identified below to the Trustee (upon which documents the Trustee may conclusively rely in determining whether the conditions precedent to the issuance of such Series of Notes have been satisfied):

(a) a Supplemental Indenture authorizing such Series executed by the Issuer;

(b) a Certificate of the Issuer certifying: (i) that no Event of Default has occurred and is then continuing (or the issuance of such additional Series of Notes will cure any such Event of Default); and (ii) that the requirements specified in Section 3.02(b) and Section 3.02(c) hereof have been satisfied by the Issuer; and

(c) an Opinion of Bond Counsel to the effect that the Supplemental Indenture is being entered into in accordance with this Indenture and that such Series of Notes, when duly executed by the Issuer and authenticated and delivered by the Trustee, will be valid and binding obligations of the Issuer.

**Section 3.04. Issuance of Refunding Notes.**

(a) Refunding Notes may be authorized and issued by the Issuer; provided that the Trustee shall have been provided with a Certificate of the Issuer to the effect that the Issuer has determined that Maximum Annual Debt Service on all Notes Outstanding following the issuance of such Refunding Notes is less than or equal to Maximum Annual

Debt Service on all Notes Outstanding prior to the issuance of such Refunding Notes. Such Refunding Notes may be issued in an aggregate principal amount sufficient (together with any additional funds available or to become available) to provide funds for the payment of all or a portion of the following:

- (i) the principal or Redemption Price of the Outstanding Notes to refunded;
- (ii) all expenses incident to the calling, retiring or paying of such Outstanding Notes and the Costs of Issuance of such Refunding Notes;
- (iii) interest on all Outstanding Notes to be refunded to the date such Notes will be called for redemption or paid at maturity;
- (iv) interest on the Refunding Notes from the date thereof to the date of payment or redemption of the Notes to be refunded; and
- (v) funding a debt service reserve fund for the Refunding Notes, if required.

(b) Before such Series of Refunding Notes is issued and delivered pursuant to this Section 3.04, the Issuer shall deliver each of the documents identified below to the Trustee (upon which documents the Trustee may conclusively rely in determining whether the conditions precedent to the issuance of such Series of Refunding Notes have been satisfied):

- (i) a Supplemental Indenture authorizing such Series of Refunding Notes executed by the Issuer;
- (ii) a Certificate of the Issuer certifying: (A) that Maximum Annual Debt Service on all Notes that will be outstanding following the issuance of such Series of Refunding Notes is less than or equal to Maximum Annual Debt Service on all Notes Outstanding outstanding prior to the issuance of such Refunding Notes; and (B) that the requirements of Sections 3.02(a), (b), and (c) hereof are satisfied;
- (iii) if any of the Notes to be refunded are to be redeemed prior to their stated maturity dates, irrevocable instructions to the Trustee to give the applicable notice of redemption or a waiver of the notice of redemption signed by the Holders of all or the portion of the Notes to be redeemed, or proof that such notice has been given by the Issuer; provided, however, that in lieu of such instructions or waiver or proof of notice of redemption, the Issuer may cause to be deposited with the Trustee all of the Notes proposed to be redeemed (whether canceled or uncanceled) with irrevocable instructions to the Trustee to cancel said Notes so to be redeemed upon the exchange and delivery of said Refunding Notes; and provided further that no provision of this Indenture shall be construed to require the redemption of Notes prior to their respective maturity dates in connection with the refunding thereof; and

(iv) an Opinion of Bond Counsel to the effect that the Supplemental Indenture is being entered into in accordance with this Indenture and that such Series of Refunding Notes, when duly executed by the Issuer and authenticated and delivered by the Trustee, will be valid and binding obligations of the Issuer.

(c) The proceeds of the sale of the Refunding Notes shall be applied by the Trustee according to the written direction of the Issuer to the retirement of the Outstanding Notes for the refunding of which said Refunding Notes are to be issued. All Notes purchased, redeemed or retired by use of funds received from the sale of Refunding Notes, and all Notes surrendered to the Trustee against the issuance of Refunding Notes, shall be forthwith canceled and shall not be reissued.

**Section 3.05. Limitations on the Issuance of Obligations Payable From Collateral; Subordinate Obligations.** The Issuer will not, so long as any of the Notes are Outstanding, issue any obligations or securities, howsoever denominated, payable in whole or in part from the Collateral except as set forth below:

- (a) “Notes” authorized pursuant to Sections 3.01 and 3.02 hereof;
- (b) “Refunding Notes” authorized pursuant to Section 3.04 hereof;
- (c) “Subordinate Obligations”, provided that the following conditions to issuance or incurrence of such Subordinate Obligations are satisfied:
  - (i) such Subordinate Obligations have been duly and legally authorized by the Issuer for any lawful purpose;
  - (ii) no Event of Default shall have occurred and then be continuing (or the issuance of such Subordinate Obligations will cure any such Event of Default), as evidenced by the delivery to the Trustee of a Certificate of the Issuer to that effect; and
  - (iii) as and to the extent applicable, the Trustee is designated as paying agent or trustee for such Subordinate Obligations and the Issuer delivers to the Trustee a transcript of the proceedings providing for the issuance of such Subordinate Obligations (but the Trustee shall not be responsible for the validity or sufficiency of such proceedings or such Subordinate Obligations).
- (d) Calculation of Maximum Annual Debt Service With Respect to Notes. For purposes of this Article III, Maximum Annual Debt Service with respect to Notes shall be determined no later than the date of delivery of such Notes, and no earlier than the sixtieth (60<sup>th</sup>) day preceding the date of pricing or sale of such Notes, utilizing the assumptions set forth in the definition of Debt Service.

**Section 3.06. Application of Proceeds.** Proceeds of each Series of Notes shall be applied as specified in the Supplemental Indenture pursuant to which such Series of Notes is issued.

## ARTICLE IV

### REDEMPTION, TENDER AND PURCHASE OF NOTES

**Section 4.01. Terms of Redemption, Tender and Purchase.** Each Series of Notes may be made subject to redemption or mandatory or optional tender and purchase prior to their respective stated maturities, as a whole or in part, at such time or times, upon such terms and conditions and upon such notice and with such effect as may be provided in the Supplemental Indenture establishing the terms and provisions of such Series of Notes.

**Section 4.02. Notice of Redemption.** Unless otherwise specified in a Supplemental Indenture establishing the terms and provisions of a Series of Notes, each notice of redemption shall be mailed by the Trustee, not less than twenty (20) nor more than sixty (60) days prior to the redemption date, to each Holder and the Repository. A copy of such notice shall also be provided to each of the Notice Parties with respect to Series of Notes to which such notice relates. Notice of redemption to the Holders, the Repository and the applicable Notice Parties shall be given by first class mail or by acceptable electronic means. Each notice of redemption shall state the date of such notice, the date of issue of the Series of Notes to which such notice relates, the redemption date, the Redemption Price, the place or places of redemption (including the name and appropriate address or addresses of the Trustee), the CUSIP number, if any, of the maturity or maturities, and, in the case of Notes to be redeemed in part only, the respective portions of the principal amount thereof to be redeemed. Each such notice shall also state that on said date there will become due and payable on each of said Notes the Redemption Price thereof or of said specified portion of the principal amount thereof in the case of a Note to be redeemed in part only, together with interest accrued thereon to the date fixed for redemption, and that from and after such redemption date interest thereon shall cease to accrue, and shall require that such Notes be then surrendered at the address or addresses of the Trustee specified in the redemption notice. Neither the Issuer nor the Trustee shall have any responsibility for any defect in the CUSIP number that appears on any Note or in any redemption notice with respect thereto, and any such redemption notice may contain a statement to the effect that CUSIP numbers have been assigned by an independent service for convenience of reference and that neither the Issuer nor the Trustee shall be liable for any inaccuracy in such CUSIP numbers.

Failure by the Trustee to give notice to any Notice Party or the Repository or failure of any Holder, any Notice Party or any Repository to receive notice or any defect in any such notice shall not affect the sufficiency or validity of the proceedings for redemption.

With respect to any notice of optional redemption of Notes delivered pursuant to this Section 4.02 or any provision of any Supplemental Indenture, unless, upon the giving of such notice, such Notes shall be deemed to have been paid within the meaning of Article X hereof, such notice shall state that such redemption shall be conditional upon the receipt by the Trustee on or prior to the date fixed for such redemption of amounts sufficient to pay the principal of, and premium, if any, and interest on, such Notes to be redeemed, and that if such amounts are not so received said notice shall be of no force and effect and the Issuer shall not be required to redeem such Notes. The Issuer may also instruct the Trustee to provide conditional notice of optional redemption, which may be conditioned on the occurrence of any other event if such notice states that if such event does not occur said notice shall be of no force and effect and the Issuer shall not

be required to redeem such Notes. If such notice of optional redemption contains such a condition and such amounts are not so received or such event does not occur, the optional redemption shall not be made and the Trustee shall within a reasonable time thereafter give notice to the Holders to the effect that such amounts were not so received or such event did not occur and such redemption was not made, such notice to be given by the Trustee in the manner in which the notice of redemption was given. Such failure to optionally redeem such Notes shall not constitute an Event of Default.

Any notice of optional redemption given pursuant to this Section 4.02 may be rescinded by written notice given to the Trustee by the Issuer no later than five (5) Business Days prior to the date specified for redemption. The Trustee shall give notice of such rescission as soon thereafter as practicable in the same manner, and to the same Persons, as notice of such redemption was given pursuant to this Section 4.02 hereof.

**Section 4.03. Partial Redemption of Notes.** Upon surrender of any Note redeemed in part only, the Issuer shall execute and the Trustee shall authenticate and deliver to the Holder thereof, at the expense of the Issuer, a new Note or Notes of authorized denominations, and of the same Series and maturity, equal in aggregate principal amount to the unredeemed portion of the Note surrendered.

**Section 4.04. Effect of Redemption.** Notice of redemption having been duly given as aforesaid, and moneys for payment of the Redemption Price of, together with interest accrued to the redemption date on, the Notes (or portions thereof) so called for redemption being held by the Trustee, on the redemption date designated in such notice, the Notes (or portions thereof) so called for redemption shall become due and payable at the Redemption Price specified in such notice together with interest accrued thereon to the redemption date, interest on the Notes so called for redemption shall cease to accrue, said Notes (or portions thereof) shall cease to be entitled to any benefit or security under this Indenture and the Holders of said Notes shall have no rights in respect thereof except to receive payment of said Redemption Price and accrued interest to the date fixed for redemption from funds held by the Trustee for such payment and such funds are hereby pledged to such payment.

All Notes redeemed pursuant to the provisions of this Article shall be canceled upon surrender thereof.

## ARTICLE V

### COLLATERAL

#### Section 5.01. Pledge of Collateral

- (a) (i) So long as any Notes are Outstanding or Subordinate Obligations or or any other amounts payable hereunder remain unpaid, the Issuer covenants and agrees that the Issuer shall transfer to the Trustee an amount of Collateral required for the Trustee to make the transfers and deposits required to be made by the Trustee during such month by Sections 5.02 and 5.05 hereof. Notwithstanding the foregoing sentence, the Issuer shall not be required to make all or any portion of

such required transfer of Collateral in any month to the extent it has, no later than the last Business Day of the immediately preceding month, transferred to the Trustee for deposit in the Revenue Fund amounts other than Collateral in lieu of such required transfer of Collateral (or portion thereof). The Trustee shall forthwith deposit in a trust fund, designated as the “**Revenue Fund**,” which fund the Trustee shall establish and maintain, all Collateral transferred to the Trustee by the Issuer for deposit therein, when and as received by the Trustee.

(ii) As security for the payment of all amounts owing on the Notes and the Subordinate Obligations, in the amounts and with the priorities set forth herein and in the Notes, the Issuer hereby irrevocably pledges to the Trustee: (A) all Collateral; (B) all funds and accounts established hereunder (other than the Rebate Fund, any Letter of Credit Fund and any Purchase Fund) and all investments, money, instruments, and other property credited thereto or on deposit therein; and (C) all proceeds thereof, whether now existing or hereafter arising, subject to the provision of this Indenture permitting the application thereof for the purposes and on the terms and conditions set forth in this Indenture. This collateral shall immediately be subject to this pledge, and this pledge shall constitute a lien and security interest that immediately attaches to the collateral and is effective, binding and enforceable against the Issuer and all others asserting the rights therein, to the extent set forth, and in accordance with, this Indenture irrespective of whether those parties have notice of this pledge and without the need for any physical delivery, recordation, filing or further act.

(iii) All Notes shall be of equal rank without preference, priority or distinction of any Notes over any other Notes. All Subordinate Obligations shall be of equal rank without preference, priority or distinction of any Subordinate Obligations over any other Subordinate Obligations.

(iv) The Trustee shall hold all funds and accounts established hereunder (other than the Rebate Fund, any Letter of Credit Fund and any Purchase Fund), and all investments, money, instruments and other property credited thereto or on deposit therein, in trust for the benefit of the holders of the Notes and the Subordinate Obligations. Such property shall be applied solely as provided in this Indenture.

(b) The Notes are limited obligations of the Issuer and are secured as to payment of both principal and interest, and any premium upon redemption thereof, exclusively from the Collateral pledged hereunder.

#### **Section 5.02. Allocation of Collateral.**

(a) So long as any Notes are Outstanding, or Subordinate Obligations, or any other amounts payable hereunder remain unpaid, in each month the Trustee shall set aside, the moneys in the Revenue Fund in the following respective funds (each of which the Trustee shall establish, maintain and hold in trust for the benefit of the Holders of the Notes and, as and to the extent applicable, Subordinate Obligations) in the following amounts, in

the following order of priority, the requirements of each such fund (including the making up of any deficiencies in any such fund resulting from lack of Collateral sufficient to make any earlier required deposit) at the time of deposit to be satisfied before any deposit is made to any fund subsequent in priority; provided that if any of the deposits or transfers requires more than one such deposit or payment and there are not then on deposit in the Revenue Fund sufficient moneys to make all such deposits and payments, then such deposits and payments shall be made pro rata (based on the total amount of such deposits and payments then due) to the extent of available moneys:

(i) *Interest Fund.* On or before April 15 and October 15 of each year that the Notes are outstanding, the Trustee shall set aside in the Interest Fund as soon as practicable in such month an amount equal to (A) the aggregate half-yearly amount of interest becoming due and payable on the Outstanding Current Interest Notes (excluding any interest for which there are moneys deposited in the Interest Fund from the proceeds of any Series of Notes or other source and reserved as capitalized interest to pay such interest), until the requisite half-yearly amount of interest on all such Outstanding Current Interest Notes is on deposit in such fund. The Trustee shall not make a deposit into the Interest Fund with respect to any Notes if the amount contained therein is at least equal to the interest to become due and payable on the Interest Payment Dates falling within the next six months upon all of the Notes issued hereunder and then Outstanding. On April 15 and October 15 of each year any excess amounts in the Interest Fund not needed to pay interest on such date (and not held to pay interest on Notes having interest payment dates other than April 15 and October 15) shall be transferred to the Issuer (but excluding, in each case, any moneys on deposit in the Interest Fund from the proceeds of any Series of Notes or other source and reserved as capitalized interest to pay interest on any future Interest Payment Dates following such Interest Payment Dates).

(ii) *Principal Fund; Sinking Accounts.* On or before the principal due date with respect to the Notes, including the date when Mandatory Sinking Account Payments are due and payable, the Trustee shall set aside in the Principal Fund an amount equal to the aggregate principal amount of Note Obligation becoming due and payable on the Outstanding Notes; provided that if the Issuer certifies to the Trustee that any principal payments are expected to be refunded on or prior to their respective due dates or paid from amounts on deposit in the Reserve Fund that would be in excess of the Reserve Requirement applicable to such Reserve Fund upon such payment, no amounts need be set aside towards such principal to be so refunded or paid. All of the aforesaid deposits made in connection with future Mandatory Sinking Account Payments shall be made without priority of any payment over any other such payment.

If the Collateral is not sufficient to make the required deposits so that moneys in the Principal Fund on any principal or mandatory redemption date are equal to the amount of Note Obligation to become due and payable on the Outstanding Serial Notes of all Series plus the Note Obligation amount of and redemption premium on the Outstanding Term Notes required to be redeemed or paid at maturity on such date, then such moneys shall be applied on a Proportionate



Basis and in such proportion as said Serial Notes and said Term Notes bear to each other, after first deducting for such purposes from said Term Notes any of said Term Notes required to be redeemed annually as have been redeemed or purchased during the preceding 12-month period and any of said Term Notes required to be redeemed semiannually as have been redeemed or purchased during the six-month period ending on such date or the immediately preceding six month period. If the Collateral is not sufficient to pay in full all Mandatory Sinking Account Payments required to be paid at any one time into all such Sinking Accounts, then payments into all such Sinking Accounts shall be made on a Proportionate Basis, in proportion that the respective Mandatory Sinking Account Payments required to be made into each Sinking Account during the then current 12-month period bear to the aggregate of all of the Mandatory Sinking Account Payments required to be made into all such Sinking Accounts during such 12-month period.

The Trustee shall not make a deposit into the Principal Fund if such fund has (1) moneys sufficient to pay the Note Obligations of all Serial Notes issued hereunder and then Outstanding and maturing by their terms within the next 12 months, plus (2) moneys sufficient to pay the aggregate of all Mandatory Sinking Account Payments required to be made in such 12-month period, but less any amounts deposited into the Principal Fund during such 12-month period and theretofore paid from the Principal Fund to redeem or purchase Term Notes during such 12-month period; provided that if the Issuer certifies to the Trustee that any principal payments are expected to be refunded on or prior to their respective due dates or paid from amounts on deposit in the Reserve Fund that would be in excess of the Reserve Requirement applicable to such Reserve Fund upon such payment, no amounts need be on deposit with respect to such principal payments. At the beginning of each Fiscal Year and in any event not later than April 15 of each year, the Trustee shall request from the Issuer a Certificate of the Issuer setting forth the principal payments for which deposits will not be necessary pursuant to the preceding sentence and the reason therefor. On April 15 of each year or as soon as practicable thereafter, any excess amounts in the Principal Fund not needed to pay principal on such date (and not held to pay principal on Notes having principal payment dates other than April 15) shall be transferred to the Issuer.

(iii) *Reserve Funds.* Upon the occurrence of any deficiency in any Reserve Fund, the Trustee shall make a deposit to such Reserve Fund in an amount equal to 1/12<sup>th</sup> the deficiency in each month, until the balance therein is at least equal to the applicable Reserve Requirement.

(iv) *Subordinate Obligations Fund.* The Trustee shall establish, maintain and hold in trust a separate fund designated as the “Subordinate Obligations Fund.” After the transfers described in Sections 5.02(a)(i), (ii) and (iii) above have been made, the Trustee shall deposit in the Subordinate Obligations Fund in each month such amount as the Issuer shall specify in writing is necessary to make payments due and payable during the following month with respect to Subordinate Obligations then outstanding.

(v) *Fees and Expenses Fund.* The Trustee shall establish, maintain and hold in trust a separate fund designated as the “Fees and Expenses Fund.” After the transfers described in Section 5.02(a)(i), (ii), (iii) and (iv) above have been made, the Trustee shall deposit in the Fees and Expenses Fund in each month the amounts necessary for payment of Fee and Expense Obligations owing in such month or the following month by the Issuer. The Issuer shall provide the Trustee with invoices relating to the payment of such amounts, in writing, at the beginning of each month.

(b) Any Collateral remaining in the Revenue Fund after the foregoing transfers described in Section 5.02(a) hereof, except as the Issuer shall otherwise direct in writing or as is otherwise provided in a Supplemental Indenture, shall be transferred to the Issuer on the same Business Day or as soon as practicable thereafter. The Issuer may use and apply the Revenues when received by it for any lawful purpose of the Issuer, including the redemption of Notes upon the terms and conditions set forth in the Supplemental Indenture relating to such Notes and the purchase of Notes as and when and at such prices as it may determine.

(c) If, five (5) days prior to any principal payment date, Interest Payment Date or mandatory redemption date the amounts on deposit in the Revenue Fund, the Interest Fund, the Principal Fund, including the Sinking Accounts therein, and, as and to the extent applicable, the Reserve Fund established in connection with a Series of Notes with respect to the payments to be made on such upcoming date are insufficient to make such payments, the Trustee shall notify the Issuer, in writing, of such deficiency and direct that the Issuer transfer the amount of such deficiency to the Trustee on or prior to such payment date. The Issuer hereby covenants and agrees to transfer to the Trustee from any Revenues in its possession the amount of such deficiency on or prior to the principal, interest or mandatory redemption date referenced in such notice.

**Section 5.03. Application of Interest Fund.** All amounts in the Interest Fund shall be used and withdrawn by the Trustee solely for the purposes of paying interest on the Notes as it shall become due and payable (including accrued interest on any Notes purchased or redeemed prior to maturity pursuant to this Indenture), or for reimbursing the Credit Enhancement Provider for a drawing for such purposes made on Credit Enhancement provided in the form of an irrevocable, direct-pay letter of credit. If amounts on deposit in the Interest Fund are not sufficient to pay in full all amounts payable from the Interest Fund, such amounts shall be applied pro-rata (based on the total amount on deposit in the Interest Fund and payments then due).

**Section 5.04. Application of Principal Fund.**

(a) All amounts in the Principal Fund shall be used and withdrawn by the Trustee solely for the purposes of paying the Note Obligation of the Notes when due and payable, except that all amounts in the Sinking Accounts shall be used and withdrawn by the Trustee solely to purchase or redeem or pay at maturity Term Notes, as provided herein, or for reimbursing the Credit Provider for a drawing for such purposes made on Credit Enhancement provided in the form of an irrevocable, direct-pay letter of credit. If amounts on deposit in the Principal Fund are not sufficient to pay in full all amounts payable from

the Principal Fund, such amounts shall be applied pro rata (based on the total amount on deposit in the Principal Fund and payments then due).

(b) The Trustee shall establish and maintain within the Principal Fund a separate account for the Term Notes of each Series and maturity, designated as the “Sinking Account,” inserting therein the Series and maturity designation of such Notes. On or before the Business Day prior to any date upon which a Mandatory Sinking Account Payment is due, the Trustee shall transfer the amount of such Mandatory Sinking Account Payment (being the principal thereof, in the case of Current Interest Notes, and the Accreted Value, in the case of Capital Appreciation Notes) from the Principal Fund to the applicable Sinking Account. With respect to each Sinking Account, on each Mandatory Sinking Account Payment date established for such Sinking Account, the Trustee shall apply the Mandatory Sinking Account Payment required on that date to the redemption (or payment at maturity, as the case may be) of Term Notes of such Series and maturity for which such Sinking Account was established, in the manner provided in this Indenture or the Supplemental Indenture pursuant to which such Series of Notes was created; provided that, at any time prior to giving such notice of such redemption, the Trustee shall, upon receipt of a Request of the Issuer, apply moneys in such Sinking Account to the purchase of Term Notes of such Series and maturity at public or private sale, as and when and at such prices (including brokerage and other charges, but excluding accrued interest, which is payable from the Interest Fund) as is directed by the Issuer, except that the purchase price (excluding accrued interest, in the case of Current Interest Notes) shall not exceed the principal amount or Accreted Value thereof. If, during the 12-month period (or six-month period with respect to Notes having semi-annual Mandatory Sinking Account Payments) immediately preceding said Mandatory Sinking Account Payment date, the Trustee has purchased Term Notes of such Series and maturity with moneys in such Sinking Account, or, during said period and prior to giving said notice of redemption, the Issuer has deposited Term Notes of such Series and maturity with the Trustee, or Term Notes of such Series and maturity were at any time purchased or redeemed by the Trustee from the Redemption Fund and allocable to said Mandatory Sinking Account Payment, such Term Notes so purchased or deposited or redeemed shall be applied, to the extent of the full principal amount thereof, to reduce said Mandatory Sinking Account Payment. All Term Notes purchased or deposited pursuant to this paragraph shall be cancelled by the Trustee and destroyed by the Trustee and a certificate of destruction shall be delivered to the Issuer by the Trustee. Any amounts remaining in a Sinking Account on April 1 of each year following the redemption as of such date of the Term Notes for which such account was established shall be withdrawn by the Trustee and transferred as soon as practicable to the Issuer to be used for any lawful purpose. All Term Notes purchased from a Sinking Account or deposited by the Issuer with the Trustee in a 12-month period ending February 28 or 29, as applicable, (or in a six-month period ending February 28 or 29, as applicable, or August 31 with respect to Notes having semi-annual Mandatory Sinking Account Payments) and purchased prior to the giving of notice by the Trustee for redemption from Mandatory Sinking Account Payments for such period shall be allocated first to the next succeeding Mandatory Sinking Account Payment for such Series and maturity of Term Notes, if any, occurring on the next April 15 or October 15, then as a credit against such future Mandatory Sinking Account Payments for such Series and maturity of Term Notes as may be specified in a Request of the Issuer. All Term Notes redeemed by the Trustee

from the Redemption Fund shall be credited to such future Mandatory Sinking Account Payments for such Series and maturity of Term Notes as may be specified in a Request of the Issuer.

#### **Section 5.05. Establishment, Funding and Application of Reserve Funds.**

(a) If a reserve fund is established pursuant to a Supplemental Indenture, the Trustee shall establish, maintain and hold in trust such Reserve Fund for the benefit of the Holders of the Notes for which such reserve fund was established. Any such Reserve Fund shall comply with the requirements set forth in Sections 5.05(c) through (g) below.

(b) The Issuer may at its sole discretion at the time of issuance of any Series of Notes or at any time thereafter by Supplemental Indenture provide for the establishment of a Reserve Fund as additional security for a Series of Notes. Any Reserve Fund so established by the Issuer shall be available to secure one or more Series of Notes as the Issuer shall determine and shall specify in the Supplemental Indenture establishing such Reserve Fund. Any Reserve Fund established by the Issuer shall be held by the Trustee and shall comply with the requirements set forth in Sections 5.05(c) through (g) below.

(c) In lieu of making the Reserve Requirement deposit applicable to one or more Series of Notes in cash or in replacement of moneys then on deposit in the Reserve Fund (which shall be transferred by the Trustee to the Issuer), or in substitution of any Reserve Facility comprising part of the Reserve Requirement relating to one or more Series of Notes, the Issuer may, at any time and from time to time, deliver to the Trustee an irrevocable letter of credit issued by a financial institution having unsecured debt obligations rated at the time of delivery of such letter of credit in one of the two highest Rating Categories of Moody's and S&P, in an amount, that, together with cash, Investment Securities or other Reserve Facilities, as described in Section 5.05(d) hereof, then on deposit in the Reserve Fund, will equal the applicable Reserve Requirement. Such letter of credit shall have a term no less than three years or, if less, no less than the final maturity of the Notes in connection with which such letter of credit was obtained and shall provide by its terms that it may be drawn upon as provided in this Section 5.05. At least one year prior to the stated expiration of such letter of credit, the Issuer shall either (i) deliver a replacement letter of credit; (ii) deliver an extension of the letter of credit for at least one additional year or, if less, no less than the final maturity date of the Notes in connection with which such letter of credit was obtained; or (iii) deliver to the Trustee a Reserve Facility satisfying the requirements of Section 5.05(d) hereof. Upon delivery of such replacement Reserve Facility, the Trustee shall deliver the then-effective letter of credit to or upon the order of the Issuer. If the Issuer fails to deposit a replacement Reserve Facility with the Trustee, the Issuer shall immediately commence to make monthly deposits with the Trustee so that an amount equal to the applicable Reserve Requirement will be on deposit in the Reserve Fund no later than the stated expiration date of the letter of credit. If an amount equal to the applicable Reserve Requirement as of the date following the expiration of the letter of credit is not on deposit in the Reserve Fund one week prior to the expiration date of the letter of credit (excluding from such determination the letter of credit), the Trustee shall draw on the letter of credit to fund the deficiency resulting therefrom in the Reserve Fund.

(d) In lieu of making a Reserve Requirement deposit in cash or in replacement of moneys then on deposit in the Reserve Fund (which shall be transferred by the Trustee to the Issuer) or in substitution of any Reserve Facility comprising part of a Reserve Requirement for any Notes, the Issuer may, at any time and from time to time, deliver to the Trustee a surety Note or an insurance policy in an amount which, together with moneys, Investment Securities, or other Reserve Facilities then on deposit in the Reserve Fund, is no less than the applicable Reserve Requirement. Such surety Note or insurance policy shall be issued by an insurance company whose unsecured debt obligations (or for which obligations secured by such insurance company's insurance policies) are rated at the time of delivery in one of the two highest Rating Categories of Moody's and S&P. Such surety Note or insurance policy shall have a term of no less than the final maturity of the Notes in connection with which such surety Note or insurance policy is obtained. If such surety Note or insurance policy for any reason lapses or expires, the Issuer shall immediately implement Section 5.05(c)(i) or (iii) hereof or make the twelve (12) equal monthly deposits to the Reserve Fund so that the Reserve Fund is replenished to the required level after a year.

(e) Subject to Section 5.05(g) hereof, all amounts in the Reserve Fund (including all amounts which may be obtained from a Reserve Facility on deposit in the Reserve Fund) shall be used and withdrawn by the Trustee, as hereinafter provided: (i) for the purpose of making up any deficiency in the Interest Fund or the Principal Fund relating to the Notes of the Series to which the Reserve Fund relates; or (ii) together with any other moneys available therefor, (A) for the payment or redemption of all Notes then Outstanding of the Series to which the Reserve Fund relates; (B) for the defeasance or redemption of all or a portion of the Notes then Outstanding of the Series to which the Reserve Fund relates; provided, however, that if funds on deposit in the Reserve Fund are applied to the defeasance or redemption of a portion of the Series of Notes to which the Reserve Fund relates, the amount on deposit in the Reserve Fund immediately subsequent to such partial defeasance or redemption shall equal the Reserve Requirement applicable to all Notes of such Series Outstanding immediately subsequent to such partial defeasance or redemption; or (C) for the payment of the final principal and interest payment of the Notes of such Series. Unless otherwise directed in a Supplemental Indenture establishing the terms and provisions of a Series of Notes, the Trustee shall apply amounts held in cash or Investment Securities in the Reserve Fund prior to applying amounts held in the form of Reserve Facilities in the Reserve Fund, and if there is more than one Reserve Facility being held on deposit in the Reserve Fund, shall, on a pro rata basis with respect to the portion of such Reserve Fund held in the form of a Reserve Facility (calculated by reference to the maximum amount of such Reserve Facility), draw under each Reserve Facility issued with respect to such Reserve Fund, in a timely manner and pursuant to the terms of such Reserve Facility to the extent necessary to obtain sufficient funds on or prior to the date such funds are needed to pay the Note Obligation of, Mandatory Sinking Account Payments with respect to, and interest on the Notes of the Series to which such Reserve Fund relates when due. If the Trustee has notice that any payment of principal of or interest on a Note has been recovered from a Holder pursuant to the United States Bankruptcy Code by a trustee in bankruptcy in accordance with the final, nonappealable order of a court having competent jurisdiction, the Trustee, pursuant to the terms of, and if so provided by, the terms of the Reserve Facility, if any, securing the Notes of such Series, shall so notify the

issuer thereof and draw on such Reserve Facility to the lesser of the extent required or the maximum amount of such Reserve Facility to pay to such Holders the principal and interest so recovered.

(f) The Trustee shall notify the Issuer of any deficiency in the Reserve Fund (i) due to a withdrawal from the Reserve Fund for purposes of making up any deficiency in the Interest Fund or the Principal Fund relating to the Notes of the Series to which the Reserve Fund relates, or (ii) resulting from a valuation of Investment Securities held on deposit in the Reserve Fund pursuant to Section 5.11 hereof and request that the Issuer replenish such deficiency or repay any and all obligations due and payable under the terms of any Reserve Facility comprising part of any Reserve Requirement. Upon receipt of such notification from the Trustee, the Issuer shall transfer to the Trustee, for deposit in the applicable Reserve Fund, Collateral in an amount equal to one-twelfth of the aggregate amount of each unreplenished prior withdrawal from the Reserve Fund or decrease resulting from a valuation pursuant to Section 5.11 hereof and shall further transfer to the Trustee, for transfer by the Trustee to each Reserve Facility Provider providing a Reserve Facility satisfying a portion of the Note Reserve Requirement relating to the Notes of the Series to which the Reserve Fund relates, Collateral in an amount equal to one-twelfth of the aggregate amount of any unreplenished prior withdrawal on such Reserve Facility, such amount to be transferred by the Trustee commencing with the month following the Issuer's receipt of notification from the Trustee of withdrawal or decrease resulting from a valuation, as applicable, until the balance on deposit in the Reserve Fund is at least equal to the applicable Reserve Requirement.

(g) Unless the Issuer shall otherwise direct in writing, any amounts in the Reserve Fund in excess of the applicable Reserve Requirement shall be transferred by the Trustee to the Issuer on the Business Day following February 28 or 29, as applicable, of each year; provided that such amounts shall be transferred only from the portion of the Reserve Fund held in the form of cash or Investment Securities. In addition, amounts on deposit in the Reserve Fund shall be transferred by the Trustee to the Issuer (i) upon the defeasance, retirement or refunding of Notes of the Series to which such Reserve Fund relates; provided that such transfer shall not be made unless (A) immediately thereafter all of the Notes to which the Reserve Fund relates shall be deemed to have been paid pursuant to Article X hereof, or (B) the amount remaining in the Reserve Fund after such transfer shall not be less than the applicable Reserve Requirement; or (ii) upon the replacement of cash on deposit in the Reserve Fund with one or more Reserve Facilities in accordance with Section 5.05(c) or (d) hereof, subject in the case of both clauses (i) and (ii) to the requirements of the applicable Tax Certificate.

**Section 5.06. Application of Subordinate Obligations Fund.** All moneys in the Subordinate Obligations Fund shall be used and withdrawn by the Trustee to pay Subordinate Obligations as such amounts become due and payable. If amounts on deposit in the Subordinate Obligations Fund are not sufficient to pay in full all amounts payable from the Subordinate Obligations Fund, such amounts shall be applied pro rata (based on the total amount on deposit in the Subordinate Obligations Fund and payments then due).

**Section 5.07. Notice Regarding Balance of Funds Available to Pay the Notes.** On the 75<sup>th</sup> day prior to the maturity date of the Notes, the Trustee shall give written notice to the Issuer as to the amount of funds on deposit in the Principal Fund and the Interest Fund available to pay the principal of and accrued interest on the Notes on the date of their maturity.

**Section 5.08. Application of Redemption Fund.** The Trustee shall establish, maintain and hold in trust a special fund designated as the “**Redemption Fund**.” All moneys deposited by the Issuer with the Trustee for the purpose of optionally redeeming Notes of any Series shall, unless otherwise directed by the Issuer, be deposited in the Redemption Fund. All amounts deposited in the Redemption Fund shall be used and withdrawn by the Trustee solely for the purpose of redeeming Notes of such Series and maturity as shall be specified by the Issuer in a Request to the Trustee, in the manner, at the times and upon the terms and conditions specified in the Supplemental Indenture pursuant to which the Series of Notes was created; provided that, at any time prior to giving such notice of redemption, the Trustee shall, upon receipt of a Request of the Issuer, apply such amounts to the purchase of Notes at public or private sale, as and when and at such prices (including brokerage and other charges, but excluding, in the case of Current Interest Notes, accrued interest, which is payable from the Interest Fund) as is directed by the Issuer, except that the purchase price (exclusive of any accrued interest) may not exceed the Redemption Price or Accreted Value then applicable to such Notes. All Term Notes purchased or redeemed from the Redemption Fund shall be allocated to Mandatory Sinking Account Payments applicable to such Series and maturity of Term Notes as may be specified in a Request of the Issuer.

**Section 5.09. Rebate Fund.**

(a) Upon receipt of funds identified in writing by the Issuer to the Trustee to be applied to the Rebate Requirement, the Trustee shall establish and maintain a fund separate from any other fund established and maintained hereunder designated as the “**Rebate Fund**”. Within the Rebate Fund, the Trustee shall maintain such accounts as shall be necessary in order to comply with the terms and requirements of each Tax Certificate as directed in writing by the Issuer. Subject to the transfer provisions provided in Section 5.09(c) below, all money at any time deposited in the Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the Rebate Requirement, for payment to the federal government of the United States of America, and neither the Trustee nor any Holder nor any other Person shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Indenture and by the applicable Tax Certificate. The Issuer hereby covenants to comply with the directions contained in, each Tax Certificate and the Trustee hereby covenants to comply with all written instructions of the Issuer delivered to the Trustee pursuant to each Tax Certificate (which instructions shall state the actual amounts to be deposited in or withdrawn from the Rebate Fund and shall not require the Trustee to make any calculations with respect thereto). The Trustee shall be deemed conclusively to have complied with the provisions of this Section 5.09(a) if it follows such instructions of the Issuer, and the Trustee shall have no liability or responsibility to enforce compliance by the Issuer with the terms of any Tax Certificate nor to make computations in connection therewith.

(b) Pursuant to each Tax Certificate, an amount shall be deposited in the Rebate Fund by the Issuer so that the balance of the amount on deposit thereto shall be equal to

the Rebate Requirement applicable to the Series of Notes to which such Tax Certificate relates. Computations of each Rebate Requirement shall be furnished by or on behalf of the Issuer to the Trustee in accordance with the applicable Tax Certificate.

(c) The Trustee shall invest all amounts held in the Rebate Fund, pursuant to written instructions of the Issuer, in Investment Securities, subject to the restrictions set forth in the applicable Tax Certificate. Money shall not be transferred from the Rebate Fund except as provided in Section 5.09(d) below.

(d) Upon receipt of Rebate Instructions, the Trustee shall remit part or all of the balances in the Rebate Fund to the United States of America, as so directed. In addition, if the Rebate Instructions so direct, the Trustee will deposit moneys into or transfer moneys out of the Rebate Fund from or into such accounts or funds as directed by the Rebate Instructions. Any funds remaining in the Rebate Fund after redemption and payment of all of a Series of Notes and payment and satisfaction of any Rebate Requirement applicable to such Series of Notes, shall be withdrawn and remitted to the Issuer in accordance with a Request of the Issuer.

(e) Notwithstanding any other provision of this Indenture, including in particular Article X thereof, the obligation to remit the Rebate Requirement applicable to each Series of Notes to the federal government of the United States of America and to comply with all other requirements of this Section and each Tax Certificate shall survive the defeasance or payment in full of the Notes.

**Section 5.10. Investment in Funds and Accounts.** All moneys in any of the funds and accounts held by the Trustee or established pursuant to this Indenture (including any Project Fund held by the Trustee) shall be invested, as directed by the Issuer, solely in Investment Securities. All Investment Securities shall, as directed by the Issuer in writing be acquired subject to the limitations set forth in Section 6.08 hereof, the limitations as to maturities hereinafter in this Section set forth and such additional limitations or requirements consistent with the foregoing as may be established by Request of the Issuer. If and to the extent the Trustee does not receive investment instructions from the Issuer with respect to the moneys in the funds and accounts held by the Trustee pursuant to this Indenture, such moneys shall be invested in Investment Securities described in clause (b)(iii) of the definition thereof and the Trustee shall thereupon request investment instructions from the Issuer for such moneys.

Moneys in any Reserve Fund shall be invested in Investment Securities maturing in not more than five years, or having a put option or demand option providing funds upon request for the purpose of payment of the Notes to which such Reserve Fund relates as provided herein. Moneys in the remaining funds and accounts shall be invested in Investment Securities maturing or available on demand not later than the date on which it is estimated that such moneys will be required by the Trustee.

Unless otherwise provided in a Supplemental Indenture establishing the terms and provisions of a Series of Notes or a Request of the Issuer delivered to the Trustee: (a) all interest, profits and other income received from the investment of moneys in the Interest Fund representing accrued interest or capitalized interest shall be retained in the Interest Fund; (b) all interest, profits



and other income received from the investment of moneys in the Reserve Fund shall be retained in such Reserve Fund to the extent of any deficiency therein, and otherwise shall be transferred to the Project Fund established in connection with the Series of Notes to which the Reserve Fund relates, if any, until such time as such Project Fund shall be closed, and then shall be transferred to the Revenue Fund; (c) all interest, profits and other income received from the investment of moneys in a Costs of Issuance Fund shall be retained in such Costs of Issuance Fund until such time as such Costs of Issuance Fund is closed, and any earnings received on a Costs of Issuance Fund subsequent to the closure of such Costs of Issuance Fund shall be transferred to the Revenue Fund; (d) all interest, profits and other income received from the investment of moneys in a Project Fund shall be retained in such Project Fund, unless the Issuer shall direct that such earnings be transferred to the Rebate Fund; (e) all interest, profits and other income received from the investment of moneys in the Rebate Fund shall be retained in the Rebate Fund, except as otherwise provided in Section 5.09 hereof; (f) all interest, profits and other income received from the investment of moneys in any Letter of Credit Fund or Purchase Fund shall be retained in such Letter of Credit Fund or Purchase Fund, as applicable; and (g) all interest, profits and other income received from the investment of moneys in any other fund or account shall be transferred to the Revenue Fund. Notwithstanding anything to the contrary contained in this paragraph, an amount of interest received with respect to any Investment Security equal to the amount of accrued interest, if any, paid as part of the purchase price of such Investment Security shall be credited to the fund or account from which such accrued interest was paid.

All Investment Securities credited to any Reserve Fund shall be valued (at market value) as of April 15 and October 15 of each year (or the next succeeding Business Day if such day is not a Business Day), such market value to be determined by the Trustee in the manner then currently employed by the Trustee or in any other manner consistent with corporate trust industry standards. Notwithstanding anything to the contrary herein, in making any valuations of investments hereunder, the Trustee may utilize and rely on computerized securities pricing services that may be available to it, including those available through its regular accounting system.

The Trustee may commingle any of the funds or accounts established pursuant to this Indenture (except the Rebate Fund, any Letter of Credit Fund and any Purchase Fund) into a separate fund or funds for investment purposes only; provided that all funds or accounts held by the Trustee hereunder shall be accounted for separately as required by this Indenture. The Trustee may act as principal or agent in the making or disposing of any investment and, with the prior written consent of the Issuer, may impose its customary charge therefor. The Trustee may sell consistent with the Trustee's customary trading practice, or present for redemption, any Investment Securities so purchased whenever it shall be necessary to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund or account to which such Investment Security is credited. The Trustee shall not be liable or responsible for any loss resulting from any investment made in accordance herewith.

The Issuer acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Issuer the right to receive brokerage confirmations of security transactions as they occur, the Issuer will not receive such confirmations to the extent permitted by law. The Trustee will furnish the Issuer periodic cash transaction statements that include detail for all investment transactions made by the Trustee hereunder.

## ARTICLE VI

### COVENANTS OF THE ISSUER

**Section 6.01. Punctual Payments.** The Issuer shall punctually pay or cause to be paid the principal or Redemption Price of and interest on all the Notes, in strict conformity with the terms of the Notes and of this Indenture, according to the true intent and meaning thereof, and shall punctually pay or cause to be paid all Mandatory Sinking Account Payments, but in each case the Issuer shall not be required to advance any moneys for such purpose other than the Collateral as provided in this Indenture. The Issuer shall punctually pay or cause to be paid all Subordinate Obligations.

**Section 6.02. Extension of Payment of Notes.** The Issuer shall not directly or indirectly extend or assent to the extension of the maturity of any of the Notes or the time of payment of any Notes or claims for interest by the purchase or funding of such Notes or claims for interest or by any other arrangement and in case the maturity of any of the Notes or the time of payment of any such claims for interest shall be extended, such Notes or claims for interest shall not be entitled, in case of any default hereunder, to the benefits of this Indenture, except subject to the prior payment in full of the principal of all of the Notes then Outstanding and of all claims for interest thereon which shall not have been so extended. Nothing in this Section shall be deemed to limit the right of the Issuer to issue Notes for the purpose of refunding any Outstanding Notes, and such issuance shall not be deemed to constitute an extension of maturity of Notes.

**Section 6.03. Waiver of Laws.** The Issuer shall not at any time insist upon or plead in any manner whatsoever, or claim or take the benefit or advantage of, any stay or extension of law now or at any time hereafter in force that may affect the covenants and agreements contained in this Indenture or in the Notes, and all benefit or advantage of any such law or laws is hereby expressly waived by the Issuer to the extent permitted by law.

**Section 6.04. Further Assurances.** The Issuer shall make, execute and deliver any and all such instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Indenture and for the better assuring and confirming unto the Holders of the Notes and Subordinate Obligations of the rights and benefits provided in this Indenture.

**Section 6.05. Against Encumbrances.** The Issuer shall not create any pledge, lien or charge upon any of the Collateral or any portion thereof having priority over or having parity with the lien of the Notes or the Subordinate Obligations.

**Section 6.06. Accounting Records and Financial Statements.**

(a) The Issuer shall at all times keep, or cause to be kept, proper books of record and account, prepared in accordance with generally accepted accounting principles, in which complete and accurate entries shall be made of all transactions relating to the Revenues. Such books of record and account shall be available for inspection by the Trustee (who shall have no duty or obligation to so inspect) at reasonable hours and under reasonable circumstances.

(b) [The Issuer shall furnish the Trustee, within 210 days after the end of each Fiscal Year, the financial statements of the Issuer for such Fiscal Year, together with the report of an independent certified public accountant stating that the financial statements have been prepared in accordance with generally accepted accounting principles and that such accountant's examination of the financial statements was performed in accordance with generally accepted auditing standards and a Certificate of an Authorized Representative stating that no event that constitutes an Event of Default or that with the giving of notice or the passage of time or both would constitute an Event of Default has occurred and is continuing as of the end of such Fiscal Year, or specifying the nature of such event and the actions taken and proposed to be taken by the Issuer to cure such default. Thereafter, a copy of such financial statements shall be furnished to any Holder upon written request to the Issuer, which copy of the financial statements may, at the sole discretion of the Issuer, be provided by means of posting such financial statements on an internet site that provides access to the Holders. The Trustee shall have no duty or obligation to review such financial statements or the report of the independent certified public accountant.]<sup>1</sup>

#### **Section 6.07. Application of Collateral.**

(a) The Issuer shall transmit the Collateral to the Trustee as provided in Sections 5.01 and 5.05 hereof. Collateral received by the Trustee shall be applied and transferred as provided in Sections 5.02 and 5.05 hereof; provided that, during the continuance of an Event of Default, any Collateral received by the Trustee shall be applied as set forth in Section 7.02 hereof.

(b) The Issuer shall separately account for all Collateral and provide to the Trustee access to such accounting records at reasonable hours and under reasonable circumstances.

**Section 6.08. Tax Covenants.** The Issuer shall not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest on the Notes under Section 103 of the Code; provided that, prior to the issuance of any Series of Notes, the Issuer may exclude the application of the covenants contained in this Section 6.08 and Section 5.09 hereof to such Series of Notes. Without limiting generality of the foregoing, the Issuer shall comply with the Tax Certificate relating to each Series of Notes. If at any time the Issuer is of the opinion that for purposes of this Section 6.08 it is necessary to restrict or limit the yield on the investment of any moneys held by the Trustee under this Indenture, the Issuer shall so instruct the Trustee in writing, and the Trustee shall take such action as may be necessary in accordance with such instructions.

Without limiting the generality of the foregoing, the Issuer shall pay, or cause to be paid, from time to time all amounts required to be rebated to the federal government of the United States of America pursuant to Section 148(f) of the Code and any temporary, proposed or final Treasury Regulations as may be applicable to the Notes from time to time. The Issuer shall pay or cause to be paid to the federal government of the United States of America the Rebate Requirement with

respect to each Series of Notes at the times and in the amounts determined under and as described in the Tax Certificate executed and delivered in connection with such Series of Notes.

Notwithstanding any provision of this Section 6.08, Section 5.09 hereof and any Tax Certificate, if the Issuer receives an Opinion of Bond Counsel to the effect that any action required under this Section 6.08, Section 5.09 hereof or any Tax Certificate is no longer required, or to the effect that some further action is required, to maintain the exclusion from gross income of the interest on the Notes pursuant to Section 103 of the Code, the Issuer and the Trustee may rely conclusively on such opinion in complying with the provisions hereof, and the covenants hereunder shall be deemed to be modified to that extent.

Notwithstanding any provisions of this Indenture, including particularly Article X hereof, the covenants and obligations set forth in this Section 6.08 shall survive the defeasance of the Notes or any Series thereof.

**Section 6.09. Continuing Disclosure.** Upon the issuance of any Series of Notes requiring an undertaking regarding continuing disclosure under Rule 15c2-12, the Issuer shall comply with and carry out all of the provisions of the Continuing Disclosure Agreement executed and delivered in connection with such Series of Notes. Notwithstanding any other provision of this Indenture or any Supplemental Indenture to the contrary, failure of the Issuer to comply with the provisions of any Continuing Disclosure Agreement shall not be considered an Event of Default; provided, however that the Trustee shall, at the written request of any Participating Underwriter or of the Holders of at least 25% aggregate principal amount of any Series of Notes then Outstanding (but only to the extent funds in an amount satisfactory to the Trustee have been provided to it or it has been otherwise indemnified to its satisfaction from any cost, liability, expense or additional charges and fees of the Trustee whatsoever, including, without limitation, reasonable fees and expenses of its attorneys), or any Holder or beneficial owner may, take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Issuer to comply with its obligations under this Section 6.09.

**Section 6.10. Annual Budgets.** For each Fiscal Year the Issuer shall adopt a budget that is balanced in accordance with the laws of the State applicable to the Issuer and that incorporates the payment of all amounts with respect to the obligations of the Issuer scheduled to become due in such Fiscal Year.

**Section 6.11. Standby Bond Purchase Agreement.** The Issuer shall comply in all material respects with its obligations under the Standby Bond Purchase Agreement unless expressly waived by OCLTA. The Issuer shall submit to OCLTA a Notice of Purchase as provided in the Standby Bond Purchase Agreement no later than 75 days prior to the date that principal is due and payable with respect to the Notes requesting the OCLTA purchase OCTA Bonds in a principal amount equal to the difference between the amount currently on deposit in the Principal Fund and the Interest Fund and the Outstanding principal of and accrued interest on the Notes that is due and payable.

**Section 6.12. Compliance With Laws.** The Issuer shall carry out its function as a regional transportation authority in compliance with all applicable laws, regulations, and lawful orders of any governmental agency or authority having jurisdiction.

**Section 6.13. Payment of Taxes and Charges.** The Issuer shall, from time to time, duly pay and discharge, or cause to be paid and discharged, any taxes, assessments or other governmental charges lawfully imposed upon any part of its operations, when the same become due, as well as any lawful claim for labor, materials or supplies that, if unpaid, might by law become a lien or charge upon the Collateral, or which might impair the security of the Notes or any Subordinate Obligations. Notwithstanding the foregoing, the Issuer need not pay or discharge any tax, assessment or other governmental charge, or claim for labor, material or supplies, if and, so long as the Issuer is contesting the validity or application thereof in good faith.

**Section 6.14. TIFIA Loan Agreement.** The Issuer shall comply in all material respects with its obligations under the TIFIA Loan Agreement. The Issuer shall only use the proceeds of the Notes to pay for “Eligible Project Costs” as defined in the TIFIA Loan Agreement. The Issuer shall submit a request to draw under the TIFIA Loan Agreement no later than 90 days prior to the date that the principal and accrued interest is due and payable with respect to the Notes in an amount equal to the difference between the amount then on deposit in the Principal Fund and Interest Fund and the principal amount of and accrued interest on the Notes that is due and payable.

## ARTICLE VII

### EVENTS OF DEFAULT AND REMEDIES

**Section 7.01. Events of Default.** The following events shall be Events of Default:

(a) default in the due and punctual payment of the principal or Redemption Price of any Note when and as the same shall become due and payable, whether at maturity as therein expressed, by proceedings for redemption, by declaration or otherwise, or default in the redemption from any Sinking Account of any Notes in the amounts and at the times provided therefor;

(b) default in the due and punctual payment of any installment of interest on any Note when and as such interest installment shall become due and payable;

(c) the Issuer fails to observe or perform any covenant, condition, agreement or provision in this Indenture on its part to be observed or performed, other than as referred to in Section 7.01(a) or (b) above, for a period of sixty (60) days after written notice, specifying such failure and requesting that it be remedied, has been given to the Issuer by the Trustee or by any Credit Enhancement Provider; except that, if such failure can be remedied but not within such 60-day period and if the Issuer has taken all action reasonably possible to remedy such failure within such 60-day period, such failure shall not become an Event of Default for so long as the Issuer diligently proceed to remedy the same in accordance with and subject to any directions or limitations of time established by the Trustee;

(d) if the Issuer files a voluntary bankruptcy or commences any similar proceeding under any state or federal bankruptcy or insolvency law, or makes an assignment for the benefit of creditors, or admits in writing to its insolvency or inability to

pay debts as they mature, or consents in writing to the appointment of a trustee or receiver for itself;

(e) if a court of competent jurisdiction enters an order, judgment or decree declaring the Issuer insolvent, or adjudging it bankrupt, or ordering relief under any applicable bankruptcy or insolvency law, or appointing a trustee or receiver of the Issuer, or approving a bankruptcy petition filed against the Issuer under any applicable law or statute of the United States of America or any state thereof, and such order, judgment or decree shall not be vacated or set aside or stayed within 60 days from the date of the entry thereof;

(f) if, under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction assumes custody or control of the Issuer or of the Collateral, and such custody or control is not terminated within sixty (60) days from the date of assumption of such custody or control; or

(g) any Event of Default designated as such in a Supplemental Indenture.

**Section 7.02. Application of the Collateral and Other Funds After Default; No Acceleration.** If an Event of Default occurs and is continuing, the Issuer shall immediately transfer to the Trustee all Collateral held by it and the Trustee shall apply all Collateral and any other funds then held or thereafter received by the Trustee under any of the provisions of this Indenture (excluding the Rebate Fund, any Letter of Credit Fund and any Purchase Fund and except as otherwise provided in this Indenture) as follows and in the following order:

(a) to the payment of any expenses necessary in the opinion of the Trustee to protect the interests of the Holders of the Notes, including the costs and expenses of the Trustee and the Noteholders in declaring such Event of Default, and payment of reasonable fees and expenses of the Trustee (including reasonable fees and disbursements of its counsel and other agents) incurred in and about the performance of its powers and duties under this Indenture;

(b) to the payment of the whole amount of Note Obligation then due on the Notes (upon presentation of the Notes to be paid, and stamping thereon of the payment if only partially paid, or surrender thereof if fully paid) subject to the provisions of this Indenture (including Section 9.02 hereof), with interest on such Note Obligation, at the rate or rates of interest borne by the respective Notes, to the payment to the persons entitled thereto of all installments of interest then due and the unpaid principal or Redemption Price of any Notes that have become due, whether at maturity, by call for redemption or otherwise, in the order of their due dates, with interest on the overdue Note Obligation at the rate borne by the respective Notes, and, if the amount available is not sufficient to pay in full all the Notes due on any date, together with such interest, then to the payment thereof ratably, according to the amounts of principal or Accreted Value (plus accrued interest) or other amounts due on such date to the persons entitled thereto, without any discrimination or preference;

(c) to the payment of Subordinate Obligations; provided that if the amount available shall not be sufficient to pay in full all Subordinate Obligations due on any date, then to the payment thereof ratably, according to the amounts due on such date to the persons entitled thereto, without any discrimination or preference; and

(d) to the payment of all other obligations payable hereunder.

Notwithstanding anything to the contrary contained herein, in no event are the Notes subject to acceleration if an Event of Default occurs and is continuing except that Liquidity Facility Notes are subject to acceleration as set forth in the Liquidity Facility.

**Section 7.03. Trustee To Represent Noteholders.** The Trustee is hereby irrevocably appointed (and the successive respective Holders of the Notes, by taking and holding the same, shall be conclusively deemed to have so appointed the Trustee) as trustee and true and lawful attorney-in-fact of the Holders of the Notes for the purpose of exercising and prosecuting on their behalf such rights and remedies as may be available to such Holders under the provisions of the Notes, this Indenture, the Law and applicable provisions of any other law. Upon the occurrence and continuance of an Event of Default or other occasion giving rise to a right in the Trustee to represent the Noteholders, the Trustee in its discretion may, and, with respect to any Series of Notes for which a Credit Enhancement has been provided, upon the written request of the Credit Enhancement Provider providing such Credit Enhancement, or if such Credit Enhancement Provider is then failing to make a payment required pursuant to such Credit Enhancement, upon the written request of the Holders of not less than a majority in aggregate amount of Note Obligation of the Notes then Outstanding, and upon being indemnified to its satisfaction therefor, shall proceed to protect or enforce its rights or the rights of such Holders by such appropriate action, suit, mandamus or other proceedings as it deems most effectual to protect and enforce any such right, at law or in equity, either for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or for the enforcement of any other appropriate legal or equitable right or remedy vested in the Trustee or in such Holders under this Indenture, the Law or any other law; and upon instituting such proceeding, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver of the Collateral and other assets pledged under this Indenture, pending such proceedings; provided, however, that, with respect to any Series of Notes for which a Credit Enhancement has been provided, the Trustee may only act with the consent of the Credit Enhancement Provider providing such Credit Enhancement. All rights of action under this Indenture or the Notes or otherwise may be prosecuted and enforced by the Trustee without the possession of any of the Notes or the production thereof in any proceeding relating thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in the name of the Trustee for the benefit and protection of all the Holders of such Notes, subject to the provisions of this Indenture (including Section 7.05 hereof).

**Section 7.04. Noteholders' Direction of Proceedings.** Notwithstanding anything in this Indenture to the contrary (except provisions relating to the rights of a Credit Enhancement Provider to direct proceedings as set forth in Section 7.10 hereof), the Holders of a majority in aggregate amount of Note Obligation of the Notes then Outstanding shall have the right, by an instrument or concurrent instruments in writing executed and delivered to the Trustee and upon furnishing the Trustee with indemnification satisfactory to it, to direct the method of conducting all remedial proceedings taken by the Trustee hereunder; provided that (a) such direction shall not be otherwise

than in accordance with law and the provisions of this Indenture, (b) the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction, and (c) the Trustee shall have the right to decline to follow any such direction that in the opinion of the Trustee would be unjustly prejudicial to Noteholders not parties to such direction.

**Section 7.05. Limitation on Noteholders' Right to Sue.** No Holder of any Note shall have the right to institute any suit, action or proceeding at law or in equity, for the protection or enforcement of any right or remedy under this Indenture, the Law or any other applicable law with respect to such Note, unless: (a) such Holder has given the Trustee written notice of the occurrence of an Event of Default; (b) the Holders of not less than a majority in aggregate amount of Note Obligation of the Notes then Outstanding have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such suit, action or proceeding in its own name; (c) such Holder or said Holders have tendered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request; and (d) the Trustee has refused or omitted to comply with such request for a period of sixty (60) days after such written request is been received by, and said tender of indemnity has been made to, the Trustee; provided, however, that the written consent of a Credit Enhancement Provider providing a Credit Enhancement with respect to a Series of Notes is required if the Credit Enhancement with respect to such Series of Notes is in full force and effect and if the Credit Enhancement Provider providing such Credit Enhancement is not then failing to make a payment as required in connection therewith.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Holder of Notes of any remedy hereunder or under law; it being understood and intended that no one or more Holders of Notes have any right in any manner whatever by his or their action to affect, disturb or prejudice the security of this Indenture or the rights of any other Holders of Notes, or to enforce any right under this Indenture, the Law or other applicable law with respect to the Notes, except in the manner herein provided, and that all proceedings at law or in equity to enforce any such right shall be instituted, had and maintained in the manner herein provided and for the benefit and protection of all Holders of the Outstanding Notes, subject to the provisions of this Indenture.

**Section 7.06. Absolute Obligation of the Issuer.** Nothing in Section 7.05 hereof or in any other provision of this Indenture, or in the Notes, shall affect or impair the obligation of the Issuer, which is absolute and unconditional, to pay the principal or Redemption Price of and interest on the Notes to the respective Holders of the Notes at their respective dates of maturity, or upon call for redemption, as herein provided, and other amounts payable under this Indenture, but only out of the Collateral and other assets herein pledged therefor, or affect or impair the right of such Holders, which is also absolute and unconditional, to enforce such payment by virtue of the contract embodied in the Notes.

**Section 7.07. Termination of Proceedings.** In case any proceedings taken by the Trustee, any Credit Enhancement Provider or any one or more Noteholders on account of any Event of Default are discontinued or abandoned for any reason or have been determined adversely to the Trustee, any Credit Enhancement Provider or the Noteholders, then in every such case the Issuer, the Trustee, each Credit Enhancement Provider and the Noteholders, subject to any determination in such proceedings, shall be restored to their former positions and rights hereunder, severally and



respectively, and all rights, remedies, powers and duties of the Issuer, the Trustee, each Credit Enhancement Provider and the Noteholders shall continue as though no such proceedings had been taken.

**Section 7.08. Remedies Not Exclusive.** No remedy herein conferred upon or reserved to the Trustee, to any Credit Enhancement Provider or to the Holders of the Notes is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

**Section 7.09. No Waiver of Default.** No delay or omission of the Trustee, any Credit Enhancement Provider or of any Holder of the Notes to exercise any right or power arising upon the occurrence of any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Indenture to the Trustee, to any Credit Enhancement Provider or to the Holders of the Notes may be exercised from time to time and as often as may be deemed expedient. No waiver of any Event of Default hereunder, whether by Trustee or by any Credit Enhancement Provider or by the Noteholders, shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

**Section 7.10. Credit Enhancement Provider Directs Remedies Upon Event of Default.** Anything in this Indenture or any Supplemental Indenture to the contrary notwithstanding, upon the occurrence and continuance of an Event of Default as defined herein, the Credit Enhancement Provider then providing Credit Enhancement for any Series of Notes shall be entitled to control and direct the enforcement of all rights and remedies granted to the Holders of the Notes secured by such Credit Enhancement or granted to the Trustee for the benefit of the Holders of the Notes secured by such Credit Enhancement; provided that the Credit Enhancement Provider's consent shall not be required as otherwise provided herein if such Credit Enhancement Provider is in default of any of its payment obligations as set forth in the Credit Enhancement provided by such Credit Enhancement Provider.

## **ARTICLE VIII**

### **THE TRUSTEE**

#### **Section 8.01. Appointment, Duties Immunities and Liabilities of Trustee.**

(a) U.S. Bank National Association is hereby appointed as Trustee under this Indenture and hereby accepts the trust imposed upon it as Trustee hereunder and agrees to perform all the functions and duties of the Trustee hereunder, subject to the terms and conditions set forth in this Indenture. The Trustee shall, prior to an Event of Default, and after the curing or waiver of all Events of Default that may have occurred, perform such duties and only such duties as are specifically set forth in this Indenture and no implied covenants shall be read into this Indenture against the Trustee. The Trustee shall, during the existence of any Event of Default (that has not been cured or waived), exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and

skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) The Issuer may remove the Trustee at any time unless an Event of Default has occurred and is then continuing, and shall remove the Trustee if at any time requested to do so by an instrument or concurrent instruments in writing signed by the Holders of not less than a majority in aggregate amount of Note Obligation of the Notes then Outstanding (or their attorneys duly authorized in writing) or if at any time the Trustee ceases to be eligible in accordance with Section 8.01(e) below, or becomes incapable of acting, or is adjudged a bankrupt or insolvent, or a receiver of the Trustee or its property is appointed, or any public officer takes control or charge of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, in each case by giving written notice of such removal to the Trustee and each Credit Enhancement Provider then providing a Credit Enhancement for any Series of Notes, and thereupon appointing a successor Trustee by an instrument in writing.

(c) The Trustee may at any time resign by giving written notice of such resignation to the Issuer and each Credit Enhancement Provider then insuring any Series of Notes and by giving the Noteholders notice of such resignation by mail at the addresses shown on the registration books maintained by the Trustee. Upon receiving such notice of resignation, the Issuer shall promptly appoint a successor Trustee by an instrument in writing.

(d) Any removal or resignation of the Trustee and appointment of a successor Trustee shall become effective upon acceptance of appointment by the successor Trustee. If no successor Trustee is appointed and has accepted appointment within forty-five (45) days of giving notice of removal or notice of resignation as aforesaid, the resigning Trustee or any Holder (on behalf of himself and all other Holders) may petition any court of competent jurisdiction for the appointment of a successor Trustee, and such court may thereupon, after such notice, if any, as it may deem proper, appoint such successor Trustee. Any successor Trustee appointed under this Indenture shall signify its acceptance of such appointment by executing and delivering to the Issuer, each Credit Enhancement Provider then insuring any Series of Notes and to its predecessor Trustee a written acceptance thereof, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become vested with all the moneys, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Trustee, with like effect as if originally named Trustee herein; but, nevertheless at the Request of the Issuer or the request of the successor Trustee, such predecessor Trustee shall execute and deliver any and all instruments of conveyance or further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all the right, title and interest of such predecessor Trustee in and to any property held by it under this Indenture. The predecessor Trustee shall promptly pay over, transfer, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Upon request of the successor Trustee, the Issuer shall execute and deliver any and all instruments as may be reasonably required for more fully and certainly vesting in and confirming to such successor Trustee all such moneys, estates, properties, rights, powers, trusts, duties and obligations. Upon acceptance of appointment

by a successor Trustee as provided in this paragraph, the Issuer shall give notice of the succession of such Trustee to the trusts hereunder by mail to the Holders at the addresses shown on the registration books maintained by the Trustee. If the Issuer fails to mail such notice within fifteen (15) days after acceptance of appointment by the successor Trustee, the successor Trustee shall cause such notice to be mailed at the expense of the Issuer.

(e) Any Trustee appointed under the provisions of this Section in succession to the Trustee shall be a trust company, national banking association or bank having the powers of a trust company that (i) has (or, if such trust company, national banking association or bank is a member of a bank holding company system, the related bank holding company has) a combined capital and surplus of at least \$100,000,000; and (ii) is subject to supervision or examination by federal or state authority. If such trust company, national banking association, bank or bank holding company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority referred to above, then for the purpose of this paragraph the combined capital and surplus of such trust company, national banking association or bank shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If, at any time, the Trustee ceases to be eligible in accordance with the provisions of this Section 8.01(e), the Trustee shall resign immediately in the manner and with the effect specified in this Section.

**Section 8.02. Accounting Records and Monthly Statements.** The Trustee shall keep proper books of record and accounts containing complete and correct entries of all transactions of the Trustee relating to the receipt, investment, disbursement, allocation and application of the moneys related to the Notes, including proceeds of each Series of Notes and moneys derived from, pledged to, or to be used to make payments on each Series of Notes. Such records shall specify the account or fund to which each deposit and each investment (or portion thereof) held by the Trustee is allocated and shall set forth, in the case of each investment security, (a) its purchase price; (b) identifying information, including par amount, coupon rate, and payment dates; (c) the amount received at maturity or its sale price, as the case may be, including accrued interest; (d) the amounts and dates of any payments made with respect thereto; and (e) the dates of acquisition and disposition or maturity. The Trustee shall furnish the Issuer a monthly statement that includes a summary of all deposits and all investment transactions made by the Trustee related to each Series of Notes then Outstanding, such statement to be provided to the Issuer no later than the fifth Business Day of the month following the month to which such statement relates, the first such monthly statement to be provided by the fifth Business Day of the month immediately following the month in which the Series 2021 Notes are delivered by the Trustee pursuant to the provisions of this Indenture.

**Section 8.03. Merger or Consolidation.** Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it is a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such company is eligible under Section 8.01(e) hereof, shall be the successor to such Trustee without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding.

#### **Section 8.04. Liability of Trustee.**

(a) The recitals of facts herein and in the Notes contained shall be taken as statements of the Issuer, and the Trustee assumes no responsibility for the correctness of the same (other than the certificate of authentication of the Trustee on each Note), and makes no representations as to the validity or sufficiency of this Indenture, or of the Notes, as to the sufficiency of the Collateral or the priority of the lien of this Indenture thereon, or as to the financial or technical feasibility of any project to be financed with the proceeds of Notes and shall not incur any responsibility in respect of any such matter, other than in connection with the duties or obligations expressly herein or in the Notes assigned to or imposed upon it. The Trustee shall, however, be responsible for its representations contained in its certificate of authentication on the Notes. The Trustee shall not be liable in connection with the performance of its duties hereunder, except for its own negligence, willful misconduct or breach of the express terms and conditions hereof. The Trustee and its directors, officers, employees or agents may in good faith buy, sell, own, hold and deal in any of the Notes and may join in any action which any Holder of a Note may be entitled to take, with like effect as if the Trustee was not the Trustee under this Indenture. The Trustee may in good faith hold any other form of indebtedness of the Issuer, own, accept or negotiate any drafts, bills of exchange, acceptances or obligations of the Issuer and make disbursements for the Issuer and enter into any commercial or business arrangement therewith, without limitation.

(b) The Trustee shall not be liable for any error of judgment made in good faith by a responsible officer unless it is proved that the Trustee was negligent in ascertaining the pertinent facts. The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, or receivers, and shall be entitled to advice of counsel concerning all matters of trust and its duty hereunder.

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

(d) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any Credit Enhancement Provider or any of the Holders pursuant to the provisions of this Indenture, including, without limitation, the provisions of Article VII hereof, unless such Credit Enhancement Provider or such Holders have offered to the Trustee security or indemnity satisfactory to it against the costs, expenses and liabilities that may be incurred therein or thereby; provided, however, that no security or indemnity shall be requested or required for the Trustee to deliver a notice to obtain funds under the Credit Enhancement delivered in connection with any Series of Notes in order to pay principal of and interest on such Series of Notes.

(e) No provision of this Indenture requires the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance or exercise of any of its duties hereunder or in the exercise of its rights or powers.

(f) The Trustee shall not be deemed to have knowledge of, and shall not be required to take any action with respect to, any Event of Default (other than an Event of Default described in Section 7.01(a) or (b) hereof) or event that would, with the giving of notice, the passage of time or both, constitute an Event of Default, unless the Trustee has actual knowledge of such event or has been notified of such event by the Issuer, any Credit Enhancement Provider then providing a Credit Enhancement for a Series of Notes or the Holders of 25% of the Note Obligation Outstanding. Without limiting the generality of the foregoing, the Trustee shall not be required to ascertain, monitor or inquire as to the performance or observance by the Issuer of the terms, conditions, covenants or agreements set forth in Article VI hereof including, without limitation, the covenants of the Issuer set forth in Sections 5.09 and 6.08 hereof, other than the covenants of the Issuer to make payments with respect to the Notes when due as set forth in Section 6.01 hereof and to file with the Trustee when due, such reports and certifications as the Issuer is required to file with the Trustee hereunder.

(g) No permissive power, right or remedy conferred upon the Trustee hereunder shall be construed to impose a duty to exercise such power, right or remedy.

(h) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, requisition, Note, debenture, coupon or other paper or document; provided, however, that the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee determines to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Issuer, personally or by agent or attorney.

(i) The Trustee shall not be responsible for:

(i) the application or handling by the Issuer of any Collateral or other moneys transferred to or pursuant to any Requisition or Request of the Issuer in accordance with the terms and conditions hereof;

(ii) the application and handling by the Issuer of any other fund or account designated to be held by the Issuer hereunder;

(iii) any error or omission by the Issuer in making any computation or giving any instruction pursuant to Sections 5.09 and 6.08 hereof and may rely conclusively on the Rebate Instructions and any computations or instructions furnished to it by the Issuer in connection with the requirements of Sections 5.09 and 6.08 hereof and each Tax Certificate; or

(iv) the construction, operation or maintenance of any portion of any project financed with the proceeds of Notes by the Issuer.

(j) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Article VIII.

(k) The Trustee agrees to accept and act upon facsimile or electronic mail transmission of written instructions and/or directions pursuant to this Indenture; provided, however, that: (i) subsequent to such facsimile transmission of written instructions and/or directions the Trustee shall forthwith receive the originally executed instructions and/or directions, and (ii) such originally executed instructions and/or directions are signed on behalf of the Issuer by an Authorized Representative and are signed on behalf of any other party by a person authorized to sign for the party delivering such instructions and/or directions, which person shall provide such documentation as the Trustee requests to evidence such authorization.

(l) The Trustee shall have no responsibility with respect to any information, statement or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Notes.

**Section 8.05. Right of Trustee To Rely on Documents and Opinions.** The Trustee shall be protected in acting upon any notice, resolution, request, consent, order, certificate, report, opinion, note or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Trustee may consult with counsel, including, without limitation, counsel of or to the Issuer, and may request an opinion of counsel, with regard to legal questions, including, without limitation, legal questions relating to proposed modifications or amendments of this Indenture, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith unless it is proved that the Trustee was negligent in ascertaining the pertinent facts.

Whenever, in the administration of the trusts imposed upon it by this Indenture, the Trustee deems it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, including, without limitation, matters relating to proposed modifications or amendments of this Indenture, the Trustee may request a Certificate of the Issuer and such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by such Certificate of the Issuer, and such Certificate shall be full warrant to the Trustee for any action taken or suffered in good faith under the provisions of this Indenture in reliance upon such Certificate. In its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable. The Trustee may also rely conclusively on any report, statement, requisition, facsimile transmission, electronic mail or certification of any certified public accountant, investment banker, financial consultant, or other expert selected by the Issuer or selected by the Trustee with due care in connection with matters required to be proven or ascertained in connection with its administration of the trusts created hereby.

**Section 8.06. Compensation and Indemnification of Trustee.** The Issuer covenants to pay to the Trustee from time to time, and the Trustee shall be entitled to, reasonable compensation for all services rendered by it in the exercise and performance of any of the powers and duties

hereunder of the Trustee, and the Issuer will pay or reimburse the Trustee upon its request for all expenses, disbursements and advances incurred or made by the Trustee in accordance with any of the provisions of this Indenture (including the reasonable compensation and the expenses and disbursements of its counsel and of all persons not regularly in its employ) except any such expense, disbursement or advance as may arise from its negligence, default or willful misconduct. The Issuer, to the extent permitted by law, shall indemnify, defend and hold harmless the Trustee from and against any loss, damages, liability or expense incurred without negligence or bad faith on the part of the Trustee, arising out of or in connection with the acceptance or administration of the trusts created hereby, including costs and expenses (including attorneys' fees) of defending itself against any claim or liability in connection with the exercise or performance of any of its powers hereunder. The rights of the Trustee and the obligations of the Issuer under this Section 8.06 shall survive the discharge of the Notes and this Indenture and the resignation or removal of the Trustee.

## **ARTICLE IX**

### **MODIFICATION OR AMENDMENT OF THIS INDENTURE**

#### **Section 9.01. Amendments Permitted.**

(a) (i) This Indenture and the rights and obligations of the Issuer, the Holders of the Notes and the Trustee may be modified or amended from time to time and at any time by a Supplemental Indenture, which the Issuer and the Trustee may enter into when the written consent of the Holders of a majority in aggregate amount of Note Obligation of the Notes (or, if such Supplemental Indenture is only applicable to a Series of Notes, such Series of Notes) then Outstanding is filed with the Trustee; provided that if such modification or amendment will, by its terms, not take effect so long as any Notes of any particular maturity remain Outstanding, the consent of the Holders of such Notes shall not be required and such Notes shall not be deemed to be Outstanding for the purpose of any calculation of Notes Outstanding under this Section. The Credit Enhancement Provider for a Series of Notes shall be deemed to be the Holder of such Series for all purposes of this Indenture except the payment of principal of and interest on such Series of the Notes. The written consent of the Holders of a Series of Notes may be effected (A) through a consent by the underwriter of such Series of Notes at the time of the issuance of such Series of Notes, and (B) through a provision of a Supplemental Indenture that deems any Holders purchasing such Series of Notes to consent for purposes of this Section 9.01(a)(i) by virtue of its purchase of such Series of Notes.

(ii) No such modification or amendment shall (A) extend the maturity of any Note, or reduce the amount of principal thereof, or extend the time of payment or reduce the amount of any Mandatory Sinking Account Payment provided for the payment of any Note, or reduce the rate of interest thereon, or extend the time of payment of interest thereon, or reduce any premium payable upon the redemption thereof, without the consent of the Holder of each Note so affected; or (B) reduce the aforesaid percentage of Note Obligation Holders whose consent is required to effect any such modification or amendment, or permit the creation of any lien on the Collateral and other assets pledged under this Indenture

prior to or on a parity with the lien created by this Indenture, or deprive the Holders of the Notes of the lien created by this Indenture on such Collateral and other assets (in each case, except as expressly provided in this Indenture), without the consent of the Holders of all of the Notes then Outstanding. The Holders are not required to approve the particular form of any Supplemental Indenture; it is sufficient if the Holders consent to the substance thereof. Promptly after the execution and delivery by the Issuer and the Trustee of any Supplemental Indenture pursuant to this Section 9.01(a), the Trustee shall mail a notice, setting forth in general terms the substance of such Supplemental Indenture to the Holders of the Notes at the addresses shown on the registration books of the Trustee. Any failure to give such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such Supplemental Indenture.

(b) This Indenture and the rights and obligations of the Issuer, of the Trustee and of the Holders of the Notes may also be modified or amended from time to time and at any time by a Supplemental Indenture, which the Issuer and the Trustee may enter without the consent of any Noteholders, but only to the extent permitted by law and only for any one or more of the following purposes:

(i) to add other covenants and agreements thereafter to be observed to the covenants and agreements of the Issuer in this Indenture contained, to pledge or assign additional security for the Notes (or any portion thereof), or to surrender any right or power herein reserved to or conferred upon the Issuer;

(ii) to make such provisions for the purpose of curing any ambiguity, inconsistency or omission, or of curing or correcting any defective provision, contained in this Indenture, or in regard to matters or questions arising under this Indenture, as the Issuer may deem necessary or desirable, and that does not materially and adversely affect the interests of the Holders of the Notes;

(iii) to modify, amend or supplement this Indenture in such manner as to permit the qualification hereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect, and to add such other terms, conditions and provisions as may be permitted by said act or similar federal statute, and that do not materially and adversely affect the interests of the Holders of the Notes;

(iv) to provide for the issuance of an additional Series of Notes pursuant to the provisions of Article III hereof;

(v) to make modifications or adjustments necessary, appropriate or desirable to provide for the issuance or incurrence, as applicable, of Capital Appreciation Notes or Subordinate Obligations, with such interest rate, payment, maturity and other terms as the Issuer may deem desirable, subject to the provisions of Sections 3.02, 3.03 and 3.05 hereof;



(vi) to make modifications or adjustments necessary, appropriate or desirable to provide for change from one interest rate mode to another in connection with any Series of Notes;

(vii) to make modifications or adjustments necessary, appropriate or desirable to accommodate Credit Enhancements, Liquidity Facilities and Reserve Facilities;

(viii) to make modifications or adjustments necessary, appropriate or desirable to provide for the appointment of an auction agent, a broker-dealer, a remarketing agent, a tender agent and/or a paying agent in connection with any Series of Notes;

(ix) to provide for any additional covenants or agreements necessary to maintain the tax-exempt status of interest on any Series of Notes;

(x) if the Issuer agrees in a Supplemental Indenture to maintain the exclusion of interest on a Series of Notes from gross income for purposes of federal income taxation, to make such provisions as are necessary or appropriate to ensure such exclusion;

(xi) to provide for the issuance of Notes in book-entry form or bearer form and/or to modify or eliminate the book-entry registration system for any Series of Notes;

(xii) to modify, alter, amend or supplement this Indenture in any other respect, including amendments that would otherwise be described in Section 9.01(a) hereof, if the effective date of such amendments is a date on which all Notes affected thereby are subject to mandatory tender for purchase pursuant to the provisions of this Indenture or if notice of the proposed amendments is given to Holders of the affected Notes at least thirty (30) days before the proposed effective date of such amendments and, on or before such effective date, such Holders have the right to demand purchase of their Notes pursuant to the provisions of this Indenture or if all Notes affected thereby are in an auction mode and a successful auction is held following notice of such amendment; and

(xiii) for any other purpose that does not materially and adversely affect the interests of the Holders of the Notes.

Any Supplemental Indenture entered into pursuant to this Section shall be deemed not to materially adversely affect the interest of the Holders so long as (y) all affected Notes are secured by a Credit Enhancement, and (z) each Credit Enhancement Provider for such Notes has given its written consent to such Supplemental Indenture as provided in Section 9.01(a) hereof.

**Section 9.02. Effect of Supplemental Indenture.** From and after the time any Supplemental Indenture becomes effective pursuant to this Article, this Indenture shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Indenture of the Issuer, the Trustee and all Holders of Notes Outstanding

shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any such Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

**Section 9.03. Endorsement of Notes; Preparation of New Notes.** Notes delivered after any Supplemental Indenture becomes effective pursuant to this Article may, and if the Trustee so determines shall, bear a notation by endorsement or otherwise in form approved by the Issuer and the Trustee as to any modification or amendment provided for in such Supplemental Indenture, and, in that case, upon demand of the Holder of any Note Outstanding at the time of such execution and presentation of his Note for such purpose at the Corporate Trust Office or at such additional offices as the Trustee may select and designate for that purpose, a suitable notation shall be made on such Note. If the Supplemental Indenture shall so provide, new Notes so modified as to conform, in the opinion of the Issuer and the Trustee, to any modification or amendment contained in such Supplemental Indenture, shall be prepared and executed by the Issuer and authenticated by the Trustee, and upon demand of the Holders of any Notes then Outstanding shall be exchanged at the Corporate Trust Office, without cost to any Holder, for Notes then Outstanding, upon surrender for cancellation of such Notes, in equal aggregate principal amounts of the same Series, tenor and maturity.

**Section 9.04. Amendment of Particular Notes.** The provisions of this Article shall not prevent any Noteholder from accepting any amendment as to the particular Notes held by such Noteholder; provided that due notation thereof is made on such Notes.

## ARTICLE X

### DEFEASANCE

**Section 10.01. Discharge of Indenture.** Notes of any Series or a portion thereof may be paid by the Issuer in any of the following ways:

- (a) by paying or causing to be paid the Note Obligations of and interest on such Outstanding Notes, as and when they become due and payable;
- (b) by depositing with the Trustee or, subject to Section 10.02 hereof, an escrow agent or other fiduciary, in trust, at or before maturity, money or securities in the necessary amount (as provided in Section 10.03 hereof) to pay or redeem such Outstanding Notes; or
- (c) by delivering to the Trustee, for cancellation by it, such Outstanding Notes.

If the Issuer pays all Series for which any Notes are Outstanding and also pay or causes to be paid all other sums payable and to be payable hereunder, then and in that case, at the election of the Issuer (evidenced by a Certificate of the Issuer, filed with the Trustee, signifying the intention of the Issuer to discharge all such indebtedness and this Indenture), and notwithstanding that any Notes shall not have been surrendered for payment, this Indenture and the pledge of Collateral and other assets made under this Indenture and all covenants, agreements and other obligations of the Issuer under this Indenture shall cease, terminate, become void and be completely discharged and satisfied. In such event, upon Request of the Issuer, the Trustee shall cause an accounting for such period or periods as may be requested by the Issuer to be prepared

and filed with the Issuer and shall execute and deliver to the Issuer all such instruments as may be necessary or desirable to evidence such discharge and satisfaction, and the Trustee shall pay over, transfer, assign or deliver to the Issuer all moneys or securities or other property held by it pursuant to this Indenture that, as evidenced by a verification report, upon which the Trustee may conclusively rely, from an independent certified public accountant, a firm of independent certified public accountants or other independent consulting firm, are not required for the payment or redemption of Notes not theretofore surrendered for such payment or redemption.

**Section 10.02. Discharge of Liability on Notes.** Upon the deposit with the Trustee, escrow agent or other fiduciary, in trust, at or before maturity, of money or securities in the necessary amount (as provided in Section 10.03 hereof) to pay or redeem any Outstanding Note (whether upon or prior to its maturity or the redemption date of such Note); provided that, if such Note is to be redeemed prior to maturity, notice of such redemption has been given as provided in Article IV hereof or provision satisfactory to the Trustee has been made for the giving of such notice, then all liability of the Issuer in respect of such Note shall cease, terminate and be completely discharged; provided that the Holder thereof shall thereafter be entitled to the payment of the principal of and premium, if any, and interest on the Notes, and the Issuer shall remain liable for such payment, but only out of such money or securities deposited with the Trustee as aforesaid for their payment.

If the deposit specified in the preceding paragraph is made with an escrow agent or other fiduciary that is not also the Trustee, either the Issuer or such escrow agent or other fiduciary shall provide a written certification to the Trustee, upon which the Trustee may conclusively rely, that such deposit has been made.

The Issuer may at any time surrender to the Trustee for cancellation by it any Notes previously issued and delivered that the Issuer may have acquired in any manner whatsoever, and such Notes, upon such surrender and cancellation, shall be deemed to be paid and retired.

Notwithstanding anything in this Section 10.02 to the contrary, if the principal of or interest on a Series of Notes is paid by a Credit Enhancement Provider pursuant to the Credit Enhancement issued in connection with such Series of Notes, the obligations of the Issuer shall not be deemed to be satisfied or considered paid by the Issuer by virtue of such payments, and the right, title and interest of the Issuer herein and the obligations of the Issuer hereunder shall not be discharged and shall continue to exist and to run to the benefit of such Credit Enhancement Provider, and such Credit Enhancement Provider shall be subrogated to the rights of the Holders of the Notes of such Series.

**Section 10.03. Deposit of Money or Securities.** Whenever in this Indenture it is provided or permitted that there be deposited with or held in trust money or securities in the necessary amount to pay or redeem any Notes, the money or securities so to be deposited or held may include money or securities held by the Trustee in the funds and accounts established pursuant to this Indenture and shall be:

- (a) lawful money of the United States of America in an amount equal to the principal amount of such Notes and all unpaid interest thereon to maturity, except that, in the case of Notes that are to be redeemed prior to maturity and with respect to which notice

of such redemption has been given as provided in Article IV hereof or provision satisfactory to the Trustee has been made for the giving of such notice, the amount to be deposited or held shall be the principal amount or Redemption Price of such Notes and all unpaid interest thereon to the redemption date; or

(b) Investment Securities described in clause (a) of the definition thereof the principal of and interest on which when due will, in the opinion of an independent certified public accountant, a firm of independent certified public accountants or independent consulting firm delivered to the Trustee (as confirmed by a verification report upon which verification report the Trustee may conclusively rely), provide money sufficient to pay the principal or Redemption Price of and all unpaid interest to maturity, or to the redemption date, as the case may be, on the Notes to be paid or redeemed, as such principal or Redemption Price and interest become due; provided that, in the case of Notes that are to be redeemed prior to the maturity thereof, notice of such redemption has been given as provided in Article IV hereof or provision satisfactory to the Trustee has been made for the giving of such notice; provided, in each case, that the Trustee has been irrevocably instructed (by the terms of this Indenture or by Request of the Issuer) to apply such money to the payment of such principal or Redemption Price and interest with respect to such Notes.

**Section 10.04. Payment of Notes After Discharge of Indenture.** Any moneys held by the Trustee in trust for the payment of the principal, Redemption Price, or interest on any Note and remaining unclaimed for one year after such principal, Redemption Price, or interest has become due and payable (whether at maturity or upon call for redemption as provided in this Indenture), if such moneys were so held at such date, or one year after the date of deposit of such principal, Redemption Price or interest on any Note if such moneys were deposited after the date when such Note became due and payable, shall be repaid to the Issuer free from the trusts created by this Indenture, and all liability of the Trustee with respect to such moneys shall thereupon cease; provided, however, that before the repayment of such moneys to the Issuer as aforesaid, the Trustee may (at the cost of the Issuer) first mail to the Holders of any Notes remaining unpaid at the addresses shown on the registration books maintained by the Trustee a notice, in such form as may be deemed appropriate by the Trustee, with respect to the Notes so payable and not presented and with respect to the provisions relating to the repayment to the Issuer of the moneys held for the payment thereof. All moneys held by or on behalf of the Trustee for the payment of principal or Accreted Value of or interest or premium on Notes, whether at redemption or maturity, shall be held in trust for the account of the Holders thereof and the Trustee shall not be required to pay Holders any interest on, or be liable to the Holders or any other person (other than the Issuer) for interest earned on, moneys so held. Any interest earned thereon shall belong to the Issuer and shall be deposited upon receipt by the Trustee into the Revenue Fund.

## ARTICLE XI

### MISCELLANEOUS

**Section 11.01. Liability of Issuer Limited to the Collateral.** Notwithstanding anything in this Indenture or in the Notes contained, the Issuer shall not be required to advance any moneys derived from any source other than the Collateral and other assets pledged hereunder for any of

the purposes in this Indenture mentioned, whether for the payment of the principal or Redemption Price of or interest on the Notes or for any other purpose of this Indenture.

**Section 11.02. Successor Is Deemed Included in All References to Predecessor.**

Whenever in this Indenture either the Issuer or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Indenture contained by or on behalf of the Issuer or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

**Section 11.03. Limitation of Rights.** Nothing expressed or implied in this Indenture or in the Notes is intended or shall be construed to give to any Person other than the Issuer, the Trustee, each Credit Enhancement Provider, each Liquidity Facility Provider, each Reserve Facility Provider, the Holders of the Notes and the holders of Subordinate Obligations any legal or equitable right, remedy or claim under or in respect of this Indenture or any covenant, condition or provision, therein or herein contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the Issuer, the Trustee, each Credit Enhancement Provider, each Liquidity Facility Provider, each Reserve Facility Provider, the Holders of the Notes and the holders of Subordinate Obligations. Each Credit Enhancement Provider, each Liquidity Provider, each Reserve Facility Provider, the Holders of the Notes and the holders of Subordinate Obligations are each an express third party beneficiary of this Indenture.

**Section 11.04. Waiver of Notice.** Whenever in this Indenture the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

**Section 11.05. Destruction or Delivery of Canceled Notes.** Whenever in this Indenture provision is made for the cancellation by the Trustee and the delivery to the Issuer of any Notes, the Trustee may, in its sole discretion, in lieu of such cancellation and delivery, destroy such Notes, and deliver a certificate of such destruction to the Issuer.

**Section 11.06. Severability of Invalid Provisions.** If any one or more of the provisions contained in this Indenture or in the Notes shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provisions or provisions shall be deemed severable from the remaining provisions contained in this Indenture and such invalidity, illegality or unenforceability shall not affect any other provision of this Indenture, and this Indenture shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The Issuer hereby declares that it would have adopted this Indenture and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the issuance of the Notes pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of this Indenture may be held illegal, invalid or unenforceable.

**Section 11.07. Notice to Issuer and Trustee.** Any notice to or demand upon the Trustee may be served or presented, and such demand may be made, at the Corporate Trust Office of the Trustee. Any notice to or demand upon the Issuer, shall be deemed to have been sufficiently given or served for all purposes by being deposited, first-class mail postage prepaid, in a post office letter box, addressed to the Issuer at 1400 29<sup>th</sup> Street, Orange, California 95812, Attention: Chief

Financial Officer (or such other address as may have been filed in writing by the Issuer with the Trustee). Any such communication may also be sent by facsimile or electronic mail, receipt of which shall be confirmed.

**Section 11.08. Evidence of Rights of Noteholders.** Any request, consent or other instrument required or permitted by this Indenture to be signed and executed by Noteholders may be in any number of concurrent instruments of substantially similar tenor and shall be signed or executed by such Noteholders in person or by an agent or agents duly appointed in writing. Proof of the execution of any such request, consent or other instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee and of the Issuer if made in the manner provided in this Section.

The fact and date of the execution by any person of any such request, consent or other instrument or writing may be proved by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgments of deeds, certifying that the person signing such request, consent or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution duly sworn to before such notary public or other officer.

The ownership of Notes shall be proved by the Note registration books held by the Trustee. The Trustee may establish a record date as of which to measure consent of the Holders in order to determine whether the requisite consents are received.

Any request, consent, or other instrument or writing of the Holder of any Note shall bind every future Holder of the same Note and the Holder of every Note issued in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Trustee or the Issuer in accordance therewith or reliance thereon.

**Section 11.09. Disqualified Notes.** In determining whether the Holders of the requisite aggregate Note Obligation of Notes have concurred in any demand, request, direction, consent or waiver under this Indenture, Notes that are owned or held by or for the account of the Issuer, or by any other obligor on the Notes, or by any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the Issuer or any other obligor on the Notes, shall be disregarded and deemed not to be Outstanding for the purpose of any such determination. Notes so owned which have been pledged in good faith may be regarded as Outstanding for the purposes of this Section if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to vote such Notes and that the pledgee is not a person directly or indirectly controlled by, or under direct or indirect common control with, the Issuer. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee. Upon request of the Trustee, the Issuer shall specify in a Certificate to the Trustee those Notes disqualified pursuant to this Section and the Trustee may conclusively rely on such certificate.

**Section 11.10. Money Held for Particular Notes.** The money held by the Trustee for the payment of the interest, principal, Redemption Price or purchase price due on any date with respect to particular Notes (or portions of Notes in the case of registered Notes redeemed in part only) shall, on and after such date and pending such payment, be set aside on its books and held in

trust by it for the Holders of the Notes entitled thereto, subject, however, to the provisions of Section 10.04 hereof.

**Section 11.11. Funds and Accounts.** Any fund required by this Indenture to be established and maintained by the Trustee may be established and maintained in the accounting records of the Trustee, either as a fund or an account, and may, for the purposes or statements with respect thereto, be treated either as a fund or as an account; but all such records with respect to all such funds shall at all times be maintained in accordance with customary standards of the corporate trust industry and with due regard for the protection of the security of the Notes and the rights of every holder thereof.

**Section 11.12. Limitations on Rights of Credit Enhancement Providers, Liquidity Facility Providers, Reserve Facility Providers.** A Supplemental Indenture establishing the terms and provisions of a Series of Notes may provide that any Credit Enhancement Provider, Liquidity Facility Provider or Reserve Facility Provider may exercise any right under this Indenture given to the Holders of the Notes to which such Credit Enhancement, Liquidity Facility or Reserve Facility relates. Notwithstanding any other provision of this Indenture, all provisions under this Indenture authorizing the exercise of rights by a Credit Enhancement Provider, a Liquidity Facility Provider or a Reserve Facility Provider with respect to consents, approvals, directions, waivers, appointments, requests or other actions, shall be deemed not to require or permit such consents, approvals, directions, waivers, appointments, requests or other actions and shall be read as if the Credit Enhancement Provider, Liquidity Facility Provider or Reserve Facility Provider were not mentioned therein (a) during any period during which there is a default by such Credit Enhancement Provider, Liquidity Facility Provider or Reserve Facility Provider under the applicable Credit Enhancement, Liquidity Facility or Reserve Facility; or (b) after the applicable Credit Enhancement, Liquidity Facility or Reserve Facility shall at any time for any reason cease to be valid and binding on the provider thereof, or shall be declared to be null and void by final non-appealable judgment of a court of competent jurisdiction, or after the Credit Enhancement, Liquidity Facility or Reserve Facility has been rescinded, repudiated by the provider thereof or terminated, or after a receiver, conservator or liquidator has been appointed for the provider thereof. All provisions relating to the rights of a Credit Enhancement Provider, Liquidity Facility Provider or Reserve Facility Provider shall be of no further force and effect if all amounts owing to such Credit Enhancement Provider, Liquidity Facility Provider or Reserve Facility Provider shall have been paid pursuant to the terms of the applicable Credit Enhancement, Liquidity Facility or Reserve Facility and such Credit Enhancement, Liquidity Facility or Reserve Facility shall no longer be in effect.

**Section 11.13. Article and Section Headings and References.** The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Indenture.

All references herein to “Articles,” “Sections” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Indenture; the words “herein,” “hereof,” “hereby,” “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof; and words of the masculine gender shall mean and include words of the feminine and neuter genders.

**Section 11.14. Waiver of Personal Liability.** No Board member, officer, agent or employee of the Issuer or the Trustee shall be individually or personally liable for the payment of the principal or Redemption Price of or interest on the Notes or be subject to any personal liability or accountability by reason of the issuance thereof; but nothing herein contained shall relieve any such Board member, officer, agent or employee of the Issuer or the Trustee from the performance of any of any official duty provided by law or by this Indenture.

**Section 11.15. Governing Law.** This Indenture shall be construed and governed in accordance with the laws of the State of California.

**Section 11.16. Business Day.** Except as specifically set forth in this Indenture or a Supplemental Indenture, transfers which would otherwise become due on any day which is not a Business Day shall become due or shall be made on the next succeeding Business Day with the same effect as if made on such prior date.

**Section 11.17. Effective Date of Indenture.** This Indenture shall take effect upon its execution and delivery.

**Section 11.18. Execution in Counterparts.** This Indenture may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

[Remainder of page intentionally left blank; signature page follows]



IN WITNESS WHEREOF, the parties hereto have executed this Master Indenture by their officers thereunto duly authorized as of the day and year first written above.

ORANGE COUNTY TRANSPORTATION  
AUTHORITY

By \_\_\_\_\_  
Its: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
General Counsel

U. S. BANK NATIONAL ASSOCIATION, as  
Trustee

By \_\_\_\_\_  
Authorized Officer

*[Signature page to Master Indenture]*