

---

# **TRUST AGREEMENT**

by and between

**MARYLAND TRANSPORTATION AUTHORITY**

and

**THE BANK OF NEW YORK,**  
as Trustee

Dated as of May 1, 2004

**\$40,000,000**  
**Maryland Transportation Authority**  
**Lease Revenue Bonds**  
**Metrorail Parking Projects**  
**Series 2004**

---

## **TABLE OF CONTENTS**

### **ARTICLE I**

#### **DEFINITIONS AND RULES OF CONSTRUCTION**

|   |    |
|---|----|
| Section 1.01. Definitions.....            | 3  |
| Section 1.02. Rules of Construction. .... | 15 |

### **ARTICLE II**

#### **AUTHORIZATION AND DETAILS OF THE SERIES 2004 Bonds;**

##### **ADDITIONAL BONDS**

|  |    |
|--|----|
| Section 2.01. Bonds Authorized. ....   | 16 |
| Section 2.02. Details of Bonds.....  | 16 |
| Section 2.03. Conditions Precedent to Delivery of Series 2004 Bonds. ....                                      | 18 |
| Section 2.04. Authorization of Additional Bonds; Conditions Precedent<br>to Delivery of Additional Bonds. .... | 18 |
| Section 2.05. Execution and Authentication.....  | 22 |
| Section 2.06. Registration and Exchange of Bonds. ....   | 22 |
| Section 2.07. Bonds Mutilated, Destroyed, Lost or Stolen.....  | 23 |
| Section 2.08. Cancellation and Disposition of Bonds.....   | 23 |
| Section 2.09. Book-Entry System. ....  | 24 |

### **ARTICLE III**

#### **REDEMPTION OF BONDS**

|  |    |
|--|----|
| Section 3.01. Selection of Bonds to Be Redeemed..... | 26 |
| Section 3.02. Notice of Redemption. ....             | 26 |
| Section 3.03. Redemption of Portion of Bond.....     | 27 |
| Section 3.04. Redemption of Series 2004 Bonds.....   | 27 |
| Section 3.05. Redemption of Additional Bonds. ....   | 27 |

### **ARTICLE IV**

#### **PLEDGED REVENUES AND FUNDS**

|  |    |
|--|----|
| Section 4.01. Creation of Funds.....   | 28 |
| Section 4.02. Application of Proceeds of Bonds. ....                               | 29 |
| Section 4.03. Deposit of Pledged Revenues. ....                                    | 29 |
| Section 4.04. Construction Fund.....   | 30 |
| Section 4.05. Bond Fund.....   | 31 |
| Section 4.06. Debt Service Reserve Fund.....                                       | 32 |
| Section 4.07. Redemption Fund.....   | 34 |
| Section 4.08. Investments. ....  | 35 |
| Section 4.09. Application of Moneys in Certain Funds for Retirement of Bonds. .... | 36 |

|               |  |    |
|---------------|--|----|
| Section 4.10. | Bonds Not to Be Arbitrage Bonds; Tax Covenant..... | 36 |
|---------------|--|----|

## ARTICLE V

### PARTICULAR COVENANTS

|               |  |    |
|---------------|--|----|
| Section 5.01. | Payment of Bonds. ....   | 39 |
| Section 5.02. | Representations of the Authority. ....                             | 40 |
| Section 5.03. | Accounts and Audits. ....  | 40 |
| Section 5.04. | Additional Indebtedness.....                                       | 40 |
| Section 5.05. | Construction, Operation and Maintenance of Project.....            | 41 |
| Section 5.06. | Provision of the Project.....                                      | 41 |
| Section 5.07. | Insurance; Application of Insurance and Condemnation Proceeds..... | 42 |
| Section 5.08. | Sale or Encumbrance of Project.....                                | 42 |
| Section 5.09. | Financing Statements.....  | 42 |
| Section 5.10. | No Disposition of Trust Estate.....                                | 43 |
| Section 5.11. | Transportation Authority Fund. ....                                | 44 |

## ARTICLE VI

### CONCERNING THE TRUSTEE

|               |  |    |
|---------------|--|----|
| Section 6.01. | Appointment of the Trustee; Registrar; Paying Agent;<br>Acceptance of Duties. .... | 45 |
| Section 6.02. | Trustee Entitled to Indemnity.....   | 45 |
| Section 6.03. | Responsibilities of the Trustee.....   | 45 |
| Section 6.04. | Property Held in Trust.....  | 47 |
| Section 6.05. | Trustee Protected in Relying on Certain Documents. ....                            | 47 |
| Section 6.06. | Compensation. ....   | 48 |
| Section 6.07. | Permitted Acts.....  | 48 |
| Section 6.08. | Resignation of the Trustee. ....   | 48 |
| Section 6.09. | Removal of Trustee.....  | 49 |
| Section 6.10. | Successor Trustee.....   | 49 |
| Section 6.11. | Transfer of Rights and Property to Successor Trustee.....                          | 50 |
| Section 6.12. | Merger, Conversion or Consolidation of Trustee. ....                               | 50 |

## ARTICLE VII

### EVENTS OF DEFAULT AND REMEDIES

|               |  |    |
|---------------|--|----|
| Section 7.01. | Events of Default. ....                              | 50 |
| Section 7.02. | Enforcement. ....                                    | 51 |
| Section 7.03. | Priority of Payments Following Default. ....         | 52 |
| Section 7.04. | Discontinuance of Proceedings.....                   | 53 |
| Section 7.05. | Majority of the Holders May Control Proceedings..... | 53 |

|   |    |
|---|----|
| Section 7.06. Restrictions Upon Action by Individual Holders.....                 | 54 |
| Section 7.07. Actions by Trustee. ....  | 54 |
| Section 7.08. No Remedy Exclusive.....  | 55 |
| Section 7.09. No Delay or Omission Construed as a Waiver; Waiver of Default. .... | 55 |
| Section 7.10. Notice of Default.....  | 55 |

## ARTICLE VIII

### MODIFICATION OR AMENDMENT OF TRUST AGREEMENT

|  |    |
|--|----|
| Section 8.01. Modification or Amendment of Trust Agreement Without Consent...55            | 55 |
| Section 8.02. Supplemental Trust Agreements Requiring Consent of Holders.....              | 57 |
| Section 8.03. Restriction on Amendment; Execution of<br>Supplemental Trust Agreements..... | 57 |
| Section 8.04. Notation on Bonds. ....  | 57 |

## ARTICLE IX

### DEFEASANCE

|                                |    |
|--------------------------------|----|
| Section 9.01. Defeasance. .... | 58 |
|--------------------------------|----|

## ARTICLE X

### MISCELLANEOUS

|   |    |
|---|----|
| Section 10.01. Further Assurances.....  | 59 |
| Section 10.02. Consent of Holders; Evidence of Signatures of Holders<br>and Ownership of Bonds..... | 59 |
| Section 10.03. Preservation by Trustee and Inspection of Documents.....                             | 60 |
| Section 10.04. Moneys and Funds Held for Particular Bonds. ....                                     | 61 |
| Section 10.05. No Recourse Against Members and Officers.....  | 61 |
| Section 10.06. Severability of Invalid Provision. ....  | 61 |
| Section 10.07. Notices. ....  | 61 |
| Section 10.08. Other Trust Agreements.....  | 62 |
| Section 10.09. Business Days. ....  | 62 |
| Section 10.10. Interested Parties.....  | 62 |
| Section 10.11. Execution in Several Counterparts.....   | 62 |
| Section 10.12. Governing Law. ....  | 63 |
| Section 10.13. Security Agreement.....  | 63 |

|            |                          |
|------------|--------------------------|
| APPENDIX A | FORM OF WMATA REQUEST    |
| APPENDIX B | FORM OF REQUISITION      |
| APPENDIX C | FORM OF SERIES 2004 BOND |

## **TRUST AGREEMENT**

**THIS TRUST AGREEMENT**, dated as of May 1, 2004, is by and between MARYLAND TRANSPORTATION AUTHORITY (the "Authority"), and The Bank of New York, as trustee (the "Trustee").

### **RECITALS**

**WHEREAS**, the Authority is authorized pursuant to Sections 4-101 through 4-405 of the Transportation Article of the Annotated Code of Maryland, as amended (the "Enabling Legislation," as defined herein), to issue revenue bonds for the purpose of financing and refinancing all or any part of the costs of transportation facility projects (as defined in the Enabling Legislation) and to secure such revenue bonds by a trust agreement, which may pledge and assign all or any part of the revenues of any transportation facilities project to secure such revenue bonds; and

**WHEREAS**, the Authority, Washington Metropolitan Area Transit Authority, a body corporate and politic created and existing by virtue of an interstate compact among the District of Columbia, the State of Maryland and the Commonwealth of Virginia ("WMATA") and Prince George's County, Maryland (the "County"), have entered into an Amended and Restated Surcharge Implementation Agreement, dated September 12, 2002, which provides, among other things, for the operation and maintenance by WMATA of all parking facilities on WMATA property in the County and for the collection by WMATA of base parking fees and a surcharge on all WMATA-operated parking spaces in the County and for the identification and set aside of amounts equal to the surcharge revenues collected pursuant thereto; and

**WHEREAS**, the Authority, the County and WMATA have identified a pressing need for additional parking facilities at the New Carrollton Metrorail Station, College Park Metrorail Station and Largo Metrorail Station on the Metrorail System operated by WMATA in Prince George's County, Maryland; and

**WHEREAS**, by resolution adopted by the Authority on June 19, 2002, and by a resolution adopted by the Authority on March 16, 2004, and by a resolution adopted by the Authority on May 18, 2004 the Authority has authorized the issuance of its revenue bonds (the "Series 2004 Bonds," as defined herein) to finance a portion of the cost of the Project; and

**WHEREAS**, the Bonds (defined herein) shall be limited obligations of the Authority payable solely from the Pledged Revenues (defined herein). Neither the State of Maryland (the "State"), nor WMATA, nor any political subdivision of the State shall be obligated to pay the Bonds or the interest thereon. The Authority shall only be obligated to pay the Bonds from the Pledged Revenues and from other sources as provided and neither the faith and credit nor the taxing power of the State, any political subdivision of the State or the Authority is pledged to the payment of the Bonds or the interest thereon. The issuance of the Bonds shall not directly or indirectly or contingently obligate the State, or any political subdivision of the State to levy or to

pledge any form of taxation whatever therefor or to make any appropriation for their payment. The Authority has no taxing powers; and

**WHEREAS**, all Bonds issued from time to time under this Trust Agreement will be equally and ratably secured to the extent provided herein by a pledge and assignment of the Trust Estate (defined herein); and

**WHEREAS**, all things necessary to make the Series 2004 Bonds, when authenticated by the Trustee and issued in accordance with this Trust Agreement, the legal, valid and binding obligations of the Authority according to the import thereof, and to constitute this Trust Agreement a valid assignment and pledge of the Trust Estate, have been done and performed, and the creation, execution and delivery of this Trust Agreement, and the creation, execution and issuance of the Series 2004 Bonds, subject to the terms hereof, have in all respects been duly authorized; and

**WHEREAS**, the Authority and the County have entered into a Deficiency Agreement dated April 1, 2004 whereby the County shall make payment to the Trustee for deposit in the Debt Service Reserve Fund to restore the Debt Service Reserve Fund to its required amount under this Trust Agreement should (i) the amount in the Debt Service Reserve Fund be less than the Debt Service Reserve Fund Credit Facility under this Trust Agreement, (ii) any Debt Service Reserve Fund Credit Facility have expired or been cancelled and not have been replaced with another Debt Service Reserve Fund Credit Facility, or (iii) if any Debt Service Reserve Fund Credit Facility then in effect fails to cover any deficiency in the Debt Service Reserve Fund and there are insufficient funds in the Surcharge Reserve Account to make up for any deficiency under (i), (ii) or (iii) of this paragraph. Pursuant to the Deficiency Agreement, the obligation of the County to make the payments to restore the Debt Service Reserve Fund is contingent upon the appropriation by the County of funds sufficient for such purposes and from which any such payments can be made in such fiscal year.

## **GRANTING CLAUSES**

**NOW THEREFORE**, the Authority, in consideration of the premises, of the acceptance by the Trustee of the trusts hereby created, and of the purchase and acceptance of the Bonds by the owners thereof, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, in order to secure the payment of the principal or Redemption Price (defined herein) of and interest on, and the purchase price of, the Bonds according to their tenor and effect and the performance and observance by the Authority of all the covenants expressed or implied herein and in the Bonds, for the equal and ratable benefit of the holders thereof and their respective successors and assigns, forever, subject only to the provisions of this Trust Agreement permitting the application thereof on the terms and conditions set forth in this Trust Agreement, does hereby grant, bargain, sell, convey, assign and pledge to the Trustee, and unto its respective successors in trust and assigns forever, and grant to the Trustee, and unto its respective successors in trust and assigns forever, a security interest in, the following (the "Trust Estate"):

(a) all of the right, title and interest of the Authority in and to the Pledged Revenues; and

(b) all of the right, title and interest of the Authority in and to any moneys and securities from time to time on deposit in any fund or account established and maintained under this Trust Agreement other than moneys held in the Rebate Fund (as hereinafter defined) and any and all other real or personal property of every name and nature from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred, as and for additional security hereunder by the Authority or by anyone on its behalf including funds to be paid under the Deficiency Agreement, or with its written consent, to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms of this Trust Agreement;

**TO HAVE AND TO HOLD** all and singular the Trust Estate, whether now owned or hereafter acquired, unto the Trustee and its successors in trust and assigns forever upon the terms and trusts herein set forth for the equal and ratable benefit, security and protection of all present and future such holders, without privilege, priority or distinction as to the lien or otherwise of any Bond over any other Bond, except as otherwise expressly provided herein;

**PROVIDED, HOWEVER,** that, if the Authority shall well and truly pay, or cause to be paid, the principal or Redemption Price of and interest on, and the purchase price of, the Bonds, according to the true intent and meaning thereof or shall provide for the payment thereof as provided by Article IX, and shall perform and observe all the covenants and conditions of this Trust Agreement and the Bonds to be performed and observed by it, and shall pay or cause to be paid to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then, upon compliance with Article IX, the lien of this Trust Agreement shall be discharged and satisfied and shall be null and void; otherwise, this Trust Agreement is to be and remain in full force and effect.

All Bonds secured hereunder are to be issued and all such property, rights and interests, including, without limitation, the amounts hereby assigned and pledged, are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Authority has agreed and covenanted, and does hereby agree and covenant with the Trustee and the holders of the Bonds as follows (subject to the provisions of Section 5.01):

## **ARTICLE I**

### **DEFINITIONS AND RULES OF CONSTRUCTION**

#### **Section 1.01. Definitions.**

Terms used in this Trust Agreement have the following meanings, unless a different meaning clearly appears from the context:

**“Additional Bonds”** means any bond, note or other evidence of obligation issued by the Authority pursuant to Section 2.04, including (without limitation) any cap, swap or other hedging arrangement.

**“Administrative Expenses”** means costs and expenses incurred by the Authority related to the issuance and administration of the Bonds, including, but not limited to, counsel fees, Trustee costs and fees, annual disclosure fees, rebate calculation fees, and other related costs.

**“Agency Obligations”** means direct obligations, including bonds, debentures, notes, participation certificates or similar obligations of, or obligations the timely payment of the principal of and the interest on which are unconditionally guaranteed by any agency or instrumentality of the United States of America or their successors, including (without limitation): Government National Mortgage Association, Federal Land Banks, Federal Home Loan Banks, Federal Intermediate Credit Banks, Tennessee Valley Authority, United States Postal Service, Export-Import Bank of the United States, United States Department of Agriculture-Rural Development (formerly Farmers Home Administration), General Services Administration, United States Maritime Administration, Small Business Administration, United States Department of Housing and Urban Development and Federal Housing Administration.

**“Ambac”** means Ambac Assurance Corporation, a Wisconsin-domiciled stock insurance company, its successors and assigns.

**“Amended Surcharge Agreement”** means the Amended and Restated Surcharge Implementation Agreement dated September 12, 2002 among the Authority, WMATA and the County.

**“Applicable Law”** means any law, regulation, requirement or order of any federal, state or local agency, court or other governmental body applicable from time to time to the acquisition, design, construction, equipping, financing, ownership, possession or operation of all, or any portion, of the Project or the performance of any of the obligations of the Authority under this Trust Agreement, including (without limitation) all permits, licenses and governmental approvals required for the operation of any portion of the Project.

**“Authority”** means Maryland Transportation Authority, an agency of the State of Maryland, and its successors and assigns.

**“Authority Representative”** means the Chairman, the Executive Secretary or the Chief Financial Officer of the Authority and, when used with respect to any act, any other person (who may or may not be a member, officer or employee of the Authority) authorized to perform such act by the Enabling Legislation or a resolution of the Authority.

**“Authorized Denomination”** means (i) when used with respect to any Series 2004 Bond, \$5,000 or any integral multiple thereof, and (ii) when used with respect to any Additional Bond, any denomination in which such Additional Bond is authorized to be outstanding from time to time as specified in the Supplemental Trust Agreement authorizing such Additional Bond.



**“Balloon Debt”** means Indebtedness 25% or more of the principal amount of which matures in the same 12-month period, which portion of such principal amount is not required to be amortized by redemption prior to such period.

**“Bond”** or **“Bonds”** means the Series 2004 Bonds and any Additional Bonds, collectively.

**“Bond Counsel”** means an attorney or firm of attorneys having a national reputation in the field of municipal law whose legal opinions are generally accepted by purchasers of municipal bonds designated by the Authority as its bond counsel from time to time. The firm of McKennon Shelton & Henn LLP is recognized as constituting Bond Counsel, subject to further action by the Authority.

**“Bond Insurance Policy”** means the financial guaranty insurance policy issued by Ambac insuring the payment when due of the principal of and interest on the Bonds as provided therein.

**“Business Day”** means a day other than a Saturday, Sunday or legal holiday in the State or a day on which banking institutions in the State or in the city in which the Designated Office of the Trustee is located are authorized or obligated to remain closed.

**“Certificate”** or **“Resolution”** means a written certificate signed in the name of the Authority by an Authority Representative, or a resolution adopted by the affirmative vote of a majority of the appointed members of the Authority and concurred in by the Chairman, respectively.

**“Code”** means the Internal Revenue Code of 1986, as amended from time to time, or any successor federal income tax statute or code, and the applicable regulations thereunder.

**“College Park Base Lease”** means the lease agreement dated as of April 1, 2004 between the Authority and WMATA.

**“College Park Metrorail Parking Facility”** means the leased parking facility consisting of approximately 600 parking spaces, including a taxi stand, bicycle storage area, kiss and ride spaces, and the cost of the reconfiguration of bus bays as necessary, together with the non-exclusive right to use common areas and common facilities to be a part of a parking garage.

**“Cost,”** as applied to the Project, includes the cost of and all expenses incident to the construction, reconstruction, acquisition, improvement, extension, alteration, modernization, planning, maintenance and repair of the Project, including (without limitation) the cost and expenses of (1) all property acquired in connection with it; (2) financial, architectural, consulting, engineering and legal services; (3) plans, specifications, surveys, estimates, feasibility reports and direct and indirect labor, material, equipment and administrative expenses; and (4) financing the Project, including (without limitation) financing charges and interest before, during and for one year after completion of construction.

**“County”** means Prince George’s County, Maryland.

**“Credit Facility”** means the Bond Insurance Policy and any other letter of credit, bond insurance policy, bond purchase agreement, guaranty, line of credit, surety bond or similar credit or liquidity facility securing any Bond or held to the credit of any fund or account created by this Trust Agreement. When used with reference to any Bonds, “Credit Facility” means any Credit Facility securing such Bonds.

**“Credit Facility Agreement”** means the agreement, if any, pursuant to which any Credit Facility is issued. When used with reference to any Bonds, “Credit Facility Agreement” means the Credit Facility Agreement under which any Credit Facility securing such Bonds shall have been issued.

**“Credit Facility Provider”** means Ambac and the issuer of any other Credit Facility then in effect. When used with reference to any Bonds, “Credit Facility Provider” means the provider of any Credit Facility securing such Bonds.

**“Debt Service Requirements”** means, when used with respect to any Long-Term Indebtedness for any Fiscal Year, as of any particular date of calculation, the amount required to pay the sum of (a) the interest on such Long-Term Indebtedness payable during the period from the second day of such Fiscal Year through the first day of the immediately succeeding Fiscal Year, and (b) the principal of, the Sinking Fund Installment for and any other amount required to effect any mandatory redemption of such Long-Term Indebtedness, if any, during the period from the second day of such Fiscal Year through the first day of the immediately succeeding Fiscal Year, less any amount of such interest or principal for the payment of which moneys or Permitted Investments, the principal of and interest on which when due will provide for such payment, are held in trust, including (without limitation) any accrued interest and capitalized interest on deposit in the Interest Account or any Construction Fund. For the purpose of calculating the Debt Service Requirements:

(i) with respect to any Variable Rate Indebtedness:

(A) for the purpose of calculating the Debt Service Reserve Fund Requirement and the principal amount of any such Indebtedness constituting Balloon Debt payable in any Fiscal Year described in clause (ii) below, such Indebtedness shall be deemed to bear interest at the fixed rate that they would have borne had it been issued at a fixed rate for the term thereof, as evidenced by a certificate of an investment banking firm or financial advisor knowledgeable in financial matters relating to the Project satisfactory to the Authority, who may be, without limitation, the financial advisor to the Authority, confirming such interest rate assumption as reasonable, *provided* that if the Authority shall have entered into any cap, swap or other hedging arrangement with an entity rated in one of the three highest Rating Categories by a Rating Agency (each, a “Qualified Hedging Transaction”) identified in the records of the Authority with respect to such Indebtedness at the option of the Authority, such Indebtedness shall be deemed to bear interest at the rate payable by the Authority under such Qualified Hedging Transaction;

(B) for all other purposes of this Trust Agreement, such Indebtedness shall be deemed to bear interest at an annual rate equal to (1) in the case of any period during

which such Indebtedness shall have been outstanding, the weighted average interest rate per annum borne by such Indebtedness during such period and (2) in any other case, the higher of (a) the weighted average interest rate per annum borne by such Indebtedness during the 12-month period ending on the date of calculation (or, in the case of any Indebtedness to be issued during the immediately preceding 12-month period, the weighted average interest rate per annum borne by other outstanding indebtedness having comparable terms and of comparable creditworthiness during the immediately preceding 12-month period, as evidenced by a certificate of an investment banking firm or a financial advisor knowledgeable in financial matters relating to the Project satisfactory to the Authority, who may be, without limitation, the financial advisor to the Authority) and (b) the interest rate per annum borne by such Indebtedness on the date of calculation, *provided* that if any Qualified Hedging Transaction identified in the records of the Authority with respect to any such Indebtedness shall be in effect for the period for which such calculation is to be made, at the option of the Authority, such Indebtedness shall be deemed to bear interest at the rate payable by the Authority under such Qualified Hedging Transaction during such period;

(ii) with respect to any Balloon Debt, the principal amount of such Indebtedness payable in each Fiscal Year may be deemed to be the amount that would payable during such Fiscal Year if such Indebtedness were required to be amortized in full from the date of its issuance in substantially equal annual installments of principal (such principal to be rounded to the nearest \$5,000) and interest over a term equal to the shorter of (A) 30 years and (B) 120% of the weighted average economic life of the facilities financed or refinanced thereby;

(iii) with respect to any Optional Tender Debt, the option of the holder thereof to tender such Indebtedness for purchase or redemption prior to maturity shall be disregarded; and

(iv) with respect to any Credit Facility Agreement, so long as no demand for payment under the Credit Facility issued under such Credit Facility Agreement shall have been made, the debt service requirements of such Credit Facility Agreement shall be excluded from such calculation.

**“Debt Service Reserve Fund Credit Facility”** means any Credit Facility held to be credit of the Debt Service Reserve Fund.

**“Debt Service Reserve Fund Requirement”** means (a) when used with respect to or in connection with the Series 2004 Bonds, any other Series of Bonds secured by the Debt Service Reserve Fund maintained for the Series 2004 Bonds or such Debt Service Reserve Fund, as of any particular date of computation, an amount equal to the least of (i) 10% of the proceeds of the Bonds secured thereby, (ii) Maximum Annual Debt Service on all outstanding Bonds secured thereby, and (iii) 125% of the average annual debt service requirements of all Bonds secured thereby; and (b) when used with respect to any other Series of Bonds or the Debt Service Reserve Fund, if any, maintained for such Bonds, such amount as shall be established in the Supplemental Trust Agreement authorizing the issuance of such Bonds.

**“Deficiency Agreement”** means the agreement dated as of April 1, 2004 between the Authority and the County.

**“Designated Office”** means, when used with respect to the Trustee or any Registrar or Paying Agent, the corporate trust office designated as such by the Trustee or such Registrar or Paying Agent, respectively.

**“Enabling Legislation”** means Sections 4-101 through 4-405 of the Transportation Article of the Annotated Code of Maryland, as amended, and any other provision of law authorizing the issuance of bonds, notes or other evidences of obligation of the Authority, and all future acts supplemental to or amendatory of any of the foregoing.

**“Engineer”** means an individual or firm of engineers registered in the State (who may be, without limitation, an employee of the Authority, WMATA or the State or any agency or political subdivision thereof) designated and retained by the Authority to perform the activities required by this Trust Agreement to be performed by the Engineer.

**“Event of Default”** means any event of default specified in Section 7.01.

**“Facility”** means singularly either the New Carrollton Parking Structure, the College Park Metrorail Parking Facility, or the Largo Parking Structure.

**“Facility Lease Agreements”** means, collectively, the Facility Lease Agreement regarding each Facility, each dated as of April 1, 2004, between the Authority and WMATA, as each may amended and supplemented from time to time, and **“Facility Lease Agreement”** shall mean any of the Facility Lease Agreements, singularly.

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

**“Fiscal Year”** means the period of 12 consecutive months beginning on July 1 in any calendar year and ending on June 30 of the succeeding calendar year, or such other period of 12 months as the Authority shall establish as its fiscal year.

**“Generally Accepted Accounting Principles”** means generally accepted accounting principles in the United States of America applicable in the preparation of financial statements of governmental units, as promulgated by the Governmental Accounting Standards Board or such other body as shall be recognized as authoritative by the American Institute of Certified Public Accountants or any successor body (as such principles may change from time to time), applied on a consistent basis (except for changes in application in which the Independent Public Accountant concurs) applied both to classification of items and amounts.

**“Government Obligations”** means direct obligations of, or obligations that are unconditionally guaranteed by, the United States of America, including (without limitation) obligations of Resolution Funding Corporation.

**“Holder”** or **“holder”** or **“Bondholder”** or any similar term means the registered owner of any Bond.

**“Indebtedness”** means any indebtedness or liability for borrowed money, any installment sale obligation or any obligation under any lease that is capitalized under Generally Accepted Accounting Principles, to the extent that any of the foregoing is payable from the Pledged Revenues.

**“Independent Consultant”** means an independent consulting firm having a favorable reputation for skill and experience with respect to the design, construction and operation of transportation facilities or the determination of the economic feasibility of such facilities, designated and retained by the Authority to perform the activities required by this Trust Agreement to be performed by the Independent Consultant.

**“Independent Public Accountant”** means an individual, partnership or corporation engaged in the accounting profession, either entitled to practice, or having members or officers entitled to practice, as a certified public accountant under the laws of the State and in fact independent, employed by the Authority from time to time to pass upon those matters required by this Trust Agreement to be passed upon by an Independent Public Accountant. The firm of Reznick, Fedder & Silverman is recognized as constituting the Independent Public Accountant, subject to further action by the Authority.

**“Insurance Default”** means (a) the failure of Ambac to honor a demand for payment under the Bond Insurance Policy in accordance with its terms, (b) the contest by Ambac of the valid and binding nature of the Bond Insurance Policy, or (c) Ambac shall become insolvent or the subject of any insolvency proceeding or shall file a petition or other pleading seeking an "order for relief" within the meaning of the United States Bankruptcy Code or shall file any petition or other pleading seeking any reorganization, composition, readjustment, liquidation or similar relief for itself under any present or future law or regulation, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Ambac, or of substantially all of the assets of Ambac, or shall make a general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due, or (d) a petition or other pleading shall be filed against Ambac seeking an "order for relief" within the meaning of the United States Bankruptcy Code or any reorganization, composition, readjustment, liquidation or similar relief under any present or future law or regulation and shall remain undismissed or unstayed for an aggregate period of 90 days (whether or not consecutive), or if, by an order or decree of a court of competent jurisdiction, Ambac shall become the subject of an "order for relief" within the meaning of the United States Bankruptcy Code or relief shall be granted under or pursuant to any such petition or other pleading, and such order or decree continues unvacated or unstayed, on appeal or otherwise, and in effect for a period of 90 days; or if, by order or decree of such court, there shall be appointed, without the consent or acquiescence of Ambac, a trustee in bankruptcy or reorganization or a receiver or liquidator of Ambac or of all or any substantial part of its property and such order or decree continues unvacated or unstayed, on appeal or otherwise, and in effect for a period of 90 days.

**“Interest Payment Date”** means, with respect to the Series 2004 Bonds, January 1 and July 1 of each year commencing January 1, 2005, and with respect to any Additional Bonds, the dates established as Interest Payment Dates in the Supplemental Trust Agreement authorizing such Additional Bonds.

**“Largo Ground and Air Rights Lease”** means the Ground and Air Rights Lease Agreement dated as of October 8, 2002, between the Authority and WMATA, as amended by Amendment No. 1 to Ground and Air Rights Lease Agreement dated as of April 1, 2004, between the Authority and WMATA, as the same may be further amended and supplemented from time to time.

**“Largo Parking Structure”** means a parking structure consisting of approximately 2,100 parking spaces.

**“Long-Term Indebtedness”** means all of the following Indebtedness incurred or assumed by the Authority and payable under any circumstances from the Trust Estate:

- (i) any obligation for the payment of principal and interest with respect to money borrowed for an original term, or renewable at the option of the Authority for a period from the date originally incurred, longer than one year;
- (ii) any obligation for the payment of money under leases that are required to be capitalized under Generally Accepted Accounting Principles; and
- (iii) any obligation for the payment of money under installment purchase contracts having an original term in excess of one year.

**“Maximum Annual Debt Service”** means, when used with reference to any Long-Term Indebtedness for any Fiscal Year, as of any particular date of computation, the greatest amount required in the then-current or any future Fiscal Year to pay the Debt Service Requirements of such Long-Term Indebtedness.

**“New Carrollton Ground Lease”** means the Ground Lease Agreement dated as of October 8, 2002, between the Authority and WMATA, as amended by Amendment No. 1 to Ground Lease Agreement dated as of April 1, 2004, between the Authority and WMATA, as the same may be further amended and supplemented from time to time.

**“New Carrollton Parking Structure”** means a parking structure consisting of approximately 1,776 parking spaces including kiss and ride spaces.

**“Optional Tender Debt”** means any Indebtedness that is subject to optional or mandatory tender by the holder thereof (including, without limitation, any mandatory tender in connection with the expiration of any Credit Facility securing such Indebtedness or any conversion of the interest rate on such Indebtedness) for purchase or redemption prior to the stated maturity date thereof if the purchase or redemption price of such Indebtedness is under any circumstances payable from the Trust Estate.

**“Outstanding”** or **“outstanding”** means, (a) when used with reference to Bonds as of any particular date, all Bonds authenticated and delivered under this Trust Agreement except (i) any Bond cancelled by the Registrar or the Trustee (or delivered to the Registrar or the Trustee for cancellation) at or before such date, (ii) any Bond for the payment of the principal or Redemption Price of and interest on which provision shall have been made as provided in Section 9.01 and (iii) any Bond in lieu of or in substitution for which a new Bond shall have been authenticated and delivered pursuant to Article II, Article III or Section 8.04; and (b) when used with reference to any other Indebtedness, all Indebtedness theretofore issued or incurred other than any such Indebtedness that is deemed to have been paid and discharged under Generally Accepted Accounting Principles and that is not secured by the Pledged Revenues.

**“Parking Facilities Projects”** means the planning, design, construction, equipping, and financing of the following parking facilities: (i) a parking structure consisting of approximately 1,776 parking spaces, including kiss-and-ride spaces (the “New Carrollton Parking Structure”) to be located at the New Carrollton Metrorail Station; (ii) a leased parking facility consisting of approximately 600 parking spaces, including a taxi stand, bicycle storage area and kiss-and-ride spaces and the cost of the reconfiguration of Bus Bays as necessary, together with the non-exclusive right to use common areas and common facilities (the “College Park Metrorail Parking Facility”) to be part of a parking garage to be located at the College Park Metrorail Station that also includes approximately 740 commercial parking spaces and retail space (the “College Park Parking Garage”), and (iii) a parking structure consisting of approximately 2,100 parking spaces (the “Largo Parking Structure”) to be located above the Largo Metrorail Station.

**“Participant,”** when used with respect to any Securities Depository, means any participant of such Securities Depository.

**“Paying Agent”** means the Trustee, except as otherwise provided in any Supplemental Trust Agreement.

**“Permitted Investment”** means each of the following investments to the extent that the amounts to be invested therein are then permitted to be invested in such investments under Applicable Law:

- (a) Government Obligations;
- (b) Agency Obligations;
- (c) interest bearing time deposits, certificates of deposit or similar arrangements (“Deposits”) with any commercial bank, trust company or savings and loan association (including, without limitation, the Trustee), *provided* that, to the extent such Deposits are not fully insured by the Federal Deposit Insurance Corporation, the outstanding unsecured long-term indebtedness of such commercial bank, trust company or savings and loan association (or its holding company), at the date of purchase of such Deposits, is rated by a Rating Agency in one of its two highest Rating Categories, and such Deposits are continuously secured by lodging with a bank or trust company, as collateral security, obligations described in clause (a), (b), (e) or

(f) below, having a market value, calculated no less frequently than weekly, not less than 102% of the amount of such Deposit;

(d) repurchase agreements for obligations described in clause (a) or (b) above, *provided* that (i) such obligations shall be (A) delivered to the Authority or the Trustee (as the case may be) or supported by a safekeeping receipt issued by a depository satisfactory to the Authority or the Trustee (as the case may be) if issued in certificated form, or (B) supported by a receipt or other confirmatory documentation satisfactory to the Authority or the Trustee (as the case may be) if issued in book-entry form, (ii) the Authority or the Trustee (as the case may be) shall have a perfected security interest in such obligations, (iii) such obligations shall be free and clear of any other liens or encumbrances, and (iv) such repurchase agreements shall provide that the value of the underlying obligations shall be continuously maintained at a current market value, calculated no less frequently than weekly, of not less than 102% of the purchase price;

(e) obligations issued by or on behalf of any state of the United States of America or any political subdivision thereof for the payment of the principal or redemption price of and interest on which there shall have been irrevocably deposited Government Obligations maturing as to principal and interest at times and in amounts sufficient to provide such payment;

(f) any other obligations issued by or on behalf of any state of the United States of America or any political subdivision thereof *provided* that such obligations, or other obligations of the issuer thereof of comparable maturities that are secured equally and ratably with such obligations, shall be rated by a Rating Agency in one of its two highest long-term Rating Categories;

(g) banker's acceptances issued by any commercial bank, trust company or savings and loan association (including, without limitation, the Trustee), the outstanding unsecured long-term indebtedness of which, at the time of purchase, is rated by a Rating Agency in one of its two highest Rating Categories;

(h) commercial paper or finance company paper rated, at the time of purchase, by a Rating Agency in its highest Rating Category;

(i) investment agreements, *provided* that (i) the outstanding unsecured long-term indebtedness of the obligor which (or of the holding company of which) is rated by a Rating Agency in one of its two highest Rating Categories and that are continuously secured by obligations described in clause (a), (b), (c), (e), (f), (g) or (h) above, (ii) the Authority or the Trustee (as the case may be) shall have a perfected security interest in such obligations, (iii) such obligations shall be free and clear of any other liens or encumbrances, and (iv) such investment agreements shall provide that the value of the underlying obligations shall be maintained at a current market value, calculated no less frequently than weekly, of not less than 102% of the amount deposited thereunder;

(j) shares in investment companies that invest only in the obligations described in clauses (a), (b), (c), (d), (e), (f), (g), (h) and (i) above (including any proprietary mutual fund, money market fund or short term investment fund maintained by the Trustee and for



which the Trustee or an affiliate is investment advisor, or provides other services, and receives reasonable compensation for such services); and

(k) with respect to investments held in any fund or account created by this Trust Agreement solely for Bonds of a Series secured by a Credit Facility, such other investments as shall be approved in writing by the Credit Facility Provider with respect to such Bonds.

**“Pledged Revenues”** means (i) all of the revenues payable to the Authority by WMATA under the Facility Lease Agreements for the Project, (ii) all payments made by the County to the Trustee under the Deficiency Agreement and (iii) all rights to receive the same and the proceeds of such rights, whether now existing or hereafter coming into existence.

**“Project”** means the New Carrollton Parking Structure, the College Park Metrorail Parking Facility, and the Largo Parking Structure.

**“Project Agreement”** means the Amended and Restated Project Agreement among the County, the Authority and WMATA, dated as of April 1, 2004 as amended and supplemented from time to time.

**“Rating Agency”** means Moody’s Investors Service, Inc., Standard & Poor’s Ratings Services, Fitch Ratings or any other securities rating agency that, at the request of the Authority, shall have assigned a rating that is then in effect with respect to any Bonds, and their successors and assigns, and **“Rating Agencies”** means each such Rating Agency, collectively.

**“Rating Category”** means one of the general rating categories of a Rating Agency, without regard to any refinement or gradation of such rating category by a numerical modifier or otherwise.

**“Redemption Price”** means, when used with respect to any Bond or portion thereof, the principal amount of such Bond or such portion thereof plus the applicable premium, if any, payable upon redemption thereof pursuant to this Trust Agreement.

**“Registrar”** means the Trustee, except as otherwise provided in any Supplemental Trust Agreement.

**“Requisition”** means a written request of the Authority for the payment or transfer of moneys from any fund or account created by this Trust Agreement in accordance with this Trust Agreement, as such request may be amended or supplemented from time to time. Each Requisition shall be signed by an Authority Representative and shall set forth (i) the amount to be paid, (ii) the purpose for which the amount requisitioned is to be used and (iii) that the amount requisitioned is a proper charge against the fund or account from which such amount is to be paid.

**“Responsible Officer”** means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the persons who at the time

shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Trust Agreement.

**"Securities Depository"** means The Depository Trust Company, a corporation organized and existing under the laws of the State of New York, and any other securities depository for the Bonds appointed pursuant to Section 2.09, and their successors.

**"Series"** means any series of Bonds authorized by this Trust Agreement.

**"Series 2004 Bonds"** means the Maryland Transportation Authority Lease Revenue Bonds, Metrorail Parking Projects, Series 2004.

**"Sinking Fund Installment"** means the amount of money provided in this Trust Agreement, and in each Supplemental Trust Agreement authorizing any Series of Additional Bonds, to redeem Bonds of such Series at the times and in the amounts provided in this Trust Agreement or such Supplemental Trust Agreement (as the case may be).

**"State"** means the State of Maryland.

**"Supplemental Trust Agreement"** means any instrument between the Authority and the Trustee amending, modifying or supplementing this Trust Agreement, any Supplemental Trust Agreement or any Bond, delivered and becoming effective in accordance with the terms of this Trust Agreement.

**"Tax-Exempt Bond"** means the Series 2004 Bonds and any other Bond with respect to which there shall have been delivered to the Authority an opinion of Bond Counsel to the effect that the interest on such Bond is excludable from gross income for federal income tax purposes.

**"Trust Agreement"** means this Trust Agreement, as amended, modified or supplemented from time to time by Supplemental Trust Agreements.

**"Trust Estate"** means all property, rights and other assets that from time to time may be pledged and assigned to the Trustee under the Granting Clauses of this Trust Agreement.

**"Trustee"** means The Bank of New York, a banking corporation organized and existing under the laws of the State of New York and any other corporation that may at any time be substituted in its place pursuant to this Trust Agreement, and their successors.

**"Variable Rate Indebtedness"** means, as of any particular date, any Indebtedness the interest rate on which is not established at a fixed rate or rates for the remaining term thereof.

**"WMATA"** means the Washington Metropolitan Area Transit Authority.

## **Section 1.02. Rules of Construction.**

Unless the context clearly indicates to the contrary, the following rules apply to the construction of this Trust Agreement:

(a) Words importing the singular number include the plural number and words importing the plural number include the singular number.

(b) Words of the masculine gender include correlative words of the feminine and neuter genders.

(c) The table of contents and the headings or captions used in this Trust Agreement are for convenience of reference and do not constitute a part of this Trust Agreement, nor affect its meaning, construction or effect.

(d) Words importing persons include any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or agency or political subdivision thereof.

(e) Any reference to a particular percentage or proportion of the Holders of Bonds shall mean the Holders at the particular time of the specified percentage or proportion in aggregate principal amount of all Bonds then Outstanding under this Trust Agreement.

(f) Any reference to the Bond Fund, the Pledged Revenues Fund, the Construction Fund, the Debt Service Reserve Fund, the Redemption Fund or the Rebate Fund shall be to the fund or account so designated that is created under Section 4.01. If any Supplemental Trust Agreement provides for the establishment of separate funds and accounts for any Series of Bonds, then any provision of this Trust Agreement requiring or permitting the application of amounts on deposit in any fund or account to the payment of any Bond or the transfer of amounts on deposit in any fund or account maintained for any Bonds to any other fund or account shall refer to the fund or account maintained for Bonds of the Series of which such Bond is a part.

(g) Any reference in this Trust Agreement to a particular "Article," "Section" or other subdivision shall be to such Article, Section or subdivision of this Trust Agreement unless the context shall otherwise require.

(h) Each reference in this Trust Agreement to an agreement or contract shall include all amendments, modifications and supplements to such agreement or contract unless the context shall otherwise require.

(i) During any period in which no Credit Facility is in effect and all amounts payable to each Credit Facility Provider, if any, have been paid, the provisions of this Trust Agreement that relate to the Credit Facility and the Credit Facility Provider shall be of no force and effect.

## ARTICLE II

### AUTHORIZATION AND DETAILS OF THE SERIES 2004 BONDS; ADDITIONAL BONDS

#### Section 2.01. Bonds Authorized.

There is hereby authorized the issuance under this Trust Agreement of a Series of Bonds in the aggregate principal amount of Forty Million Dollars (\$40,000,000), which shall be designated "Maryland Transportation Authority Lease Revenue Bonds, Metrorail Parking Projects, Series 2004". The aggregate principal amount of Bonds that may be issued under this Trust Agreement is not limited except as provided by this Trust Agreement.

#### Section 2.02. Details of Bonds.

The Series 2004 Bonds shall be issued as fully registered bonds without coupons. The Series 2004 Bonds shall bear interest from the date of authentication and delivery at the rate or rates of interest per annum (calculated on the basis of a 360-day year consisting of twelve 30-day months) set forth below payable on each January 1 and July 1 of each year, commencing January 1, 2005 and shall mature on July 1 in each of the years and in amounts as follows:

##### Serial Bonds:

| <u>Year</u> | <u>Principal Amount</u> | <u>Interest Rate</u> | <u>Year</u> | <u>Principal Amount</u> | <u>Interest Rate</u> |
|-------------|-------------------------|----------------------|-------------|-------------------------|----------------------|
| 2006        | \$1,040,000             | 3.000%               | 2015        | \$1,495,000             | 5.000%               |
| 2007        | 1,070,000               | 3.000                | 2016        | 1,570,000               | 5.000                |
| 2008        | 1,105,000               | 4.000                | 2017        | 1,650,000               | 5.000                |
| 2009        | 1,150,000               | 5.000                | 2018        | 1,735,000               | 4.500                |
| 2010        | 1,205,000               | 4.000                | 2019        | 1,810,000               | 4.600                |
| 2011        | 1,255,000               | 5.000                | 2020        | 1,895,000               | 4.625                |
| 2012        | 1,315,000               | 5.000                | 2021        | 1,980,000               | 4.750                |
| 2013        | 1,380,000               | 4.000                | 2022        | 2,075,000               | 5.000                |
| 2014        | 1,440,000               | 4.150                |             |                         |                      |

##### Term Bonds:

| <u>Year</u> | <u>Principal Amount</u> | <u>Interest Rate</u> |
|-------------|-------------------------|----------------------|
| 2024        | \$4,470,000             | 5.000%               |
| 2025        | \$2,405,000             | 5.000%               |
| 2028        | \$7,955,000             | 5.000%               |

The Sinking Fund Installments for the Series 2004 Bonds maturing on July 1, 2024, July 1, 2025 and July 1, 2028 shall become due on July 1 of the following years in the following amounts:

**\$4,470,000 Term Bonds Due July 1, 2024**

| <u>Year</u> | <u>Sinking Fund Installment</u> |
|-------------|---------------------------------|
| 2023        | \$2,180,000                     |
| 2024        | 2,290,000 (maturity)            |

**\$2,405,000 Term Bonds Due July 1, 2025**

| <u>Year</u> | <u>Sinking Fund Installment</u> |
|-------------|---------------------------------|
| 2025        | \$2,405,000 (maturity)          |

**\$7,955,000 Term Bonds Due July 1, 2028**

| <u>Year</u> | <u>Sinking Fund Installment</u> |
|-------------|---------------------------------|
| 2026        | \$2,525,000                     |
| 2027        | 2,650,000                       |
| 2028        | 2,780,000 (maturity)            |

The Series 2004 Bonds shall be subject to optional redemption prior to maturity, and shall otherwise have the terms, tenor, denominations, details and specifications as set forth in the form of Series 2004 Bond included in Appendix C.

The Series 2004 Bonds shall be substantially in the form set forth in Appendix C, with such insertions, omissions and variations as may be deemed necessary or appropriate by the officers of the Authority executing the same and as shall be permitted by the Enabling Legislation. The Authority hereby adopts the forms of Series 2004 Bonds set forth in Appendix C, and all of the covenants and conditions set forth therein, as and for the form of obligation to be incurred by the Authority as the Series 2004 Bonds. The covenants and conditions set forth in the form of Series 2004 Bonds are incorporated into this Trust Agreement by reference and shall be binding upon the Authority as though set forth in full herein.

Additional Bonds shall have the terms, tenor, details and specifications and shall be in such form as shall be provided in the Supplemental Trust Agreement authorizing such Additional Bonds.

The Bonds may contain, or have endorsed thereon, any notations, legends or endorsements not inconsistent with the provisions of this Trust Agreement or of any Supplemental Trust Agreement authorizing the same as may be necessary or desirable and as may be determined by the officers of the Authority executing the same prior to the execution and delivery of such Bonds. The execution and delivery of any Bonds by the Authority in accordance with this Trust Agreement shall be conclusive evidence of the approval of the form of such Bonds by the Authority, including any insertions, omissions, variations, notations, legends or endorsements authorized by this Trust Agreement.

Bonds shall be numbered in the manner determined by the Registrar. Before authenticating and delivering any Bond, the Registrar shall complete the form of such Bond.

Bonds may have attached thereto or printed on the reverse side thereof the opinion of Bond Counsel for such Bonds. The printing of CUSIP numbers on Bonds shall have no legal effect and shall not affect the enforceability of any Bond.

### **Section 2.03. Conditions Precedent to Delivery of Series 2004 Bonds.**

The Series 2004 Bonds shall be executed by the Authority and delivered to the Trustee, whereupon the Trustee shall authenticate the Series 2004 Bonds and, upon payment of the purchase price of such Bonds, shall deliver the Series 2004 Bonds upon the order of the Authority, but only upon delivery to the Trustee of each of the following:

- (a) a counterpart of this Trust Agreement executed by the parties hereto;
- (b) an order of the Authority directing the authentication and delivery of the Series 2004 Bonds, describing the Series 2004 Bonds to be authenticated and delivered, designating the purchasers to whom the Series 2004 Bonds are to be delivered, stating the purchase price of the Series 2004 Bonds and stating that all items required by this Section are therewith delivered to the Trustee in form and substance satisfactory to the Authority; and
- (c) an opinion of Bond Counsel to the effect that (i) this Trust Agreement has been duly authorized, executed and delivered by the Authority and constitutes the valid and binding obligation of the Authority; and (ii) the Authority is duly authorized and entitled to issue the Series 2004 Bonds and the Series 2004 Bonds executed, authenticated and delivered as provided in this Trust Agreement have been duly and validly issued and constitute valid and binding limited obligations of the Authority.

### **Section 2.04. Authorization of Additional Bonds; Conditions Precedent to Delivery of Additional Bonds.**

In addition to the Series 2004 Bonds, the Authority is hereby authorized to issue, from time to time, Additional Bonds under and secured by this Trust Agreement and any Supplemental Trust Agreement, subject to the conditions provided in this Section, for the purposes of : (a) refinancing, refunding or advance refunding any Outstanding Indebtedness ("Refunding Purposes"), (b) obtaining funds to pay the Cost of improvements to or the completion of the

Project ("Completion Purposes"), or (c) obtaining funds necessary to pay the costs of extraordinary maintenance of or repairs or improvements to any portion of the Project, including (without limitation), repairs, replacements or improvements required as a result of any casualty or taking or other extraordinary occurrence or to meet the requirements of Applicable Law ("Extraordinary Maintenance Purposes"). Additional Bonds may be issued to pay the costs incurred in connection with the issuance and sale of any Bonds, to establish reserves and to pay interest on any Bonds prior to and during acquisition and construction. The issuance of Additional Bonds shall be authorized by a Supplemental Trust Agreement.

Each Additional Bond shall be on a parity with, and shall be entitled to the same benefit and security of this Trust Agreement as the Series 2004 Bonds and any other Additional Bonds that may be issued from time to time, to the extent provided in this Section.

The Supplemental Trust Agreement authorizing the issuance of any Series of Additional Bonds shall specify the maturities and redemption provisions of such Additional Bonds, the form and denominations thereof and other details of such Additional Bonds. Without limiting the generality of the foregoing, Additional Bonds may constitute Variable Rate Indebtedness, Optional Tender Debt or Balloon Debt, as shall be determined by the Authority, in its discretion. Any Supplemental Trust Agreement authorizing the issuance of Additional Bonds shall provide for the creation of a separate Bond Fund for such Bonds if any principal of such Bonds becomes due on a date other than July 1 or the Interest Payment Dates on such Bonds are not January 1 and July 1. The Authority may provide for the creation of a separate Bond Fund, Debt Service Reserve Fund or Redemption Fund and other funds and accounts for any Series of Additional Bonds in other circumstances, as shall be deemed advisable by the Authority.

The Supplemental Trust Agreement authorizing the issuance of any Additional Bonds shall provide for the deposit of Pledged Revenues in the Bond Fund and the Debt Service Reserve Fund, if any, maintained for such Bonds, which deposits shall be made not more frequently than monthly except to the extent required to pay the principal of and interest on such Bonds when due.

If any Supplemental Trust Agreement provides for the establishment of separate funds and accounts for any Series of Bonds, then such Supplemental Trust Agreement shall require that (i) the Pledged Revenues required to be deposited in the Pledged Revenues Fund on any date shall be transferred and deposited *pro rata* among all of the Bond Funds on the basis of the principal of, the Sinking Fund Installments for and the interest on the Series of Bonds secured thereby required to be deposited in the Bond Fund for such Bonds on such date, and (ii) the Pledged Revenues required to be deposited in the Debt Service Reserve Fund on any date shall be allocated *pro rata* among all Debt Service Reserve Funds on the basis of the respective aggregate principal amounts of the Bonds Outstanding secured by such Debt Service Reserve Funds. Amounts on deposit in the funds and accounts created for particular Series of Bonds available for the payment of any Bonds shall be applied solely to the payment of the principal or Redemption Price of and interest on, or the purchase price of, the Bonds of such Series or to the reimbursement of the issuer of any Credit Facility securing such Bonds and shall not be available to satisfy the claims of Holders of Bonds of any other Series or the issuer of any Credit Facility securing any other Series of Bonds.

The Supplemental Trust Agreement authorizing the issuance of any Series of Additional Bonds may provide that (i) proceeds realized under any Credit Facility securing the payment of such Additional Bonds shall not be available to pay the principal or Redemption Price of or interest on, or the purchase price of, the Series 2004 Bonds or any other Series of Additional Bonds, and (ii) any proceeds of such Additional Bonds and investment earnings thereon remaining after the completion of the Project financed with the proceeds of such Additional Bonds shall be applied to the payment or redemption of such Series of Additional Bonds.

Any Supplemental Trust Agreement authorizing the issuance of Additional Bonds may provide that (i) such Series of Bonds shall be secured by the Debt Service Reserve Fund maintained for the Series 2004 Bonds, (ii) such Series of Additional Bonds shall not be secured by a Debt Service Reserve Fund, or (iii) such Additional Bonds shall be secured by a separate Debt Service Reserve Fund.

If any Supplemental Trust Agreement authorizing the issuance of any Series of Additional Bonds provides that such Additional Bonds shall be secured by the Debt Service Reserve Fund maintained for the Series 2004 Bonds, such Supplemental Trust Agreement shall provide for the deposit in such Debt Service Reserve Fund on the date of issuance of such Additional Bonds of the amount, if any, necessary to make the amount on deposit therein equal to the Debt Service Reserve Fund Requirement on all Bonds secured thereby, after giving effect to the issuance of such Additional Bonds. Such Supplemental Trust Agreement may provide that the amount of any increase in the Debt Service Reserve Fund Requirement resulting from the issuance of such Additional Bonds shall be applied to the final payments of the principal or Redemption Price of such Additional Bonds.

If the Supplemental Trust Agreement authorizing the issuance of any Additional Bonds provides that such Series of Additional Bonds shall be secured by a separate Debt Service Reserve Fund, such Supplemental Trust Agreement shall (i) establish the amount of the Debt Service Reserve Fund Requirement for such Debt Service Reserve Fund, (ii) provide the period during which any deficiency shall be cured, (iii) contain provisions with respect to the issuance of any other Additional Bonds secured by such Debt Service Reserve Fund and (iv) provide such terms with respect to the valuation of such Debt Service Reserve Fund, the application of any earnings on or surpluses in such Debt Service Reserve Fund and any Credit Facilities held to the credit of such Debt Service Reserve Fund (which may be different from those described herein) as the Authority shall deem appropriate, any other provision of this Trust Agreement to the contrary notwithstanding. If a separate Debt Service Reserve Fund is created for any Series of Bonds, the Debt Service Reserve Fund Requirement shall be calculated separately for each Series of Bonds for which a separate Debt Service Reserve Fund is maintained.

Additional Bonds shall be executed by the Authority and delivered to the Registrar, whereupon the Registrar shall authenticate and deliver such Additional Bonds upon the order of the Authority, but only upon receipt by the Registrar of a certificate of the Trustee to the effect that the Trustee has received the purchase price of such Additional Bonds, if any, and each of the following:



(i) a counterpart of the applicable Supplemental Trust Agreement authorizing such Additional Bonds, executed by the parties thereto;

(ii) an order of the Authority directing the authentication and delivery of such Additional Bonds, describing such Additional Bonds, designating the purchaser of such Additional Bonds, stating the purchase price of such Additional Bonds and stating that all items required by this Section are therewith delivered to the Trustee in form and substance satisfactory to the Authority;

(iii) an opinion of Bond Counsel to the effect that (A) the Supplemental Trust Agreement authorizing such Additional Bonds has been duly authorized, executed and delivered by the Authority and constitutes the valid and binding obligation of the Authority; (B) the Authority is duly authorized and entitled to issue such Additional Bonds, and Additional Bonds executed, authenticated and delivered as provided in this Trust Agreement and such Supplemental Trust Agreement have been duly and validly issued and constitute valid and binding limited obligations of the Authority; and (C) the issuance of such Additional Bonds will not adversely affect the excludability from gross income, for federal income tax purposes, of interest paid on any Tax-Exempt Bonds theretofore issued;

(iv) a Certificate of the Authority to the effect that, upon the authentication and delivery of such Additional Bonds, no Event of Default shall exist under this Trust Agreement;

(v) the amount, if any, required to make the amount on deposit in the Debt Service Reserve Funds equal the respective Debt Service Reserve Fund Requirements upon the issuance of such Additional Bonds.

No Additional Bonds shall be issued for Completion Purposes or Extraordinary Maintenance Purposes in an amount in excess of the amount estimated by the Engineer from time to time to be necessary to accomplish the intended Completion Purpose or Extraordinary Maintenance Purpose, respectively, in its written report delivered under paragraph (v) above.

If Additional Bonds are issued or incurred for Refunding Purposes, there shall be furnished to the Trustee a Certificate of the Authority to the effect that the Maximum Annual Debt Service on Outstanding Long-Term Indebtedness, taking into account the issuance of such Additional Bonds and the Long-Term Indebtedness to be refinanced or refunded, will not be increased by more than five percent during the life of any then Outstanding Bonds that are not refinanced or refunded with proceeds of such Additional Bonds.

Additional Bonds may be authenticated, delivered and paid for in installments of less than the total authorized principal amount of a Series of Bonds from time to time as the Authority may direct in its written requests.

## **Section 2.05. Execution and Authentication.**

The Bonds shall be executed in the name and on behalf of the Authority by the manual or facsimile signature of the Chairman of the Authority or one of the other Members of the Authority and sealed with its corporate seal (or a facsimile thereof), attested by the manual or facsimile signature of the Executive Secretary of the Authority or his delegate, *provided* that at least one of such signatures shall be a manual signature. In case any officer whose manual or facsimile signature appears on any Bond shall cease to be such officer before delivery of such Bond, such signature, nevertheless, shall be valid and sufficient for all purposes as if such officer had remained in office until such delivery, and the Authority may adopt and use for the execution of Bonds the manual or facsimile signature of any person who shall have been at the time the proper officer to execute such Bonds, notwithstanding the fact that such person may not have been such officer on the date of such Bonds or that such person may have ceased to be such officer at the time when such Bonds shall be actually authenticated and delivered.

No Bond shall be valid or obligatory for any purpose or entitled to any right or benefit hereunder unless there shall be endorsed on such Bond a certificate of authentication substantially in the form set forth in Appendix C, duly executed by the Registrar, and such certificate of the Registrar upon any Bond executed on behalf of the Authority shall be conclusive evidence and the only evidence required that the Bond so authenticated has been duly issued hereunder and that the Holder thereof is entitled to the benefits of this Trust Agreement. The certificate of authentication may be executed by any authorized signatory of the Registrar.

## **Section 2.06. Registration and Exchange of Bonds.**

The Bonds shall be negotiable instruments for all purposes and shall be transferable by delivery, subject only to the provisions for registration and registration of transfer endorsed on the Bonds.

The Authority shall cause books for registration and the registration of transfer of Bonds to be prepared. The registration books shall be kept by the Registrar.

If any Bond is surrendered to the Registrar at its Designated Office for transfer or exchange in accordance with the provisions of such Bond, the Authority shall execute and the Registrar shall authenticate and deliver in exchange for such Bond a new Bond or Bonds of the same Series, in any Authorized Denomination, bearing interest at the same rate and having the same stated maturity date, in aggregate principal amount equal to the principal amount of the Bond so surrendered, upon reimbursement to the Authority or the Registrar of an amount equal to any tax or other governmental charge required to be paid with respect to such exchange.

Neither the Authority nor the Registrar shall be required to register the transfer of any Bond or make any such exchange of any Bond after such Bond or any portion thereof has been selected for redemption.

## **Section 2.07. Bonds Mutilated, Destroyed, Lost or Stolen.**

If any temporary or definitive Bond shall become mutilated or be destroyed, lost or stolen, the Authority in its discretion may execute, and upon its request the Registrar shall authenticate and deliver, a new Bond in exchange for the mutilated Bond, or in lieu of and substitution for the Bond so destroyed, lost or stolen. In every case of exchange or substitution, the applicant shall furnish to the Authority and to the Registrar (i) evidence to their satisfaction of the mutilation, destruction, loss or theft of the applicant's Bond and of the ownership thereof and (ii) in the case of any destroyed, lost or stolen Bond, such security or indemnity as may be required by them to save each of them harmless from all risks, however remote. Upon the issuance of any Bond upon such exchange or substitution, the Authority may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses, including (without limitation) counsel fees, of the Authority, the Trustee or the Registrar.

If any Bond that has matured or is about to mature shall become mutilated or be destroyed, lost or stolen, instead of issuing a Bond in exchange or substitution therefor, the Authority may pay or authorize the payment of such Bond (without surrender thereof except in the case of a mutilated Bond) if the applicant for such payment shall furnish to the Authority and the Registrar evidence to the satisfaction of the Authority and the Registrar of the mutilation, destruction, loss or theft of such Bond and of the ownership thereof and, in the case of any destroyed, lost or stolen Bond, such security or indemnity as they may require to save them harmless.

Every Bond issued pursuant to the provisions of this Section in exchange or substitution for any Bond that is mutilated, destroyed, lost or stolen shall constitute an additional contractual obligation of the Authority, whether or not the destroyed, lost or stolen Bond shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits hereof equally and proportionately with any and all other Bonds duly issued under this Trust Agreement. All Bonds shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, destroyed, lost or stolen Bonds, and shall preclude any and all other rights or remedies, notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or other securities without their surrender.

## **Section 2.08. Cancellation and Disposition of Bonds.**

All mutilated Bonds, all Bonds surrendered for exchange or transfer, all Bonds that have been paid at maturity or upon prior redemption and all Bonds surrendered to the Trustee or the Registrar for cancellation or purchased by the Trustee with amounts on deposit in any Bond Fund or Redemption Fund shall be cancelled by the Trustee or the Registrar (as the case may be) and disposed of in accordance with the procedures of the Trustee or the Registrar (as the case may be) for the disposition of cancelled securities in effect as of the date of such disposition. The Trustee or the Registrar (as the case may be) shall deliver to the Authority a certificate of any such disposition of any Bond, identifying the Bond so cancelled and disposed of.

## **Section 2.09. Book-Entry System.**

The provisions of this Section shall apply to the Bonds of each Series so long as such Bonds shall be maintained under a book-entry system with a Securities Depository, any other provisions of this Trust Agreement to the contrary notwithstanding.

(a) Payments Due on Bonds. The principal or Redemption Price of and interest on the Bonds shall be payable to the Securities Depository, or registered assigns, as the registered owner of the Bonds, in same day funds on each date on which the principal or Redemption Price of or interest on the Bonds is due as set forth in this Trust Agreement and in the Bonds. Such payments shall be made to the offices of the Securities Depository specified by the Securities Depository to the Authority and the Trustee in writing. Without notice to or the consent of the beneficial owners of the Bonds, the Authority and the Securities Depository may agree in writing to make payments of principal and interest in a manner different from that set out herein. In such event, the Authority shall give the Trustee written notice thereof, and the Trustee shall make payments with respect to the Bonds in the manner specified in such notice as if set forth herein. Neither the Authority nor the Trustee shall have any obligation with respect to the transfer or crediting of the appropriate principal and interest payments to Participants or the beneficial owners of the Bonds or their nominees.

(b) Redemption of Bonds. In the event that part but not all of any outstanding Bond is to be retired (by redemption, by purchase following any tender offer or otherwise), the Securities Depository, in its discretion (i) may request the Trustee to authenticate and deliver a new Bond in accordance with Section 3.03 upon presentation and surrender of such Bond to the Trustee or (ii) shall make appropriate notation on such Bond indicating the date and amount of each principal payment, *provided* that payment of the final principal amount of any Bond shall be made only upon presentation and surrender of such Bond to the Paying Agent.

(c) Securities Depository Deemed Owner. So long as the Securities Depository or its nominee is the registered owner of the Bonds, the Authority and the Trustee will recognize the Securities Depository or its nominee, respectively, as the holder of all of the Bonds for all purposes, including the payment of the principal or Redemption Price of, and interest on, the Bonds, as well as the giving of notices and any consent or direction required or permitted to be given to, or on behalf of, the holders of the Bonds under this Trust Agreement.

(d) Replacement of Securities Depository or Discontinuance of Book-Entry System. The Authority, in its discretion, at any time may replace any Securities Depository as the depository for the Bonds with another qualified securities depository or discontinue the maintenance of the Bonds under a book-entry system upon 30 days' written notice to the Securities Depository (or such fewer number of days as shall be acceptable to such Securities Depository) and the Trustee.

(e) Issuance of Replacement Bonds upon Discontinuance of Book-Entry System. If the Authority discontinues the maintenance of the Bonds under a book-entry system, the Authority will issue certificated Bonds directly to the Participants or, to the extent requested by any Participant, to the beneficial owners of Bonds as further described in this Section. The

Authority shall make provisions to notify Participants and the beneficial owners of the Bonds, by mailing an appropriate notice to the Securities Depository, or by other means deemed appropriate by the Authority in its discretion, that it will issue certificated Bonds directly to the Participants or, to the extent requested by any Participant, to beneficial owners of Bonds as of a date set forth in such notice, which shall be a date at least 10 days after the date of mailing of such notice (or such fewer number of days as shall be acceptable to the Securities Depository).

In the event that certificated Bonds are to be issued to Participants or to beneficial owners of the Bonds, the Authority shall promptly have prepared Bonds of the same Series and maturity and bearing interest at the same rate registered in the names of the Participants as shown on the records of the Securities Depository provided to the Registrar or, to the extent requested by any Participant, in the names of the beneficial owners of such Bonds shown on the records of such Participant provided to the Registrar as of the date set forth in the notice delivered in accordance with this subsection. Bonds issued to Participants or to beneficial owners shall be in fully registered form substantially in the form of Appendix C, respectively, or the form set forth in any Supplemental Trust Agreement (as the case may be). The Authority, the Trustee, the Registrar and the Paying Agent shall be entitled to rely conclusively on the records of the Securities Depository or any Participant as to the identity of participants or beneficial owners of the Bonds for all purposes, including registration of certificated Bonds delivered pursuant to this subsection (e).

(f) Issuance of Replacement Bonds upon Appointment of Replacement Depository. If the Authority replaces any Securities Depository as the depository for the Bonds with another qualified Securities Depository, the Authority will issue to the replacement Securities Depository Bonds of the same Series and maturity and bearing interest at the same rate substantially in the form of Appendix C, respectively or the form set forth in any Supplemental Trust Agreement (as the case may be) registered in the name of such replacement Securities Depository.

(g) No Liability of Authority, WMATA or Trustee. Each Securities Depository and the Participants and the beneficial owners of the Bonds, by their acceptance of the Bonds, agree that the Authority, WMATA and the Trustee shall have no liability for the failure of any Securities Depository to perform its obligations to any Participant or any beneficial owner of any Bonds, nor shall the Authority, WMATA or the Trustee be liable for the failure of any Participant or other nominee of any beneficial owner of any Bonds to perform any obligation that such Participant or other nominee may incur to any beneficial owner of the Bonds.

The Authority in issuing the Bonds will use "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use "CUSIP" numbers in notices of redemption as a convenience to the Holders; *provided* that if such "CUSIP" numbers are provided to the Trustee from a third-party, any such notice may state such "CUSIP" numbers have been provided to the Trustee from such third-party and that no representation is made as to the correctness of such numbers either printed on the Bonds or as contained in any notice of a redemption other than that the "CUSIP" numbers are the numbers provided to the Trustee from such third-party, and that any other reliance may be placed only on the other identification numbers printed on the Bonds, and any such redemption shall not be affected by any defect in or omission of such numbers.

## ARTICLE III

### REDEMPTION OF BONDS

#### **Section 3.01. Selection of Bonds to Be Redeemed.**

If fewer than all of the Bonds shall be called for redemption, the Authority shall select the Series and maturities of the Bonds to be redeemed.

If fewer than all of the Bonds of a Series of any one maturity shall be called for redemption, the Registrar shall select the particular Bonds or portions of Bonds to be redeemed from such maturity by lot or in such other manner as the Registrar in its discretion may deem proper, *provided* that (a) the portion of any Bond remaining outstanding after any such redemption shall be in a principal amount equal to an Authorized Denomination for such Bond and (b) in selecting Bonds for redemption, the Registrar shall treat each Bond as representing that number of Bonds that is obtained by dividing the principal amount of such Bond by the minimum Authorized Denomination for such Bond.

#### **Section 3.02. Notice of Redemption.**

The Authority shall give written notice to the Trustee and the Registrar of its election to redeem Bonds at least 30 days prior to the date on which the Registrar is required to give notice of the redemption of such Bonds in accordance with the terms of such Bonds, or such fewer number of days as shall be acceptable to the Trustee and the Registrar. Upon receipt of such notice, the Registrar shall give notice in the name of the Authority of the Authority's election to redeem such Bonds. Any notice of redemption may state that such redemption is conditioned upon any circumstance set forth in such notice.

At least 45 days before each date on which a Sinking Fund Installment for the Bonds of any Series becomes due, the Trustee shall direct the Registrar to select Bonds subject to redemption from such Sinking Fund Installment to be redeemed on such date in an aggregate principal amount equal to the amount of such Sinking Fund Installment (as such Sinking Fund Installment may be reduced in accordance with Section 4.05(c) upon the direction of the Authority) and shall give notice in the name of the Authority of the redemption of such Bonds.

Each notice of redemption shall be given in accordance with the terms of the Bonds and any written directions of the Authority, and shall set forth (i) the maturities of the Bonds to be redeemed, (ii) the date fixed for redemption, (iii) the CUSIP numbers of the Bonds to be redeemed, (iv) the Redemption Price to be paid, (v) that such Bonds will be redeemed at the Designated Office of the Paying Agent, (vi) if fewer than all of the Bonds of a Series of any one maturity then Outstanding shall be called for redemption, the distinctive numbers and letters, if any, of the Bonds to be redeemed, (vii) in the case of Bonds to be redeemed in part only, the portion of the principal amount thereof to be redeemed, (viii) that the redemption of Bonds described therein is conditioned upon receipt by the Trustee, on or before the date fixed for redemption, of sufficient funds to pay the Redemption price of the Bonds to be redeemed and any

other conditions to such redemption, (ix) the provisions of this Trust Agreement or such Bonds (as the case may be) pursuant to which such redemption is to be effected, and (x) that on the redemption date, there shall become due and payable upon all Bonds to be redeemed the Redemption Price thereof, together with interest accrued to the date fixed for redemption, and that, from and after such date, interest thereon shall cease to accrue. If any Bond is to be redeemed in part only, the notice of redemption that relates to such Bond shall state also that on or after the date fixed for redemption, upon surrender of such Bond to the Paying Agent at its Designated Office, a new Bond or Bonds of the same Series and maturity, bearing interest at the same rate, and of any Authorized Denomination, will be issued in aggregate principal amount equal to the unredeemed portion of such Bond.

Each notice of redemption with respect to any Bond shall comply with any regulation or release of the Securities Exchange Commission, the Municipal Securities Rulemaking Board or other governmental authority or body from time to time applicable to such Bond.

Notwithstanding the giving of any notice of redemption as provided in this Section, if on any date fixed for the redemption of any Bonds (other than any redemption from the Sinking Fund Installments) there shall not be on deposit with the Trustee or any Paying Agent sufficient funds for the payment of the Redemption Price of such Bonds, such redemption shall be cancelled and the notice thereof rescinded, and the Trustee immediately shall give notice thereof to the holders of all of the Bonds so called for redemption.

### **Section 3.03. Redemption of Portion of Bond.**

In case part, but not all, of an Outstanding Bond shall be selected for redemption, upon the presentation and surrender of such Bond to the Paying Agent for payment of the principal amount thereof so called for redemption in accordance with such Bond, the Authority shall execute and the Registrar shall authenticate and deliver to or upon the order of the Holder of such Bond or the Holder's attorney or legal representative, without charge therefor, for the unredeemed portion of the principal amount of the Bond so surrendered, a Bond or Bonds of the same Series and maturity, bearing interest at the same rate and of any Authorized Denomination in aggregate principal amount equal to the unredeemed portion of such Bond.

### **Section 3.04. Redemption of Series 2004 Bonds.**

The Series 2004 Bonds maturing on or after July 1, 2015 are subject to redemption prior to maturity at the Authority's option in whole or in part at any time on or after July 1, 2014 from any moneys made available for such purpose at a redemption price equal to par, plus accrued interest to the date of redemption.

### **Section 3.05. Redemption of Additional Bonds.**

The provisions of this Article are subject in all respects to the provisions of any Supplemental Trust Agreement authorizing any Additional Bonds with respect to the Additional Bonds authorized thereby. Without limiting the generality of the foregoing, any Supplemental

Trust Agreement authorizing any Additional Bonds may provide that moneys available for the redemption or purchase of Bonds at the option of the Authority on any date shall be allocated among all Series of outstanding Bonds in proportion (as nearly as practicable) to the aggregate principal amount of Bonds of each Series subject to redemption on such date.

## **ARTICLE IV**

### **PLEDGED REVENUES AND FUNDS**

#### **Section 4.01. Creation of Funds.**

(a) The following funds and account are hereby created for the benefit of the holders of the Outstanding Bonds, except as otherwise provided in any Supplemental Trust Agreement entered into in connection with the issuance of any Additional Bonds in accordance with Section 2.04:

Pledged Revenues Fund;  
Construction Fund;  
Capitalized Interest Account  
Bond Fund;  
Debt Service Reserve Fund;  
Redemption Fund; and  
Rebate Fund.

The Pledged Revenues Fund, Bond Fund, Debt Service Reserve Fund and Redemption Fund shall be held by the Trustee hereunder. Pending the application of amounts on deposit in the Pledged Revenues Fund, the Bond Fund, the Debt Service Reserve Fund and the Redemption Fund in accordance with this Trust Agreement, such amounts are hereby pledged to the payment of all Outstanding Bonds and, to the extent provided herein, Ambac, except as otherwise provided in any Supplemental Trust Agreement authorizing the issuance of any Additional Bonds in accordance with Section 2.04. The Rebate Fund shall be held by the Trustee and is not pledged to the payment of any Bonds. The Construction Fund shall be held by the Authority. The Authority shall deposit the Construction Fund moneys with the Trustee, which shall act as custodian of the Construction Fund. The Authority and the Trustee may agree that the Trustee perform duties of a routine or administrative nature on behalf of the Authority in connection with the Authority's establishment and maintenance of the Construction Fund.

(b) As provided in Section 2.04, any Supplemental Trust Agreement authorizing the issuance of any Additional Bonds may, and to the extent required by Section 2.04 shall, provide for the creation of separate funds and accounts for such Bonds. When any provision of this Trust Agreement requires that any amount be deposited in a fund or account maintained for the Bonds of any Series, such amount shall be deposited in the fund or account established for such Series of Bonds. Notwithstanding any other provision of this Trust Agreement, amounts from time to time on deposit in the funds and accounts maintained for the Bonds of any Series shall secure only the Bonds of such Series.



(c) For the purposes of internal accounting, any fund or account created by this Trust Agreement may contain one or more accounts or sub-accounts, as shall be deemed appropriate by the Authority.

#### **Section 4.02. Application of Proceeds of Bonds.**

The proceeds of each Series of Bonds shall be received by the Trustee on behalf of the Authority.

Upon the receipt of the proceeds of the Series 2004 Bonds, the Trustee shall deposit such proceeds as follows: (i) \$2,923,788.75 of such proceeds, being the initial Debt Service Reserve Fund Requirement, shall be deposited in the Debt Service Reserve Fund; (ii) \$1,555,855.15 of such proceed shall be deposited in the Capitalized Interest Account of the Construction Fund; and (iii) the balance of such proceeds shall be deposited in the Construction Fund and applied to the payment of Costs of the Project.

The proceeds of each Series of Additional Bonds shall be applied as provided in the Supplemental Trust Agreement authorizing such Series of Additional Bonds.

#### **Section 4.03. Deposit of Pledged Revenues.**

(a) The Authority shall pay or cause to be paid to the Trustee Pledged Revenues promptly upon receipt thereof by or on behalf the Authority. Except as provided in Section 4.03(b), the Pledged Revenues received by the Trustee will be deposited by the Trustee into the Pledged Revenues Fund immediately upon receipt from the Authority. On the first day of each month, the Trustee shall transfer amounts in the Pledged Revenues Fund as follows in the following order of priority:

(i) to the Bond Fund, the sum required to equal:

(A) one-sixth (1/6) of the interest becoming due on the Series 2004 Bonds on the immediately succeeding Interest Payment Date;

(B) one-twelfth (1/12) of the amount of any principal of the Series 2004 Bonds Outstanding becoming due on the immediately succeeding July 1;

(C) one-twelfth (1/12) of the amount of any Sinking Fund Installment for the Series 2004 Bonds Outstanding becoming due on the immediately succeeding July 1; and

(D) any deficiency in the amount required to be deposited in the Bond Fund in accordance with this paragraph;

(ii) to the payment of any Administrative Expenses then due; and

(iii) to the Debt Service Reserve Fund, beginning on any date on which the Authority receives notice of any deficiency in the Debt Service Reserve Fund, such amount as shall be required to make the amount on deposit in the Debt Service Reserve Fund equal the Debt Service Reserve Fund Requirement.

(b) In the event the Pledged Revenues as described in clause (iii) of paragraph (a) above are insufficient to make the amount on deposit in the Debt Service Reserve Fund equal to the Debt Service Reserve Fund Requirement, the Trustee shall give notice to the County and the County shall make payment to the Trustee for deposit in the Debt Service Reserve Fund to restore the Debt Service Reserve Fund to its required amount.

(c) As security for its obligation to make the payments required hereunder and to perform and observe the covenants contained herein, the Authority has pledged the Trust Estate to the Trustee as set forth in the Granting Clauses hereof. If any Event of Default shall have occurred and be continuing, upon request of the Trustee, the Authority shall transfer to the Trustee any Pledged Revenues that are then on hand and any Pledged Revenues thereafter received until all defaults hereunder shall have been cured. Notwithstanding the pledge and assignment made hereby, so long as no Event of Default shall have occurred and be continuing, nothing herein shall prevent the Authority from expending, depositing or commingling the Pledged Revenues held by the Authority with any other funds and accounts of the Authority.

#### **Section 4.04. Construction Fund.**

(a) As soon as practicable after the delivery of each Series of Bonds, the Authority shall pay from the Construction Fund to the persons entitled thereto the Administrative Expenses relating to the issuance of such Series of such Bonds and not otherwise paid.

(b) The Construction Fund shall contain a Capitalized Interest Account. On or before each Interest Payment Date, the Trustee shall transfer amounts on deposit in the Capitalized Interest Account to the Bond Fund upon the direction of the Authority.

(c) Except as otherwise provided in paragraphs (a) and (b) of this Section, moneys deposited in the Construction Fund shall be used only to finance or refinance the Costs of or relating to the Parking Facilities Projects.

(d) Payments pursuant to paragraphs (a) and (b) of this Section shall be made from the Construction Fund, as follows: (i) WMATA will submit a request, in substantially the form attached as Appendix A, for payment for the Costs supported by invoices, names and descriptions of the payees, amounts of payments, purpose of payments, copies of all support invoices or evidence of expenses for reimbursements, and any other documents reasonably requested by the Authority; and (ii) upon the approval of the Authority of the request, which approval shall be based upon compliance with the Project Agreement, and subject to correction of any material mistakes in the documents referenced in (i) above, the Authority will provide a requisition and written directive, in substantially the form attached as Appendix B, to the Trustee to make payment to WMATA or a third party in the form of a check or wire as requested by WMATA.

(e) As soon as practicable after the date the respective Parking Facilities Projects are completed, the Authority shall deliver to the Trustee a Certificate of the Authority certifying the balance of moneys then remaining in the Construction Fund and shall forthwith pay to the Trustee such balance, less any amounts to be retained in the Construction Fund to pay any unpaid Costs of the Parking Facilities Projects. The Trustee shall pay any balance so received as follows and in the following order of priority:

FIRST: to the Debt Service Reserve Fund, such amount as shall be necessary to make the amount credited to the Debt Service Reserve Fund equal to the Debt Service Reserve Fund Requirement; and

SECOND: to the Redemption Fund or the Bond Fund, as shall be directed by Certificate of the Authority upon the advice of Bond Counsel.

#### **Section 4.05. Bond Fund.**

Except as provided in any Supplemental Trust Agreement authorizing any Series of Additional Bonds with respect to any Bond Fund maintained for the Bonds of such Series, amounts on deposit in the Bond Fund shall be applied in accordance with this Section.

(a) Interest. On each Interest Payment Date, the Trustee shall make available to the Paying Agent from the Bond Fund maintained for the Bonds of any Series the amount required to pay the interest due on the outstanding Bonds of such Series on such date, which amount shall be applied by the Paying Agent to the payment of the interest due on such Bonds in accordance with the terms of such Bonds.

(b) Principal. On each date on which the principal of the Outstanding Bonds of a Series becomes due, the Trustee shall make available to the Paying Agent from the Bond Fund maintained for the Bonds of such Series the amount required to pay the principal due on such date, which amount shall be applied by the Paying Agent to the payment of such principal in accordance with the terms of such Bonds.

(c) Sinking Fund Installments. Moneys in the Bond Fund maintained for the Bonds of a Series for the payment of Sinking Fund Installments on such Bonds shall be applied to the purchase or redemption of such Bonds as follows:

(i) Subject to the provisions of paragraph (ii) below, prior to the due date for the payment of each Sinking Fund Installment for such Bonds, the Trustee shall direct the Registrar to call for redemption in accordance with Article III Outstanding Bonds of such Series subject to redemption from such Sinking Fund Installment in an aggregate principal amount equal to such Sinking Fund Installment, less the amount previously credited against such Sinking Fund Installment in accordance with paragraph (iii) below. On the date fixed for redemption of such Bonds, the Trustee shall make available to the Paying Agent from such

Bond Fund an amount equal to the principal amount of such Bonds so called for redemption, which amount shall be applied by the Paying Agent to the payment of the Redemption Price of such Bonds in accordance with the terms of such Bonds.

(ii) Upon the written direction of the Authority, the Trustee shall endeavor to purchase Outstanding Bonds of such Series subject to redemption from the Sinking Fund Installment due on any date from amounts on deposit in such Bond Fund for the payment of such Sinking Fund Installment at the most advantageous price then obtainable with reasonable diligence. No such purchase shall be made by the Trustee (A) after the earlier of the date on which the Trustee gives notice of the redemption of Bonds of such Series from such Sinking Fund Installment and the date that is 45 days before the due date for the payment of such Sinking Fund Installment, or (B) at a price, including any brokerage and other charges, greater than the principal amount of such Bonds and accrued interest thereon.

(iii) If (A) the Trustee purchases Bonds from amounts on deposit in the Bond Fund for the payment of the Sinking Fund Installment for such Bonds in accordance with paragraph (ii) above, (B) the Authority delivers to the Trustee for cancellation Bonds subject to redemption from such Sinking Fund Installment on or before the earlier of the date on which the Trustee gives notice of the redemption of any Bonds from such Sinking Fund Installment and the date that is 45 days before the due date for the payment of such Sinking Fund Installment, or (C) Bonds subject to redemption from any Sinking Fund Installment are redeemed at the election of the Authority, then an amount equal to 100% of the aggregate principal amount of such Bonds so purchased and delivered to the Trustee for cancellation or redeemed (as the case may be) shall be credited against such Sinking Fund Installment.

(iv) If the aggregate principal amount of Bonds of any Series purchased or redeemed in any 12-month period ending June 30 is in excess of the Sinking Fund Installment due on such Bonds in such period, the Trustee shall credit the amount of such excess against subsequent Sinking Fund Installments for such Bonds as directed by a Certificate of the Authority.

#### **Section 4.06. Debt Service Reserve Fund.**

If on any Interest Payment Date the amount in the Bond Fund shall be less than the amount of interest then due on the Outstanding Bonds, or if on any date on which the principal amount of any Outstanding Bond becomes due the amount in the Bond Fund shall be less than the amount of the principal and the Sinking Fund Installment (either or both, as the case may be)

then due on the Outstanding Bonds, the Trustee forthwith shall transfer moneys from the Debt Service Reserve Fund to the Bond Fund, to the extent necessary to make good any deficiency.

For the purposes of this Trust Agreement, in the case of the Debt Service Reserve Fund:

(i) a "deficiency" shall mean that the value of the assets of the Debt Service Reserve Fund, determined in accordance with Section 4.08, is less than the Debt Service Reserve Fund Requirement; and

(ii) a "surplus" shall mean that the value of the assets of the Debt Service Reserve Fund, determined in accordance with Section 4.08, is in excess of the Debt Service Reserve Fund Requirement.

The Trustee shall determine the value of the assets of the Debt Service Reserve Fund in the manner provided by Section 4.08 as of the close of business (i) on July 1 in each year, (ii) on the date of any withdrawal from the Debt Service Reserve Fund and on the last Business Day of each month thereafter until such determination discloses that a deficiency no longer exists in such fund, (iii) on any date on which a Responsible Officer of the Trustee obtains actual knowledge that any Debt Service Reserve Fund Credit Facility held to the credit of the Debt Service Reserve Fund is no longer entitled to be credited against the Debt Service Reserve Fund Requirement, (iv) on the date that is six months prior to the stated expiration date of any Debt Service Reserve Fund Credit Facility, and (v) on any other date directed in writing by the Authority.

As promptly as practicable after making such determination and after application of any funds transferred pursuant to Section 4.07(b), the Trustee shall notify the Authority and the County of the result of such determination and of the amount of any deficiency or surplus determined to exist in the Debt Service Reserve Fund.

Upon notification by the Trustee, the County shall make payment to the Trustee in an amount sufficient to cause the amount on deposit in the Debt Service Reserve Fund equal to the Debt Service Reserve Fund Requirement as required under the Deficiency Agreement. The obligation of the County to make the payments to restore the Debt Service Reserve Fund is contingent upon the appropriation by the County of funds sufficient for such purposes and from which any such payments can be made in such fiscal year.

The Trustee shall transfer the amount of any surplus that exists in the Debt Service Reserve Fund from time to time to the Bond Fund, unless such surplus is to be applied to the payment of Bonds as provided in Article IX, in which case such surplus shall be transferred to the Redemption Fund or otherwise applied to the payment of the Bonds; provided that the Trustee shall transfer an amount of such surplus to the Rebate Fund as set forth in a written direction of the Authority as necessary to comply with Section 148(f) of the Internal Revenue Code of 1986, as amended.

If the Authority shall determine to provide for the payment of any Bonds as provided in Section 9.01, then on the date on which such Bonds are deemed to be paid in accordance with

such Section, the amount by which the amount then on deposit in the Debt Service Reserve Fund exceeds the Debt Service Reserve Fund Requirement for the Outstanding Bonds, taking into account the Bonds then deemed to be paid in accordance with Section 9.01, shall be paid to the escrow deposit agent for such Bonds upon the Certificate of the Authority.

#### **Section 4.07. Redemption Fund.**

(a) The Trustee shall deposit in the Redemption Fund any amounts paid to the Trustee for the redemption of Bonds (other than any redemption from the Sinking Fund Installments).

(b) On any date on which a determination of the value of the assets of the Debt Service Reserve Fund in the manner provided by Section 4.08 discloses a deficiency therein, the Trustee shall transfer to the Debt Service Reserve Fund from the Redemption Fund any available amounts on deposit in the Redemption Fund to the extent of such deficiency. The Trustee shall notify the Authority of such transfer and the amount thereof.

(c) Subject to the provisions of paragraphs (b), (d) and (e) of this Section, available moneys in the Redemption Fund shall be applied by the Trustee to the purchase or redemption of Bonds of such Series and maturities as the Authority shall direct in writing. At the written direction of the Authority, the Trustee shall endeavor to purchase such Bonds at the most advantageous price obtainable with reasonable diligence, but no such purchase shall be made by the Trustee (i) within the period of 45 days immediately preceding any Interest Payment Date on which such Bonds are subject to call for redemption or (ii) at a price, including any brokerage or other charges, greater than the Redemption Price of such Bonds on the next Interest Payment Date on which such Bonds are subject to redemption and accrued interest to the date of purchase of such Bonds.

(d) Notwithstanding the foregoing provisions of this Section, to the extent provided in any Supplemental Trust Agreement authorizing the issuance of any Series of Additional Bonds (i) moneys available for the redemption or purchase of Bonds on any date shall be allocated among all Series of Bonds in proportion (as nearly as practicable) to the aggregate principal amount of Bonds of each such Series subject to redemption on such date and (ii) the Bonds of such Series to be purchased or redeemed on any date shall be selected in accordance with the provisions of such Supplemental Trust Agreement.

(e) The Authority may set aside any available amount on deposit in the Redemption Fund for the redemption of particular Bonds by the delivery of irrevocable written instructions to the Trustee directing the Trustee to set aside such amount for such purpose, in which event all of the provisions of Sections 9.01 and 10.04 shall be applicable to such Bonds and the amounts set aside for the payment of such Bonds. Amounts set aside for the redemption of Bonds and investment earnings on such amounts shall be applied to the payment of the interest due on such Bonds on or prior to the redemption date of such Bonds to the extent provided in such instructions.

(f) Moneys set aside to pay the Redemption Price of any Bonds theretofore called for redemption or the purchase price of Bonds theretofore contracted to be purchased shall not be deemed to be available for application as provided in this Section.

#### **Section 4.08. Investments.**

Moneys in any of the funds and accounts established by this Trust Agreement may be invested, but only in Permitted Investments maturing or redeemable at the option of the holder in such amounts and on such dates as may be necessary to provide moneys to meet the payments from such funds and accounts. The Trustee shall invest amounts on deposit in the funds and accounts held by the Trustee in accordance with this Section as directed in writing by an Authority Representative.

Subject to the further provisions of this Section, interest earned, profits realized and losses suffered by reason of any investment of any amounts held by the Trustee under this Trust Agreement shall be credited or charged, as the case may be, to the fund or account for which such investment shall have been made, except as otherwise provided in any Supplemental Trust Agreement authorizing any Additional Bonds with respect to any funds and accounts maintained for such Additional Bonds.

The Trustee may sell or redeem any obligations in which moneys shall have been invested to the extent necessary to provide cash in the respective funds or accounts to make any payments required to be made therefrom or to facilitate the transfers of moneys between various funds and accounts as may be required or permitted from time to time pursuant to the provisions of this Trust Agreement. The proceeds from the sale of any investment shall be paid into the fund or account for which the sale thereof was made.

In determining the annual value of the assets of the funds and accounts created by this Trust Agreement (i) investments and accrued interest thereon shall be deemed a part thereof, and (ii) investments shall be valued at the current market value thereof.

In addition, in determining the value of the assets of the Debt Service Reserve Fund on any date, there shall be credited to the Debt Service Reserve Fund the amount that can be realized by the Trustee under any Debt Service Reserve Fund Credit Facility if each of the following conditions is met: (i) on the date of delivery of such Debt Service Reserve Fund Credit Facility to the Trustee and throughout the period during which such Debt Service Reserve Fund Credit Facility is credited to the Debt Service Reserve Fund, the unsecured indebtedness or claims-paying ability of the issuer thereof is rated in one of the three highest Rating Categories of a Rating Agency; (ii) such Debt Service Reserve Fund Credit Facility permits the Trustee to realize amounts thereunder at such times as the Trustee is required to transfer any amount (other than any surplus) from the Debt Service Reserve Fund in accordance with this Trust Agreement; (iii) if amounts realized under such Debt Service Reserve Fund Credit Facility are, under any circumstances, payable from the Pledged Revenues, such amounts shall be payable in no fewer than 12 equal monthly installments; and (iv) the expiration date of such Debt Service Reserve Fund Credit Facility is at least six months after the date of valuation or is after the maturity date of the Bonds secured thereby or such Debt Service Reserve Fund permits the Trustee to draw

thereunder for deposit to the Debt Service Reserve Fund an amount equal to the Debt Service Reserve Fund Requirement prior to its expiration.

Neither the Authority nor the Trustee shall be liable for any depreciation in the value of any obligations in which moneys of the funds or accounts created by this Trust Agreement shall be invested in accordance with this Section, or for any loss arising from any investment permitted herein. The investments authorized by this Section shall at all times be subject to the provisions of Applicable Law.

The provisions of this Section shall be subject in all respects to the provisions of Section 4.10.

**Section 4.09. Application of Moneys in Certain Funds for Retirement of Bonds.**

Notwithstanding any other provision of this Trust Agreement, if at any time the Authority shall determine to provide for the payment of all Outstanding Bonds of a Series in accordance with Article IX, upon the Certificate of the Authority, the Trustee shall apply any moneys on deposit in the funds and accounts maintained for such Bonds available for the payment of the principal or Redemption Price of and interest on such Bonds to the payment or redemption of such Bonds in the manner provided by Article IX.

**Section 4.10. Bonds Not to Be Arbitrage Bonds; Tax Covenant.**

The Chairman, the Executive Secretary or the Chief Financial Officer of the Authority shall be officials of the Authority responsible for issuing the Tax-Exempt Bonds (the "Section 148 Certifying Officials") for the purpose of Section 148 of the Code ("Section 148"). The Section 148 Certifying Officials shall execute and deliver (on the date of each issuance of Tax-Exempt Bonds) a certificate of the Authority (each such certificate, as it may be amended and supplemented from time to time in accordance with this Section, being referred to herein as a "Section 148 Certificate") that complies with the requirements of Section 148 of the Code in effect on the date of issuance of such Tax-Exempt Bonds.

The Authority shall set forth in each Section 148 Certificate its reasonable expectations as to relevant facts, estimates and circumstances relating to the use of the proceeds of such Tax-Exempt Bonds, or of any moneys, securities or other obligations that may be deemed to be proceeds of such Tax-Exempt Bonds within the meaning of Section 148 (collectively, "Bond Proceeds"). The Authority covenants that (i) the facts, estimates and circumstances set forth in each Section 148 Certificate will be based on the Authority's reasonable expectations on the date of delivery of such Certificate and will be, to the best of the Section 148 Certifying Officials' knowledge, true, correct and complete as of that date, and (ii) the Section 148 Certifying Officials will make reasonable inquiries to ensure such truth, correctness and completeness.

The Authority further covenants that it will not make, or (to the extent it exercises control or direction) permit to be made, any use of the Bond Proceeds that would cause any Tax-Exempt Bonds to be "arbitrage bonds" within the meaning of Section 148.



The Authority will comply with those provisions of Section 148 that are applicable to any Tax-Exempt Bonds on the date of issuance of such Bonds and with those provisions of Section 148 that may subsequently lawfully be made applicable to such Bonds. To the extent that provisions of Section 148 apply only to a portion of the Tax-Exempt Bonds, it is intended that the covenants of the Authority contained in this Section be construed so as to require the Authority to comply with Section 148 only to the extent of such applicability.

The Authority shall make or cause to be made, but only from the Pledged Revenues or from other moneys, if any, on deposit in the funds and accounts created by this Trust Agreement, timely payment of any rebate amount (or installment or payment in lieu thereof) required to be paid to the United States of America in order to preserve the excludability from gross income, for federal income tax purposes, of interest paid on the Tax-Exempt Bonds and shall include with any such payment such other documents, certificates or statements as shall be required to be included therewith under then-applicable law and regulations.

The Authority shall direct the Trustee to hold and invest Bond Proceeds within its control (if such Bond Proceeds are invested), in accordance with the expectations of the Authority set forth in the Section 148 Certificates. The Authority shall (i) direct the Trustee to transfer amounts on deposit in any fund or account created by this Trust Agreement to the Rebate Fund and (ii) deposit Pledged Revenues with the Trustee for deposit to the Rebate Fund or otherwise make Pledged Revenues available for the payment of rebates or payments in lieu thereof to the United States of America, all in accordance with the expectations of the Authority set forth in the Section 148 Certificate.

Upon the Certificate of the Authority, the Trustee shall transfer amounts on deposit in any fund or account created by this Trust Agreement to the Rebate Fund, any other provision of this Trust Agreement to the contrary notwithstanding. Amounts on deposit in the Rebate Fund from time to time required to be paid to the United States of America pursuant to Section 148 as a rebate or payment in lieu thereof shall be made available by the Trustee to the Authority for such payments upon the Certificate of the Authority and shall not be pledged to the payment of the principal or Redemption Price of or interest on any Bonds.

Upon the Certificate of the Authority, the Trustee shall transfer amounts on deposit in the Rebate Fund to any other fund or account created by this Trust Agreement, *provided* that the amount transferred shall not exceed the excess of the amount on deposit in the Rebate Fund over the rebate liability as of the date of calculation by the Authority, less amounts theretofore paid to the United States of America as rebate with respect to the Tax-Exempt Bonds.

The Section 148 Certifying Officials may execute an amendment or supplement to any Section 148 Certificate upon delivery to the Authority of a Favorable Opinion of Bond Counsel.

Neither the Authority nor the Trustee shall incur any liability in connection with any action as contemplated in this Section so long as the Authority and the Trustee act in good faith.

The Authority shall comply with the provisions of Section 103 of the Code and the regulations thereunder applicable to the Tax-Exempt Bonds to the extent required to maintain the

excludability from gross income of the interest on the Tax-Exempt Bonds for federal income tax purposes.

#### **Section 4.11. The Bond Insurance Policy.**

(a) At least one (1) day prior to each Interest Payment Date the Trustee shall determine whether there will be sufficient amounts on deposit in the Debt Service Fund and the Debt Service Reserve Fund maintained for such Bonds to pay the principal and interest due on the Series 2004 Bonds on such date. If the Trustee shall determine on any such date that there will be insufficient amounts in such Debt Service Fund and such Debt Service Reserve Fund to pay the principal or interest due on the Series 2004 Bonds on the immediately succeeding Interest Payment Date, the Trustee shall so notify Ambac. Such notice shall specify the amount of the anticipated deficiency, the Bonds to which such deficiency is applicable and whether such Bonds will be deficient as to principal or interest, or both. If the Trustee has not so notified Ambac Assurance at least one (1) day prior to an Interest Rate Date, Ambac will make payments of principal or interest due on the Bonds on or before the first (1<sup>st</sup>) day next following the date on which Ambac shall have received notice of nonpayment from the Trustee.

(b) The Trustee shall, after giving notice to Ambac as provided in paragraph (a) above, make available to Ambac and, at Ambac's direction, to The Bank of New York, in New York, New York, as insurance trustee for Ambac or any successor insurance trustee (the "Insurance Trustee"), the registration books of the Authority maintained by the Trustee and all records relating to the Debt Service Fund and the Debt Service Reserve Fund maintained under this Trust Agreement.

(c) The Trustee shall provide Ambac and the Insurance Trustee with a list of the Holders of Series 2004 Bonds entitled to receive payments of the principal thereof or interest thereon from Ambac under the terms of the Bond Insurance Policy and shall make arrangements with the Insurance Trustee to (i) mail checks or drafts to the Holders of Series 2004 Bonds entitled to receive full or partial interest payments from Ambac and (ii) pay principal upon Series 2004 Bonds surrendered to the Insurance Trustee by the Holders of Series 2004 Bonds entitled to receive full or partial principal payments from Ambac.

(d) The Trustee shall, at the time it provides notice to Ambac pursuant to paragraph (a) above, notify Holders of Series 2004 Bonds entitled to receive payments of principal thereof or interest thereon from Ambac (i) as to the fact of such entitlement, (ii) that Ambac will remit to them all or a part of the interest payments next coming due on the Series 2004 Bonds upon proof of Holder entitlement to such interest payments and delivery to the Insurance Trustee, in form satisfactory to the Insurance Trustee, of an appropriate assignment of such Holder's right to such payment, (iii) that should they be entitled to receive full payment of principal of the Series 2004 Bonds held by them from Ambac, they must surrender their Series 2004 Bonds (along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee to permit ownership of such Bonds to be registered in the name of Ambac) for payment to the Insurance Trustee, and not the Trustee and (iv) that should they be entitled to receive partial payment of principal of the Series 2004 Bonds held by them from Ambac, they must surrender their Series 2004 Bonds for payment thereon first to the Trustee, which shall note on such Series 2004 Bonds

the portion of the principal paid by the Trustee and then, along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee, to the Insurance Trustee, which will then pay the unpaid portion of principal of such Series 2004 Bonds.

(e) In the event that the Trustee has notice that any payment of principal of or interest on a Series 2004 Bond which has become Due for Payment (as defined in the Bond Insurance Policy) and which is made to a Holder by or on behalf of the Authority has been deemed a preferential transfer and theretofore recovered from such 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 shall, at the time Ambac is notified, notify all Holders of such Series 2004 Bonds that in the event that any Holder's payment is so recovered, such Holder will be entitled to payment from Ambac to the extent of such recovery if sufficient funds are not otherwise available, and the Trustee shall furnish to Ambac its records evidencing the payments of principal of (whether at maturity or upon mandatory redemption from Sinking Fund Installments) and interest on such Series 2004 Bonds which have been made by the Trustee and subsequently recovered from Holders and the dates on which such payments were made.

(f) In addition to the other rights granted Ambac under this Trust Agreement, Ambac shall, to the extent it makes payment of principal of or interest on Series 2004 Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Bond Insurance Policy, and to evidence such subrogation (i) in the case of subrogation as to claims for past due interest, the Trustee shall note Ambac's rights as subrogee on the registration books of the Authority maintained by the Trustee upon receipt from Ambac of proof of payment of interest thereon to the Holders of the Series 2004 Bonds, and (ii) in the case of subrogation as to claims for past due principal, the Trustee shall note Ambac's rights as subrogee on the registration books of the Authority maintained by the Trustee upon surrender of the Series 2004 Bonds by the Holder thereof together with proof of the payment of principal thereof.

## ARTICLE V

### PARTICULAR COVENANTS

#### **Section 5.01. Payment of Bonds.**

The Authority shall pay or cause to be paid the principal or Redemption Price of and interest on, and the purchase price of, every Bond on the date and at the place and in the manner provided herein and in the Bonds, according to the true intent and meaning thereof, *provided* that the Bonds shall be limited obligations of the Authority payable solely from the Pledged Revenues.

Neither the State, nor any political subdivision of the State nor the Authority shall be obligated to pay the Bonds or the interest thereon except from the Pledged Revenues and from other sources as provided herein, and neither the faith and credit nor the taxing power of the State, any political subdivision of the State or the Authority is pledged to the payment of the Bonds or the interest thereon. The issuance of the Bonds shall not directly or indirectly or

contingently obligate the State, or any political subdivision of the State to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. The Authority has no taxing powers.

#### **Section 5.02. Representations of the Authority.**

The Authority represents and covenants that: (a) it is duly authorized under the Constitution and laws of the State, particularly the Enabling Legislation, to issue the Series 2004 Bonds, to enter into this Trust Agreement and to pledge the Trust Estate in the manner and to the extent set forth in this Trust Agreement, (b) all action on its part for the issuance of the Series 2004 Bonds has been duly and effectively taken, and (c) the Series 2004 Bonds when issued in accordance with this Trust Agreement will be valid and binding obligations of the Authority.

#### **Section 5.03. Accounts and Audits.**

The Authority shall keep or cause WMATA to keep proper books of records and accounts (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions with respect to the Parking Facilities Projects and the Pledged Revenues. Such books and accounts shall be subject to the inspection of the Trustee (at reasonable hours and subject to the reasonable rules and regulations of the Authority). The Authority shall cause financial statements with respect to the Parking Facilities Projects to be prepared in accordance with Generally Accepted Accounting Principles within 270 days after the end of each Fiscal Year, which financial statements shall be reviewed by an Independent Public Accountant. Such review shall include at least the following: (i) a statement of all funds and accounts established pursuant to the provisions of this Trust Agreement; and (ii) a statement of the Pledged Revenues for such Fiscal Year. The statement described in item (i) above with respect to any fund or account established by this Trust Agreement that is held by the Trustee may be based upon certified statements or reports of the Trustee. The Authority shall furnish a signed copy of such financial statements and report to the Trustee and to Ambac.

#### **Section 5.04. Additional Indebtedness.**

The Authority shall not create or incur any Indebtedness payable in whole or in part from any portion of the Trust Estate, except: (a) any Additional Bonds issued in accordance with this Trust Agreement; (b) any Indebtedness secured by a pledge of all or any portion of the Trust Estate junior and subordinate to the pledge of such portion of the Trust Estate securing the Bonds ("Subordinate Obligations"); (c) any unsecured Indebtedness ("Unsecured Obligations"); and (d) temporary, short-term loans incurred in accordance with this Section ("Temporary Loans").

If the cash requirements of any of the Parking Facilities Projects from time to time exceed the funds available therefor as a result of any delay in receipt of any grant payments or other Pledged Revenues, the Authority may obtain Temporary Loans in anticipation of such payments or revenues. Temporary Loans may be secured by a first lien on any grant payments in anticipation of which such Temporary Loans are incurred, or other revenues of the Authority that

do not constitute Pledged Revenues, but shall be subordinate to all outstanding Bonds with respect to the balance of the Trust Estate.

No payments shall be made with respect to the principal of or interest on any Subordinate Obligation or any Unsecured Obligation during any period in which (i) any Event of Default shall have occurred and be continuing, or (ii) any deposit required to be made under Section 4.03 remains unpaid. During any other period, the Authority may pay or prepay, or authorize the payment or prepayment of, the principal of and interest on any Subordinate Obligation or any Unsecured Obligation and no recourse shall be had by the Trustee or any Holder against the person to whom any such payment shall have been made unless such person shall have had, at the time of receipt of such payment, actual knowledge of the occurrence of an Event of Default.

#### **Section 5.05. Construction, Operation and Maintenance of the Project.**

In accordance with the Project Agreement, WMATA shall cause or design, plan, construct, equip, operate and maintain the Project in a sound and workmanlike manner consistent with good engineering practice and safety standards and in accordance in all material respects with Applicable Law, *provided* that (i) the Authority shall not be required to comply with any Applicable Law or to cause WMATA to comply for so long as the applicability or validity of such Applicable Law shall be contested by the Authority or WMATA in good faith by appropriate proceedings conducted with due diligence, and (ii) the Authority shall not be deemed to be in default under this Section for so long as it is diligently seeking to comply with any such Applicable Law.

The Authority shall make or cause to be made all necessary and proper repairs, renewals and replacements required to be made to the Project in order to permit the Authority to perform its obligations hereunder.

#### **Section 5.06. Provision of the Project.**

The Authority shall perform its obligations under, and enforce the performance of the obligations of the other parties to this Trust Agreement, the Facility Lease Agreements, the Deficiency Agreement, the Project Agreement, the Amended Surcharge Agreement, the College Park Base Lease, the Largo Ground and Air Rights Lease, the New Carrollton Ground Lease, and any other contracts entered into by the Authority for the use, operation, management or other services provided to or to be provided by the Project ("Facilities Contracts"), in each case to the extent necessary to permit the Authority to meet its obligations under this Trust Agreement. The Authority shall take all reasonable measures permitted by law to enforce payment to it of all Pledged Revenues, and shall at all times, to the extent permitted by law, defend, preserve and protect the rights, benefits and privileges of the Authority under the Facilities Contracts.

Nothing in this Section shall be deemed to require the Authority to take any action to enforce its rights under the Facilities Contracts or otherwise, including (without limitation) its right to receive any Pledged Revenues, if the Authority in good faith determines that such action

is not reasonably justified by the nature of the potential remedy or recovery or the likelihood of the recovery and the expense or other adverse effects of such action.

**Section 5.07. Insurance; Application of Insurance and Condemnation Proceeds.**

The Authority shall cause WMATA to procure, pay the requisite premiums for and maintain during the term of each of the Facility Lease Agreements insurance as specified in each of the Facility Lease Agreements. Such insurance shall be placed in effect on the earlier of the date on which all work relating to the respective Facility is completed in all respects and the Facility is available for use and a permanent certification of occupancy has been issued with respect to that particular Facility; or the date the Facility or any portion thereof is opened by WMATA for business. Each of the respective insurance policies required by the Facility Lease Agreements shall name the Authority as an additional named insured and shall provide that the policies shall not be changed or terminated without sixty (60) days prior written notice to the Authority.

In the event a Facility or any portion thereof is damaged or destroyed by fire or other casualty WMATA shall, but only as provided below in this section, proceed forthwith to repair, reconstruct and restore the damaged Facility to substantially the same condition or utility value as existed prior to the event causing such damages.

WMATA will repair, reconstruct and restore the damaged Facility in accordance with the applicable Facility Lease Agreement.

**Section 5.08. Sale or Encumbrance of the Project.**

Except as otherwise permitted by this Trust Agreement and the Facility Lease Agreements and the Base Lease and except for dispositions in the ordinary course of business, the Authority shall not sell, lease, loan, assign, transfer or otherwise dispose of all or any portions of the Project unless (i) the Authority shall have determined that all or such portions of the Project are no longer necessary or useful and (ii) the proceeds of such disposition are applied to the acquisition or construction of replacement or substitute property (which need not have the same function) constituting a part of the Project or the redemption of outstanding Bonds. Nothing herein is intended to limit the Authority's right to dispose of real property that is not used for the operation of the Project.

**Section 5.09. Financing Statements**

(a) This Trust Agreement creates a valid and binding pledge of and a security interest in the Pledged Revenues in favor of the Trustee as security for payment of the Bonds, enforceable by the Trustee in accordance with the terms hereof.

(b) Under the laws of the State, (i) such pledge, (ii) and each pledge, assignment, lien, or other security interest made to secure any prior obligations of the Authority

which, by the terms hereof, ranks on a parity with or prior to the pledge granted hereby, is and shall be prior to any judicial lien hereafter imposed on such collateral to enforce a judgment against the Authority on a simple contract, and (iii) as described in paragraph (c) below, by the date of issue of the Bonds, the Authority will have filed all financing statements describing, and transferred such possession or control over, such collateral (and for so long as the Bonds are outstanding the Authority will file, continue, and amend all such financing statements and transfer such possession and control) as may be necessary to establish and maintain such priority in each jurisdiction in which the Authority is organized or such collateral may be located or that may otherwise be applicable pursuant to Uniform Commercial Code §§9.301--306 of such jurisdiction.

(c) The Authority covenants that, in order further to evidence the grant to the Trustee of the interest of the Trust Estate made hereby to the extent possible by such filing, appropriate financing statements (the "Financing Statements"), naming the Trustee as assignee of the Trust Estate, will be filed in the appropriate offices as required by the Maryland Uniform Commercial Code, as from time to time in effect (the "UCC"). The Authority will file such necessary continuation statements ("Continuation Statements") of the Financing Statements from time to time as may be required pursuant to the UCC to protect the interests of the Trustee and the Holders in the Trust Estate.

(d) The Authority has not heretofore made a pledge of, granted a lien on or security interest in, or made an assignment or sale of such collateral that ranks on a parity with or prior to the pledge granted hereby. The Authority has not described such collateral in a Uniform Commercial code financing statement that will remain effective when the Bonds are issued. The Authority shall not hereafter make or suffer to exist any pledge or assignment of, lien on, or security interest in such collateral that ranks prior to or on a parity with the pledge granted hereby, or file any financing statement describing any such pledge, assignment, lien, or interest, except as expressly permitted hereby.

#### **Section 5.10. No Disposition of Trust Estate.**

The Authority has not heretofore sold, leased, pledged, assigned or otherwise encumbered its interest in any portion of the Trust Estate. Except as permitted by this Trust Agreement, the Authority shall not sell, lease, pledge, assign or otherwise dispose of, and shall neither create nor suffer to remain any lien, encumbrance or charge upon, its interest in the Trust Estate ranking prior to or on a parity with the claim, lien and pledge created by this Trust Agreement as security for the Series 2004 Bonds and any Additional Bonds issued within the limitations of this Trust Agreement. The Authority from the Pledged Revenues will cause to be discharged, or will make adequate provisions to satisfy and discharge, within 60 days after the same shall accrue, all lawful claims and demands that, if unpaid, might by law become such a lien upon its interest in the Trust Estate, *provided* that nothing contained in this Section shall require the Authority to pay or cause to be discharged, or make provision for, any such lien, encumbrance or charge so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings.

**Section 5.11. Transportation Authority Fund.**

Section 4-313 of the Enabling Legislation shall not apply to the Series 2004 Bonds and, accordingly, the Series 2004 Bonds shall not be secured by the Transportation Authority Fund.

**Section 5.12. Additional Requirements of Ambac.**

(a) Any provision of this Trust Agreement expressly recognizing or granting rights in or to Ambac may not be amended in any manner that affects the rights of Ambac hereunder without the prior written consent of Ambac. Ambac reserves the right to charge the Authority a fee for any consent or amendment to this Trust Agreement while the Bond Insurance Policy is outstanding.

(b) The Trustee shall furnish to Ambac the following:

(i) a copy of any notice of any redemption of any Series 2004 Bonds or of the making of provision for the payment of any Series 2004 Bonds in accordance with Section 9.01;

(ii) notice of the occurrence of any Event of Default under this Trust Agreement of which an officer of the Trustee responsible for the Trustee's duties under this Trust Agreement has knowledge;

(iii) a copy of any notice filed with a nationally recognized municipal securities information repositories with respect to the Series 2004 Bonds pursuant to the requirements of Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934; and

(iv) notice of any failure by the Authority to provide relevant notices, certificates or other documents required under this Trust Agreement.

(c) Notwithstanding any other provision of this Trust Agreement, the Trustee or the Authority shall immediately notify Ambac if at any time there are insufficient moneys to make any payment of principal and/or interest as required.

(d) The Authority will permit Ambac to discuss the affairs, finances and accounts of the Authority or any information Ambac may reasonably request regarding the security for the Series 2004 Bonds with appropriate officers of the Authority. The Trustee or the Authority will permit Ambac to have access to and make copies of all books and records relating to the Series 2004 Bonds at any reasonable time.

(e) To the extent this Trust Agreement confers upon or gives or grants to Ambac any right, remedy or claim under by reason of this Trust Agreement, Ambac is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder.



**ARTICLE VI**  
**CONCERNING THE TRUSTEE**

**Section 6.01. Appointment of the Trustee; Registrar; Paying Agent; Acceptance of Duties.**

The Bank of New York, a banking corporation organized and existing under the laws of the State of New York, is hereby appointed Trustee for the Bonds. Except as otherwise provided in any Supplemental Trust Agreement, the Trustee shall also be the Registrar and the Paying Agent for the Bonds. The Trustee shall signify its acceptance by execution and delivery to the Authority of a counterpart of this Trust Agreement and upon such delivery shall be deemed to have accepted the trusts and the duties of Trustee under this Trust Agreement. The Trustee's acceptance of the trusts and the duties of Trustee also shall constitute acceptance of the trusts and the duties of Registrar and the Paying Agent for the Bonds.

**Section 6.02. Trustee Entitled to Indemnity.**

The Trustee shall be under no obligation to institute any suit, or to undertake any proceeding under this Trust Agreement, or to enter any appearance or in any way defend in any suit in which it may be made defendant, or to take any steps in the execution of the trusts hereby created or in the enforcement of any rights and powers hereunder, until it shall be indemnified to its satisfaction against any and all costs and expenses, advances, outlays and counsel fees and other reasonable disbursements, and against all liability except as a consequence of its own negligence, willful misconduct or in default of this Trust Agreement. Nevertheless, the Trustee may begin suit, or appear in and defend suit, or do anything else in its judgment proper to be done by it as the Trustee, without indemnity.

**Section 6.03. Responsibilities of the Trustee.**

The recitals, statements and representations contained in this Trust Agreement and in the Bonds shall be taken as the statements of the Authority and not of the Trustee, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the validity or sufficiency of this Trust Agreement or with respect to the security afforded by this Trust Agreement or the due execution hereof by the Authority, and the Trustee shall incur no liability with respect thereto. Except as otherwise expressly provided in this Trust Agreement, the Trustee shall have no responsibility or duty with respect to: (i) the issuance of the Bonds for value, (ii) the application of the proceeds thereof, except to the extent that such proceeds are received by it in its capacity as Trustee, or (iii) the application of any moneys paid to the Authority or others in accordance with this Trust Agreement except as to the application of any moneys paid to it in its capacity as Trustee.

The duties and obligations of the Trustee shall be determined by the express provisions of this Trust Agreement and no implied covenant or obligation shall be read into this Trust

Agreement against the Trustee, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Trust Agreement.

The Trustee shall not be liable for any action taken or omitted by it in the performance of its duties under this Trust Agreement except for its own negligence, willful misconduct or its default of this Trust Agreement.

In case an Event of Default shall have occurred and be continuing, the Trustee shall exercise such of the rights and powers vested in it hereby and use the same degree of care and skill in their exercise as a prudent person would exercise under the circumstances in the conduct of his or her own affairs.

The Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer unless it shall be proved that the Trustee was negligent, acted with willful misconduct or in default of this Trust Agreement.

The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith and in the absence of any negligence, willful misconduct or in default of this Trust Agreement in accordance with the direction of the Holders of a majority of the principal amount of the Outstanding Bonds of any Series 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 Trust Agreement with respect to the Bonds of such Series.

No provision of this Trust Agreement shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its own duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

The Trustee shall not be deemed to have notice of any default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such default is received by the Trustee at the Designated Office of the Trustee, and such notice references the Bonds and this Trust Agreement.

The rights, privileges, protections, immunities and benefits given to the Trustee, including (without limitation) its rights to be indemnified, are extended to, and shall be enforceable by the Trustee in each of its capacities hereunder.

The Trustee may request that the Authority deliver a certificate setting forth the names of individuals and titles of officers authorized at such time to take specified actions pursuant to this Trust Agreement, which certificate may be signed by any person authorized to sign a Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded.

The Trustee's immunities and protections from liability and its right to indemnification in connection with the performance of its duties under this Trust Agreement shall extend to the Trustee's officers, directors, agents, and employees. Such immunities and protections and right to indemnification, together with the Trustee's right to compensation, shall survive the Trustee's resignation or removal, the defeasance or discharge of this Trust Agreement and final payment of the Bonds.

The permissive right of the Trustee to take the actions permitted by this Trust Agreement shall not be construed as an obligation or duty to do so. Except for information provided by the Trustee concerning the Trustee, the Trustee shall have no responsibility for any information in any offering memorandum or other disclosure material distributed with respect to the Bonds, and the Trustee shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds.

#### **Section 6.04. Property Held in Trust.**

All moneys and securities held by the Trustee or any Paying Agent at any time pursuant to the terms of this Trust Agreement shall be held by it in trust for the purposes and under the terms and conditions of this Trust Agreement.

#### **Section 6.05. Trustee Protected in Relying on Certain Documents.**

The Trustee may rely upon any resolution, order, notice, request, consent, waiver, certificate, statement, affidavit, requisition, bond or other document provided to the Trustee in accordance with the terms of this Trust Agreement that it shall in good faith reasonably believe to be genuine and to have been adopted or signed by the proper board or person or to have been prepared and furnished pursuant to any of the provisions of this Trust Agreement, or upon the written opinion of any counsel, architect, engineer, insurance consultant, management consultant or accountant believed by the Trustee to be qualified in relation to the subject matter, and the Trustee shall be under no duty to make any investigation or inquiry into any statements contained or matters referred to in any such instrument. The Trustee may consult with counsel, who may or may not be Bond Counsel or counsel to the Authority, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it in good faith and in accordance therewith.

Whenever the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under this Trust Agreement, such matter may be deemed to be conclusively proved and established by a Certificate of the Authority, unless other evidence in respect thereof be hereby specifically prescribed. Such certificate shall be full warrant for any action taken or suffered in good faith under the provisions hereof, but in its discretion the Trustee may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as it may deem reasonable. Except as otherwise expressly provided herein, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision hereof by the Authority to the Trustee shall be sufficiently executed if executed in the name of the Authority by an Authority Representative.

The Trustee shall not be under any obligation to see to the recording or filing of this Trust Agreement, or otherwise to the giving to any person of notice of the provisions hereof except as provided in Section 6.13.

#### **Section 6.06. Compensation.**

Unless otherwise provided by contract with the Trustee, the Authority shall pay to the Trustee from the Pledged Revenues from time to time reasonable compensation as the Trustee and the Authority shall from time to time agree in writing for all services rendered by it hereunder, including its services as Registrar and Paying Agent, together with all its reasonable expenses, charges and other disbursements and those of its counsel, agents and employees, incurred in and about the administration and execution of the trusts hereby created and the exercise of its powers and the performance of its duties hereunder.

The Authority agrees to indemnify the Trustee and to hold it harmless from the Pledged Revenues against any and all loss, damage, claims, liability or expense, including taxes (other than taxes based upon, measured by or determined by the income of the Trustee), arising out of or in connection with the acceptance and administration of the Trust Estate, including the costs and expenses of defending itself against any claim (whether asserted by the Authority or any Holder) or liability in connection with enforcing the provisions of this Section, except to the extent that such loss, damage, claim, liability or expense is due to the Trustee's negligence, willful misconduct, bad faith or its default of this Trust Agreement.

The provisions of this Section shall survive the termination of this Trust Agreement.

#### **Section 6.07. Permitted Acts.**

The Trustee and its directors, officers, employees or agents may become the owner of or may in good faith buy, sell, own, hold and deal in Bonds and may join in any action that any Holder of Bonds may be entitled to take as fully and with the same rights as if it were not the Trustee. The Trustee may act as depository, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, the Authority or any committee formed to protect the rights of the Holders or to effect or aid in any reorganization growing out of the enforcement of the Bonds or this Trust Agreement.

#### **Section 6.08. Resignation of the Trustee.**

The Trustee may at any time resign and be discharged of its duties and obligations hereunder by giving not fewer than 30 days' written notice, specifying the date when such resignation shall take effect, to the Authority and each Holder. Such resignation shall take effect upon the appointment of a successor Trustee and the acceptance of such appointment by such successor.

#### **Section 6.09. Removal of Trustee.**

The Trustee may be removed by the Authority so long as no Event of Default shall have occurred and be continuing or, if any Event of Default shall have occurred and be continuing, by a majority of the Holders by an instrument or concurrent instruments in writing signed and acknowledged by such Holders or by their attorneys-in-fact, duly authorized and delivered to the Authority. Facsimile copies of each such instrument shall be delivered by the Authority to the Trustee and any successor thereof. The Trustee may also be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provision of this Trust Agreement with respect to the duties and obligations of the Trustee by any court of competent jurisdiction upon the application of the Authority or of not less than ten percent of the Holders.

#### **Section 6.10. Successor Trustee.**

If the Trustee shall resign, be removed, be dissolved or become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee or of its property shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs, the position of the Trustee hereunder shall thereupon become vacant.

If the position of Trustee shall become vacant for any of the foregoing reasons or for any other reason, a successor Trustee reasonably satisfactory to Ambac shall be appointed (i) by the Authority, so long as no Event of Default shall have occurred and be continuing, or (ii) if an Event of Default shall have occurred and be continuing, by a majority of the Holders, by an instrument or concurrent instruments in writing signed and acknowledged by such Holders or their attorneys-in-fact, duly authorized and delivered to such successor Trustee, with notification thereof being given to the predecessor Trustee and the Authority.

Copies of any instrument of the Authority providing for any such appointment shall be delivered by the Authority to the Trustee so appointed and the predecessor Trustee. The Authority shall mail notice of any such appointment to each Holder within 90 days after such appointment.

If in a proper case no appointment of a successor Trustee shall be made within 60 days after the giving by any Trustee of any written notice of resignation in accordance with Section 6.08 or after the occurrence of any other event requiring or authorizing such appointment, the Trustee or any Holder may apply to any court of competent jurisdiction for the appointment of such a successor, and the court may thereupon, after such notice, if any, as the court may deem proper, appoint such successor.

Any successor Trustee appointed under the provisions of this Section shall be a commercial bank or trust company or national banking association having a capital and surplus aggregating at least \$100,000,000, if there be such a commercial bank or trust company or national banking association willing and able to accept the appointment on reasonable and

customary terms, and authorized by law to perform all the duties of the Trustee required by this Trust Agreement.

**Section 6.11. Transfer of Rights and Property to Successor Trustee.**

Any successor Trustee appointed under the provisions of Section 6.10 shall execute, acknowledge and deliver to its predecessor and the Authority an instrument in writing accepting such appointment, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all moneys, estates, properties, rights, immunities, powers, duties, obligations and trusts of its predecessor hereunder, with like effect as if originally appointed as Trustee. However, the Trustee then ceasing to act shall nevertheless, on request of the Authority or of such successor, execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor all the rights, immunities, powers and trusts of such Trustee and all the right, title and interest of such Trustee in and to the Trust Estate, and shall pay over, assign and deliver to such successor any moneys or other properties subject to the trusts and conditions herein set forth. Should any deed, conveyance or instrument in writing from the Authority be required by such successor for more fully and certainly vesting in and confirming to it any such moneys, estates, properties, rights, powers, duties or obligations, any and all such deeds, conveyances and instruments in writing, on request and so far as may be authorized by law, shall be executed, acknowledged and delivered by the Authority.

**Section 6.12. Merger, Conversion or Consolidation of Trustee.**

Any company into which the Trustee may be merged or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business shall be the successor to such Trustee hereunder, without any further act, deed or conveyance, *provided* that such company shall be a commercial bank or trust company or national banking association qualified to be a successor to such Trustee under the provisions of Section 6.10.

**ARTICLE VII**

**EVENTS OF DEFAULT AND REMEDIES**

**Section 7.01. Events of Default.**

Each of the following events is hereby declared to constitute an event of default hereunder (an "Event of Default"):

(a) the principal of any Bond shall not have been paid when the same shall have become due and payable, either at maturity or by proceedings for redemption or otherwise;

(b) the interest on any Bond shall not have been paid when the same shall have become due and payable; or

(c) the Authority shall default in the due and punctual performance of any of the covenants, conditions, agreements and provisions contained in any Bond or in this Trust Agreement on the part of the Authority to be performed (other than as described in clause (a) or (b) above), which default shall continue for 30 days after written notice specifying such default and requiring the same to be remedied shall have been given to the Authority by the Trustee, *provided* that, if the Authority shall proceed to take any curative action which, if begun and prosecuted with due diligence, cannot be completed within a period of 30 days, then such period shall be increased to such extent as shall be necessary to enable the Authority to complete such curative action through the exercise of due diligence.

A default under this Trust Agreement with respect to the Bonds shall not be or constitute a default under any other trust agreement entered into by the Authority or with respect to any other indebtedness of the Authority, and no default under any other trust agreement entered into by the Authority or with respect to any other indebtedness of the Authority shall be or constitute a default under this Trust Agreement.

#### **Section 7.02. Enforcement.**

Upon the happening and continuance of any Event of Default, then and in every such case the Trustee may proceed, and upon the written request of not less than 25% of the Holders shall proceed, to protect and enforce its rights and the rights of the Holders under the laws of the State and under this Trust Agreement and any Credit Facility by such suits, actions or special proceedings in equity or at law, either for the specific performance of any covenant contained herein or therein, or in aid or execution of any power herein or therein granted, or for an accounting against the Authority as if the Authority were the trustee of an express trust or for the enforcement of any proper legal or equitable remedy as the Trustee shall deem most effectual to protect and enforce such rights.

In the enforcement of any remedy upon the occurrence of an Event of Default under this Trust Agreement, the Trustee shall be entitled to sue for, enforce payment of and receive any and all amounts then or during any default becoming, and at any time remaining, due from the Authority, for principal of or interest on the Bonds, or otherwise under any of the provisions of this Trust Agreement or of any Bonds, with interest on overdue payments of principal at the rate or rates of interest specified in the Bonds, together with any and all costs and expenses of collection and of all proceedings hereunder and under the Bonds, without prejudice to any other right or remedy of the Trustee or of the Holders, and to recover and enforce judgment or decree against the Authority, but solely as provided herein and in the Bonds and from the sources and moneys provided herein and in the Bonds, for any portion of such amounts remaining unpaid and to collect in any manner provided by law the moneys adjudged or decreed to be payable.

The principal of the Bonds shall not be subject to acceleration by the Trustee or the Bondholders upon the occurrence of any Event of Default notwithstanding any other provision of this Trust Agreement.

### **Section 7.03. Priority of Payments Following Default.**

If at any time there shall have occurred and be continuing an Event of Default, after payment of all amounts owing to the Trustee under this Trust Agreement, amounts held by the Trustee hereunder, together with any moneys thereafter becoming available for such purpose, whether through exercise of the remedies provided in this Article or otherwise, shall be applied as follows:

(a) unless the principal of all Outstanding Bonds shall have become due and payable, all such moneys shall be applied:

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

SECOND: to the payment to the persons entitled thereto of the unpaid principal of any Outstanding Bonds that shall have become due and payable, in the order of their due dates, with interest upon the principal amount of such Bonds from the respective dates upon which they shall have become due and payable and, if the amount available shall not be sufficient to pay in full the principal of such Bonds due and payable on any particular date, together with such interest, then first to the payment of such interest, ratably, according to the amount of interest due on such date, and then to the payment of such principal, ratably, according to the amount of principal due on such date, to the persons entitled thereto, without any discrimination or preference, except as to any difference in the respective rates of interest specified in such Bonds;

THIRD: to the payment of the interest on and the principal of the Bonds outstanding as the same become due and payable;

FOURTH: to the payment of Ambac and any other Credit Facility Provider of amounts payable to Ambac or such other Credit Facility Provider, respectively, under this Trust Agreement in respect of amounts paid by Ambac or such other Credit Facility Provider, respectively, on any Bonds under the Bond Insurance Policy or any other Credit Facility, to the extent that such amount exceeds the amount that would be payable to any holder of such Bonds other than Ambac or such other Credit Facility Provider, respectively; and

FIFTH: any balance remaining after the foregoing payments shall be paid to the Authority; and



(b) if the principal of all Outstanding Bonds shall have become due by their terms, all such moneys shall be applied to the payment of the principal and interest then due and unpaid upon such Bonds, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto, without any discrimination or preference except as to any difference in the respective rates of interest specified in such Bonds.

Whenever moneys are to be applied by the Trustee pursuant to the provisions of this Section, such moneys shall be applied by the Trustee at such times, and from time to time, as the Trustee may determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. The setting aside of such moneys in trust for the benefit of all Holders shall constitute proper application by the Trustee, and the Trustee shall incur no liability whatsoever to the Authority, to any Holder or to any other person for any delay in applying any such moneys, so long as the Trustee acts with reasonable diligence, having due regard to the circumstances, and ultimately applies the same in accordance with such provisions of this Trust Agreement as may be applicable at the time of application by the Trustee. Whenever the Trustee shall exercise such discretion in applying such moneys, it shall fix the date (which shall be an Interest Payment Date for the Bonds unless the Trustee shall deem another date more suitable) upon which such application is to be made, and upon such date interest on the amounts of principal of the Bonds to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the fixing of any such date. The provisions of this paragraph shall be subject in all respects to the provisions of the Bonds with respect to the payment of defaulted interest on the Bonds. The Trustee shall not be required to make payment to the Holder of any Bond unless such Bond shall be presented to the Trustee for appropriate endorsement.

#### **Section 7.04. Discontinuance of Proceedings.**

In case any proceedings taken by the Trustee or the Holders on account of any default with respect to the Bonds shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or such Holders, then and in every such case the Authority, the Trustee and the Holders shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Trustee shall continue as though no such proceeding had been taken.

#### **Section 7.05. Majority of the Holders May Control Proceedings.**

Anything in this Trust Agreement to the contrary notwithstanding, but subject to Section 6.02 of this Trust Agreement, a majority of the Holders shall have the right, by an instrument in writing executed and delivered to the Trustee, to direct the method and place of conducting all remedial proceedings to be taken by the Trustee under this Trust Agreement, *provided* that such direction shall not be otherwise than in accordance with law and the provisions of this Trust Agreement, and that the Trustee shall have the right to decline to follow any such direction

which, in the opinion of the Trustee, would be unjustly prejudicial to Holders not parties to such direction.

Anything in this Trust Agreement to the contrary notwithstanding, upon the occurrence and continuance of an Event of Default, Ambac shall be entitled to control and direct the enforcement of all rights and remedies granted to the Holders of the Series 2004 Bonds under this Trust Agreement as if Ambac were the Holder of the Series 2004 Bonds, including (without limitation) the rights of the Holders under Section 7.06 of this Trust Agreement

**Section 7.06. Restrictions Upon Action by Individual Holders.**

No Holder of any Bond shall have any right to institute any suit, action or proceeding in equity or at law on any Bond for the execution of any trust hereunder or for any other remedy hereunder unless (i) such Holder previously shall have given to the Trustee written notice of the Event of Default on account of which such suit, action or proceeding is to be instituted, (ii) not less than 25% of Holders shall have made written request to the Trustee after the right to exercise such powers or right of action, as the case may be, shall have accrued, and shall have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers granted by this Trust Agreement or to institute such action, suit or proceeding in its or their name, and (iii) there shall have been offered to the Trustee security and indemnity reasonably satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee shall have refused or neglected to comply with such request within a reasonable time. Such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Trust Agreement or to any other remedy hereunder. Notwithstanding the foregoing provisions of this Section and without complying therewith, 25% or more of the Holders may institute any such suit, action or proceeding in their own names for the benefit of all Holders.

It is understood and intended that, except as otherwise provided above, no one or more Holders shall have any right in any manner whatever to affect, disturb or prejudice the security of this Trust Agreement or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted and maintained in the manner herein provided and for the benefit of all Holders and that any individual right of action or other right given by law to one or more of such Holders is restricted by this Trust Agreement to the rights and remedies herein provided.

**Section 7.07. Actions by Trustee.**

All rights of action under this Trust Agreement or under any Bond may be enforced by the Trustee without the possession of any Bond or the production thereof at the trial or other proceeding relative thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in its name for the benefit of all Holders, all subject to the provisions of this Trust Agreement.

**Section 7.08. No Remedy Exclusive.**

No remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other remedy and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

**Section 7.09. No Delay or Omission Construed as a Waiver; Waiver of Default.**

No delay or omission of the Trustee or of any Holder to exercise any right or power accruing upon any default shall impair any such right or power, nor shall any such delay or omission be construed to be a waiver of any such default or an acquiescence therein. Every power and remedy given by this Article to the Trustee and the Holders, respectively, may be exercised from time to time and as often as may be deemed expedient.

The Trustee may, and upon written request of not less than 25% of the Holders shall, waive any default with respect to Bonds which in its opinion shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions of this Trust Agreement or before the completion of the enforcement of any other remedy under this Trust Agreement; but no such waiver shall extend to or affect any other existing or any subsequent default or impair any rights or remedies consequent thereon.

**Section 7.10. Notice of Default.**

The Trustee shall mail to all Holders written notice of the occurrence of any Event of Default of which the Trustee shall have knowledge within 30 days after such Event of Default shall have occurred and be known to it. The Trustee shall not be subject to any liability to any Holder by reason of its failure to mail any notice required by this Section.

**ARTICLE VIII**

**MODIFICATION OR AMENDMENT OF TRUST AGREEMENT**

**Section 8.01. Modification or Amendment of Trust Agreement Without Consent.**

Without notice to, or the consent of, the Holders, the Authority and the Trustee may enter into a Supplemental Trust Agreement supplementing, modifying or amending this Trust Agreement or any Supplemental Trust Agreement at any time or from time to time for one or more of the following purposes:

(a) to grant to or confer upon the Trustee for the benefit of the Holders any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Trustee for the benefit of the Holders;

(b) to add to the covenants and agreements of the Authority contained in this Trust Agreement, other covenants and agreements thereafter to be observed relative to the acquisition, construction, equipping, operation, maintenance, development or administration of the Project, or the application, custody, use or disposition of the proceeds of Bonds;

(c) to surrender to the Trustee any right, power or privilege reserved to or conferred upon the Authority by this Trust Agreement;

(d) to confirm, as further assurance, any pledge under, and the subjection to any lien on, or claim or pledge of (whether created or to be created by this Trust Agreement) the Trust Estate;

(e) to cure any ambiguity or to cure or correct any defect or inconsistent provisions contained in this Trust Agreement or to make such provisions in regard to matters or questions arising under this Trust Agreement as may be necessary or desirable and not contrary to or inconsistent with this Trust Agreement;

(f) to provide for the issuance of Additional Bonds, including (without limitation) any modifications or amendments required to grant to or otherwise secure for the Holders of such Additional Bonds a parity interest in the security granted to the holders of the Series 2004 Bonds and any other then-Outstanding Bonds in accordance with Section 2.04;

(g) to permit the qualification of this Trust Agreement or any Supplemental Trust Agreement under any federal statute now or hereafter in effect or under any state blue sky law and, in connection therewith, to add to this Trust Agreement or any Supplemental Trust Agreement such other terms, conditions and provisions as may be permitted or required by such federal statute or state blue sky law;

(h) to obtain or to maintain any ratings on the Bonds of any Series from any nationally recognized securities rating agency;

(i) to provide for the issuance of any Bonds in coupon form or in book entry form, to change any Securities Depository or to discontinue any book-entry system, *provided* that, prior to the effective date of any such amendment that provides for the issuance of any Tax-Exempt Bonds in coupon form, there shall be delivered to the Authority a Favorable Opinion of Bond Counsel;

(j) to preserve the excludability from gross income for federal income tax purposes of the interest paid on any Tax-Exempt Bonds theretofore issued; or

(k) to make any other change in this Trust Agreement that the Trustee determines shall not prejudice in any material respect the rights of the Holders of the Bonds Outstanding at the date as of which such change shall become effective.

**Section 8.02. Supplemental Trust Agreements Requiring Consent of Holders.**

In addition to Supplemental Trust Agreements permitted by Section 8.01, with the prior written consent of a the Holders of majority of the Bonds affected thereby, the Authority and the Trustee may enter into at any time and from time to time Supplemental Trust Agreements amending or supplementing this Trust Agreement, any Supplemental Trust Agreement or any Bond to modify any of the provisions thereof or to release the Authority from any of the obligations, covenants, agreements, limitations, conditions or restrictions therein contained, *provided* that nothing contained herein shall permit (i) a change in any terms of redemption or purchase of any Bond, the due date for the payment of the principal of or interest on any Bond or any reduction in the principal, Redemption Price or purchase price of or interest rate on any Bond without the consent of the Holder of such Bond, or (ii) the creation of a claim or lien upon, or a pledge of, the Trust Estate ranking prior to or on a parity with the claim, lien and pledge created by this Trust Agreement as security for the Series 2004 Bonds and any Additional Bonds issued within the limitations of this Trust Agreement, a preference or priority of any Bond over any other Bond or a reduction in the percentage of Bonds the consent of the Holders of which is required for any modification of this Trust Agreement without the unanimous consent of the Holders.

**Section 8.03. Restriction on Amendment; Execution of Supplemental Trust Agreements.**

Neither this Trust Agreement, any Supplemental Trust Agreement, nor any Bond shall be supplemented or amended in any respect except as provided in this Article. Any Supplemental Trust Agreement authorized by Section 8.01 or 8.02 may be entered into by the Authority and the Trustee without notice to or the consent of the Holders but shall become effective only on the conditions, to the extent and at the time provided herein and in such Section.

**Section 8.04. Notation on Bonds.**

Bonds authenticated and delivered after the effective date of any Supplemental Trust Agreement entered into by the Authority may, and if the Trustee or the Authority so determines, shall, bear a notation by endorsement or otherwise in form approved by the Authority and the Trustee of such action. If the Authority or the Trustee shall so determine, new Bonds modified as necessary, in the opinion of the Trustee and the Authority, to conform to such Supplemental Trust Agreement shall be prepared, authenticated and delivered and, upon demand of the holder of any Outstanding Bonds and surrender of such Bonds to the Trustee, such Bonds shall be exchanged, without cost to such holder, for a new Bond so modified.

**Section 8.05. Consent of Ambac.**

No modification of this Trust Agreement, other than a modification pursuant to Section 8.01(f) shall become effective without the written consent of Ambac.

## ARTICLE IX

### DEFEASANCE

#### **Section 9.01. Defeasance.**

(a) If the Authority shall pay or cause to be paid the principal or Redemption Price of and interest on all Bonds at the times and in the manner stipulated therein, in this Trust Agreement and in any Supplemental Trust Agreement authorizing the issuance of any Additional Bonds and shall have paid or provided for the payment of all amounts due and to become due to the Trustee, then the pledge of the Trust Estate to the Trustee for the benefit of the Holders and all other rights granted hereby to the Trustee or the Holders, other than rights which by their terms survive the termination of this Trust Agreement, shall be discharged and satisfied. In such event, upon the written request of the Authority, the Trustee shall execute and deliver to the Authority all such instruments as may be desirable to evidence such discharge and satisfaction, and the Trustee shall pay or deliver to the Authority, or to such officer, board or body as may then be entitled by law to receive the same, all property held by it pursuant to this Trust Agreement (other than any moneys and securities required for the payment or redemption of Bonds not theretofore surrendered for such payment or redemption).

(b) A Series 2004 Bond and any Additional Bond, except as otherwise provided in any Supplemental Trust Agreement authorizing the issuance thereof, shall be deemed to have been paid within the meaning of, and with the effect expressed in, this Section if (i) money for the payment or redemption of such Bond shall be held by the Trustee (through deposit by the Authority of moneys for such payment or redemption or otherwise, regardless of the source of such moneys), whether at or prior to the maturity or the redemption date of such Bond, or (ii) if the maturity or redemption date of such Bond shall not have arrived, provision shall have been made by the Authority for the payment of the principal or Redemption Price of and interest on such Bond on the due dates for such payments by deposit with the Trustee (or other method satisfactory to the Trustee) of Government Obligations, the principal of and the interest on which when due will provide for such payment, *provided* that, if such Bond is to be redeemed prior to the maturity thereof, the Authority shall have taken all action necessary to redeem such Bond and notice of such redemption shall have been duly and irrevocably given or provisions satisfactory to the Trustee shall have been made for the giving of such notice.

(c) If the Authority shall determine to provide for the payment of all of the Bonds of any Series in accordance with this Section, upon the written direction of the Authority, the Trustee shall set aside any amounts on deposit in any funds and accounts maintained for the Bonds of such Series (other than amounts theretofore set aside for the payment of particular Bonds of such Series in accordance with Section 10.04) for the payment of the principal or Redemption Price of and interest on, and the purchase price of, such Bonds on the due dates for such payments in accordance with this Section. If all of the Bonds of any Series shall have been paid in accordance with this Trust Agreement, amounts on deposit in any funds and accounts maintained for such Bonds (other than amounts set aside for the payment of particular Bonds of such Series in accordance with Section 10.04) shall be paid to the Authority. The provisions of

this paragraph shall be subject in all respects to the provisions of any Supplemental Trust Agreement authorizing any Additional Bonds.

(d) Anything in this Trust Agreement to the contrary notwithstanding, at the written request of the Authority, any moneys held by the Trustee in trust for the payment of any of the Bonds that remain unclaimed for two years after the later of the date at which such Bonds became due and payable and the date of deposit of such moneys shall be repaid by the Trustee to the Authority, or to such officer, board or body as may then be entitled by law to receive such moneys, as its absolute property and free from trust, and the Trustee shall thereupon be released and discharged with respect thereto.

(e) The Authority shall pay and indemnify the Trustee from the Pledged Revenues against any tax, fee or other charge imposed on or assessed against the Government Obligations deposited pursuant to this Section or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of Outstanding Bonds.

(f) Notwithstanding anything herein to the contrary, in the event that the principal and/or interest due on the Series 2004 Bonds shall be paid by Ambac pursuant to the Bond Insurance Policy, the Series 2004 Bonds shall remain outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the Authority, and the assignment and pledge of the Trust Estate and all covenants, agreements and other obligations of the Obligor to the registered owner shall continue to exist and shall run to the benefit of the Ambac, and Ambac shall be subrogated to the rights of such registered owners.

## **ARTICLE X**

### **MISCELLANEOUS**

#### **Section 10.01. Further Assurances.**

So far as it may be authorized by law, the Authority shall pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning and confirming all and singular the rights and other property hereby pledged or assigned, or intended so to be, or which the Authority may hereafter become bound to pledge or assign.

#### **Section 10.02. Consent of Holders; Evidence of Signatures of Holders and Ownership of Bonds.**

Any request, direction, consent or other instrument which this Trust Agreement may require or permit to be signed and executed by the Holders may be in one or more instruments of similar tenor, and shall be signed or executed by such Holders in person, by their legal representatives or by their attorneys duly appointed in writing. Except as otherwise expressly

provided herein, proof of the execution of any such instrument or of an instrument appointing any such attorney, or the holding by any person of such Bond shall be sufficient for any purpose of this Trust Agreement and shall be conclusive in favor of the Trustee, the Registrar and the Authority, with regard to any action taken by any of them under such instrument if made in the following manner:

(a) the fact and date of the execution by any Holder or Holder's attorney or legal representative of such instrument may be proved by the certificate (which need not be acknowledged or verified) of an officer of a bank or trust company satisfactory to the Trustee or the Registrar (as the case may be) or of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which such officer purports to act, that the person signing such instrument acknowledged to such officer the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer; and the authority of any person executing any such instrument on behalf of a corporate Holder may be established without further proof if such instrument is signed by a person purporting to be the president or a vice president of such corporation with a corporate seal affixed and attested by a person purporting to be its secretary or an assistant secretary, its cashier or an assistant cashier; and

(b) the ownership of Bonds and the amount, numbers and other identification and date of holding the same shall be proved by the registration books established with respect to such Bonds.

Notwithstanding the foregoing, the Trustee may in its discretion require further or other proof in any case in which it deems such further or other proof desirable.

Notwithstanding the foregoing provisions of this Section, the Supplemental Trust Agreement authorizing the issuance of any Additional Bond secured by a Credit Facility may provide that the issuer of such Credit Facility shall be deemed the holder of such Bond for the purposes of making any request or giving or withholding any consent, vote or direction permitted or required to be made or given by any holder of such Bond under this Trust Agreement or such Supplemental Trust Agreement.

Any request, direction, consent or vote of the Holder of any Bond given in accordance with this Trust Agreement or any Supplemental Trust Agreement shall bind all future Holders of such Bond with respect to anything done or suffered to be done or omitted to be done by the Authority or the Trustee in accordance therewith.

### **Section 10.03. Preservation by Trustee and Inspection of Documents.**

All documents received by the Trustee from the Authority, the Holders or otherwise under the provisions of this Trust Agreement shall be retained in its possession for a period of not less than six (6) years after the date of the discharge of this Trust Agreement and shall be subject at all reasonable times to the inspection of the Authority, any Holder and their agents and representatives, any of whom may make copies thereof.



**Section 10.04. Moneys and Funds Held for Particular Bonds.**

Amounts held by the Trustee for the payment of the principal or Redemption Price of, and interest on, Bonds due on any date shall, pending such payment, be set aside and held in trust by it for the Holders of such Bonds and, for the purposes of this Trust Agreement, such principal or Redemption Price of and interest on such Bonds, due after such date, shall no longer be considered to be unpaid, except to receive payment from such amounts set aside or held for such payment.

**Section 10.05. No Recourse Against Members and Officers.**

No recourse shall be had for the payment of the principal or Redemption Price of and interest on the Bonds or for any claims based thereon or on this Trust Agreement against any member or officer, employee, or agent of the Authority, all such liability, if any, being expressly waived and released by every Holder of Bonds by the acceptance of such Bonds.

**Section 10.06. Severability of Invalid Provision.**

If any covenant or agreement in this Trust Agreement is determined to be contrary to law, then such covenant or agreement shall be null and void and shall in no way affect the validity of the other provisions of this Trust Agreement or of the Bonds.

**Section 10.07. Notices.**

Any notice or other instrument authorized or required to be given pursuant to this Trust Agreement shall be sent by telex or other telecommunication device capable of creating a written record or delivered personally or sent by registered or certified mail, postage prepaid, addressed as follows (or to such other address as may be designated by written notice given hereunder):

In the case of the Authority:

Maryland Transportation Authority  
300 Authority Drive  
Baltimore, Maryland 21222-2200  
Attention: Chief Financial Officer  
410-288-8450 (telephone)  
410-288-8466 (facsimile)

In the case of the Trustee:

The Bank of New York  
Corporate Trust Administration  
385 Rifle Camp Road, 3<sup>rd</sup> Floor  
West Patterson, New Jersey 07424  
Attention: Joseph Center  
973-247-4747 (telephone)  
973-357-7840 (facsimile)

In the case of the County:

Prince George's County  
9400 Peppercorn Place  
Largo, Maryland 20774  
Attention: Stephen Paul  
410-301-7423 (telephone)

In the case of Ambac:

Ambac Assurance Corporation  
One State Street Plaza  
New York, New York 10004  
Attention: Surveillance  
Telephone: 212-668-0340

---

#### **Section 10.08. Other Trust Agreements.**

The Authority expressly reserves the right to enter into one or more other trust agreements and to issue bonds, notes and other obligations thereunder without compliance with the provisions hereof.

#### **Section 10.09. Business Days.**

Except as otherwise expressly provided herein or in any Supplemental Trust Agreement, if any date specified herein for the payment of any Bond or the performance of any act shall not be a Business Day, such payment or performance shall be made on the next succeeding Business Day with the same effect as if made on such date.

#### **Section 10.10. Interested Parties.**

Nothing in this Trust Agreement expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the Authority, the Trustee, Ambac and the Holders any right, remedy or claim under or by reason of this Trust Agreement or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Trust Agreement contained by and on behalf of the Authority shall be for the sole and exclusive benefit of the Authority, the Trustee, Ambac and the Holders.

#### **Section 10.11. Execution in Several Counterparts.**

This Trust Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original for all purposes; and all such counterparts shall together constitute but one and the same instrument.

**Section 10.12. Governing Law.**

This Trust Agreement shall be governed by and construed in accordance with the laws of the State of Maryland.

**Section 10.13. Security Agreement.**

This Trust Agreement constitutes a security agreement under the Uniform Commercial Code as in effect in the State of Maryland,

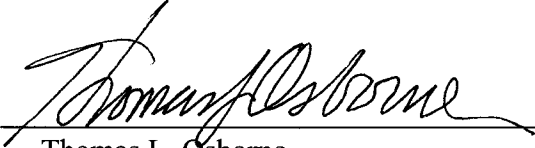
IN WITNESS WHEREOF, the parties hereto have caused this Trust Agreement to be duly executed, sealed and delivered, all as of the day and year first above written.

(SEAL)

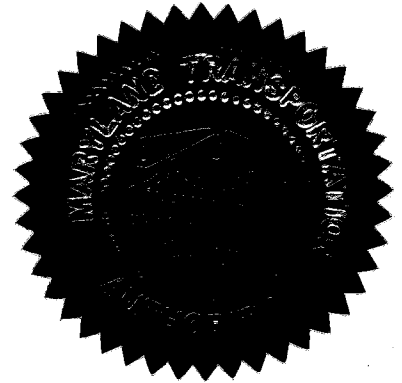
MARYLAND TRANSPORTATION AUTHORITY

ATTEST:

By:

  
Thomas L. Osborne  
Executive Secretary

  
\_\_\_\_\_

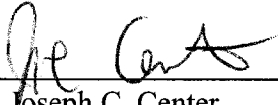


(SEAL)

THE BANK OF NEW YORK

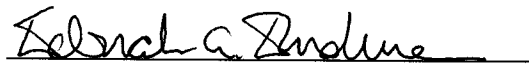
ATTEST:

By:

  
Joseph C. Center  
Assistant Treasurer

  
\_\_\_\_\_

Approved for Form and Legal Sufficiency

  
Principal Counsel  
Maryland Transportation Authority

[Signature page of Trust Agreement]

STATE OF MARYLAND, CITY/COUNTY OF Havford, TO WIT:

I HEREBY CERTIFY that on this 14 day of June 2004 in the year 2004, before the subscriber, a Notary Public in and for the State of Maryland, personally Thomas L. Osborne, the Executive Secretary of Maryland Transportation Authority, and that he, as such officer, being authorized so to do, executed the foregoing Trust Agreement for the purposes therein contained, by signing his name thereto as the Executive Secretary of Maryland Transportation Authority and causing the corporate seal of Maryland Transportation Authority to be affixed thereto.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

(SEAL)

Donna Dean  
Notary Public  
My Commission Expires: 2/1/2006

[Notary page of Trust Agreement]

**STATE OF MARYLAND, CITY OF BALTIMORE, TO WIT:**

**I HEREBY CERTIFY** that on this 7th day of June in the year 2004, before the subscriber, a Notary Public in and for the State of Maryland, personally appeared Joseph C. Center an Assistant Treasurer of The Bank of New York, a banking corporation duly organized and existing under the laws of the State of New York, and that he, as such officer, being authorized so to do, executed the foregoing Trust Agreement for the purposes therein contained, by signing his name thereto as an Assistant Treasurer of such corporation and causing the corporate seal of such corporation to be affixed thereto.

**IN WITNESS WHEREOF**, I have hereunto set my hand and official seal.

(SEAL)

Jennifer Morrison  
Notary Public  
My Commission Expires:

**FORM OF WMATA REQUEST**

To: Maryland Transportation Authority  
for submission to:

The Bank of New York, as Trustee  
Corporate Trust Administration  
385 Rifle Camp Road, 3<sup>rd</sup> Floor  
West Patterson, New Jersey 07424

MARYLAND TRANSPORTATION AUTHORITY – Trust  
Agreement dated as of May 1, 2004 Lease Revenue Bonds,  
Metrorail Parking Projects, Series 2004 Requisition from  
The Construction Fund

Project:

Request No. \_\_\_\_\_

This request for payment from the Construction Fund is submitted in accordance with the Project Agreement and the provisions of the Trust Agreement dated as of May 1, 2004, between the Maryland Transportation Authority and The Bank of New York, as Trustee and specifically pertains to:

- (i) The item number of such payment:
- (ii) The name, address and wire transfer information of the WMATA/Vendor/Contractor to whom reimbursement or payment is due:  
  
[Name]  
[Address]  
[ABA Routing No. /Bank Account No.]
- (iii) The amount[s] to be paid: \$ \_\_\_\_\_
- (iv) Purpose by general classification for which such obligation was paid:
- (v) A copy of each supporting invoice or other statement for which payment or reimbursement is sought is attached hereto.
- (vi) All of which is hereby certified.

It is also hereby and herein certified that:

- (i) No default on WMATA's part has occurred or is continuing under the Project Agreement, the Facility Lease Agreements or the Amended Surcharge Agreement; and
- (ii) This request provides for payment of Costs of the Project that are due and payable in accordance with the Project Agreement and have not been previously paid from the Construction Fund.

Dated \_\_\_\_\_

By:  
WMATA Representative



**FORM OF REQUISITION**

DATE: \_\_\_\_\_

Maryland Transportation Authority  
303 Authority Drive  
Baltimore, Maryland 21222-2200

The Bank of New York, as Trustee  
Corporate Trust Administration  
385 Rifle Camp Road, 3<sup>rd</sup> Floor  
West Patterson, New Jersey 07424

Re: Maryland Transportation Authority Lease Revenue Bonds, Metrorail Parking  
Projects, Series 2004

Ladies and Gentlemen:

Pursuant to the Trust Agreement dated as of May 1, 2004 (the "Trust Agreement"),  
between Maryland Transportation Authority (the "Authority") and The Bank of New York, the  
Authority makes the following requisition:

1. Requisition Number: \_\_\_\_\_
2. Name and address of the person  
to whom payment is due:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. Amount to be paid: \$ \_\_\_\_\_
4. Fund/Account to be Debited: \_\_\_\_\_
5. Purpose for which each obligation to be paid was incurred:  
\_\_\_\_\_  
\_\_\_\_\_

6. The Authority hereby certifies that (i) the purpose for which the amount requisitioned hereby was used is authorized under the Trust Agreement; and (ii) the amount requisitioned hereby is due and unpaid.

7. Attached hereto are invoices, bills or vouchers, paid or due and payable, in support of the amount to be paid shown in Item 3.

This Requisition has been executed by a duly authorized officer of the Authority.

**MARYLAND TRANSPORTATION AUTHORITY**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**FORM OF SERIES 2004 BOND**

**IT CANNOT BE DETERMINED FROM THE FACE OF THIS BOND WHETHER THE  
ENTIRE PRINCIPAL AMOUNT SHOWN BELOW HAS BEEN ADVANCED OR  
WHETHER A PART OF THE PRINCIPAL OF THIS BOND HAS BEEN PAID**

REGISTERED

UNITED STATES OF AMERICA

REGISTERED

STATE OF MARYLAND

No. R-\_\_

\$\_\_\_\_\_

**MARYLAND TRANSPORTATION AUTHORITY**

**Lease Revenue Bonds  
Metrorail Parking Projects  
Series 2004**

| <b><u>Maturity Date</u></b> | <b><u>Interest Rate</u></b> | <b><u>Dated Date</u></b> | <b><u>CUSIP No.</u></b> |
|-----------------------------|-----------------------------|--------------------------|-------------------------|
| July 1, 20__                | _____%                      | June 8, 2004             | _____                   |

Registered Owner: CEDE & CO.

Principal Amount: \_\_\_\_\_ Dollars (\$\_\_\_\_\_)

**MARYLAND TRANSPORTATION AUTHORITY**, (said agency being sometimes referred to herein as the “**Authority**”), for value received, hereby promises to pay, but only from the Pledged Revenues (defined herein) and other amounts pledged to such payment under the Trust Agreement (defined herein) to the Registered Owner shown above or registered assigns or legal representative, on the Maturity Date set forth above (or earlier as hereinafter referred to), upon the presentation and surrender hereof at the designated office (the “**Designated Office**”) of the Trustee (defined herein), the Principal Amount shown above (or such lesser amount as shall be outstanding hereunder from time to time in accordance with Section 5 hereof) on the Maturity Date shown above (or earlier as hereinafter referred to), with interest thereon from the most recent date to which interest has been paid, or if the Date of Authentication shown below is prior to the first interest payment date, from the Dated Date as set forth above at the Interest Rate

shown above until said Principal Amount is paid, payable on January 1, 2005, and semiannually thereafter on July 1 and January 1 of each year.

All interest due on this bond shall be payable to the person in whose name this bond is registered on the bond registration books maintained by The Bank of New York, as trustee and registrar (such entity and any successor in such capacity being referred to herein as the **"Trustee"**) as of the close of business on the fifteenth (15<sup>th</sup>) day of the calendar month immediately preceding the interest payment date upon which such interest is due and payable and shall be made by check mailed to the address of such owner as it appears on the bond registration books maintained by the Trustee; *provided*, that if there is a default in the payment of interest due hereon, such defaulted interest shall be payable to the person in whose name this bond is registered as of the close of business on a subsequent date fixed by the Trustee (the **"Special Record Date"**) that is at least ten (10) and not more than fifteen (15) days before the date set for the payment of such defaulted interest. Notice of any Special Record Date will be given as hereinafter provided to the registered owner hereof not later than ten (10) days before the Special Record Date.

The principal or redemption price of and interest on this bond are payable in lawful money of the United States of America or by check payable in such money. If any payment of the principal or redemption price of or interest on this bond shall be due on a day other than a Business Day (defined herein), such payment shall be made on the next Business Day with like effect as if made on the originally scheduled date. A **"Business Day"** is any date which is not (i) a Saturday, a Sunday or legal holiday in the State of Maryland (the **"State"**), (ii) a day on which banking institutions in the State or the city in which the Designated Office of the Trustee is located are authorized or obligated to remain closed, or (iii) a day on which the New York Stock Exchange is closed.

**This bond shall not be deemed to constitute a debt or liability of the State or any political subdivision thereof, of the Department of Transportation of Maryland, (the "Department"), of the Washington Metropolitan Area Transit Authority ("WMATA") or of the Authority, or a pledge of the faith and credit of the State, any political subdivision thereof, the Department, WMATA or the Authority, but shall be payable solely from the Pledged Revenues (as defined herein). Neither the State nor any political subdivision thereof, nor the Department, nor the WMATA, nor the Authority shall be obligated to pay this bond or the interest hereon except from such sources, and neither the faith and credit nor the taxing power of the State, any political subdivision thereof or the Authority is pledged to the payment of the principal of or the interest on this bond. This bond is not a general obligation of the Authority. The Authority has no taxing power. Prince George's County, Maryland (the "County") has covenanted to pay to the Trustee for deposit in the Debt Service Reserve Fund (as defined in the Trust Agreement), at any time in any fiscal year an amount equal to the deficiency as determined under the Trust Agreement; *however*, the obligation of the County to make any such payment in any fiscal year is contingent upon the appropriation for such fiscal year by the Prince George's County Council of funds from which such payment can be made**

1. Trust Agreement. This bond is one of a duly authorized series of revenue bonds of the Authority aggregating Forty Million Dollars (\$40,000,000) in principal amount, known as

“Maryland Transportation Authority Lease Revenue Bonds, Metrorail Parking Projects, Series 2004” (the “**Bonds**”), duly authorized and issued by the Authority under and pursuant to (i) Sections 4-101 through 4-401 of the Transportation Article of the Annotated Code of Maryland, as amended (the “**Enabling Act**”), (ii) certain proceedings of the Authority, (iii) and the Trust Agreement, dated as of May 1, 2004 (as amended and supplemented from time to time, the “**Trust Agreement**”), by and between the Authority and The Bank of New York, as trustee (the “**Trustee**”) to finance the cost of certain parking facility projects (the “**Projects**”) located in Prince George’s County, Maryland, to fund the Debt Service Reserve Fund in the amount of the Debt Service Reserve Fund Requirement (as defined in the Trust Agreement), and to pay certain costs of issuance.

The terms of the Bonds include those stated in the Trust Agreement and the Bonds are subject to all such terms. Executed counterparts of such Trust Agreement are on file at the Designated Office of the Trustee. Reference is hereby made to the Trust Agreement for a description of the funds, revenues and charges pledged thereunder, the nature and extent of the security created or to be created, and the rights, limitations of rights, obligations, duties and immunities of the Authority, the Trustee and the Bond Registrar and Paying Agent for the Bonds and the rights of the registered owners of the Bonds. By the acceptance of this bond, the Registered Owner hereof assents to all of the provisions of the Trust Agreement. Certified copies of the Trust Agreement are on file at the Designated Office of the Trustee and at the offices of the Authority in Baltimore, Maryland. All capitalized terms used, but not defined herein, are defined in the Trust Agreement and are used herein in the same manner and with the same meaning as in the Trust Agreement.

2. The Bonds. All the Bonds are of like tenor except as to number, principal amount, maturity, interest rate and redemption provisions and mature on July 1 of the years and in the amounts and bear interest as set forth below:

#### Serial Bonds:

| <u>Year</u> | <u>Principal<br/>Amount</u> | <u>Interest<br/>Rate</u> | <u>Year</u> | <u>Principal<br/>Amount</u> | <u>Interest<br/>Rate</u> |
|-------------|-----------------------------|--------------------------|-------------|-----------------------------|--------------------------|
| 2006        | \$1,040,000                 | 3.000%                   | 2015        | \$1,495,000                 | 5.000%                   |
| 2007        | 1,070,000                   | 3.000                    | 2016        | 1,570,000                   | 5.000                    |
| 2008        | 1,105,000                   | 4.000                    | 2017        | 1,650,000                   | 5.000                    |
| 2009        | 1,150,000                   | 5.000                    | 2018        | 1,735,000                   | 4.500                    |
| 2010        | 1,205,000                   | 4.000                    | 2019        | 1,810,000                   | 4.600                    |
| 2011        | 1,255,000                   | 5.000                    | 2020        | 1,895,000                   | 4.625                    |
| 2012        | 1,315,000                   | 5.000                    | 2021        | 1,980,000                   | 4.750                    |
| 2013        | 1,380,000                   | 4.000                    | 2022        | 2,075,000                   | 5.000                    |
| 2014        | 1,440,000                   | 4.150                    |             |                             |                          |

**Term Bonds:**

| <u>Year</u> | <u>Principal Amount</u> | <u>Interest Rate</u> |
|-------------|-------------------------|----------------------|
| 2024        | \$4,470,000             | 5.000%               |
| 2025        | \$2,405,000             | 5.000%               |
| 2028        | \$7,955,000             | 5.000%               |

The Bonds are issuable only in registered form without coupons in denominations of \$5,000 and any integral multiple thereof.

3. Additional Bonds. The Trust Agreement provides that Additional Bonds may be issued within the limitations and provisions of the Trust Agreement. All Bonds issued within the limitations and provisions of the Trust Agreement shall be secured equally and ratably by the Pledged Revenues and other moneys pledged by the Authority, to the extent provided in the Trust Agreement.

4. Redemption.

(a) The Bonds are subject to optional and mandatory redemption prior to maturity as provided in the Trust Agreement.

(b) Notice of Redemption. The Trustee shall mail notice of any redemption at least thirty (30) days prior to the redemption date to the registered owners of the Bonds to be redeemed at their addresses as they appear on the registration books maintained by the Trustee. The failure so to mail any such notice to any of such registered owners shall not affect the validity of the proceedings for the redemption of any Bonds.

(c) Effect of Call for Redemption. On the date designated for redemption, if all conditions, if any, to such redemption shall have been satisfied, the Bonds or portions of Bonds so called for redemption shall become and be due and payable at the redemption price provided for redemption of such Bonds or such portions thereof on such date and, if moneys for the payment of the redemption price and accrued interest are held by the Trustee as provided in the Trust Agreement, interest on such Bonds or such portions thereof so called for redemption shall cease to accrue, such Bonds or such portions thereof so called for redemption shall cease to be entitled to any benefit or security under the Trust Agreement, and the registered owners thereof shall have no rights in respect of such Bonds or such portions thereof so called for redemption except to receive payment of the redemption price thereof and the accrued interest thereon so held by the Trustee. If a portion of this bond shall be called for redemption, a new Bond or Bonds in the aggregate principal amount equal to the unredeemed portion hereof, of the same series and maturity and bearing interest at the same rate, shall be issued to the registered owner upon the surrender hereof.

(d) Provisions Applicable to Book-Entry Bonds. So long as all of the Bonds shall be maintained in book-entry form with a Securities Depository (as defined in the Trust Agreement) in accordance with the Trust Agreement, in the event that part, but not all, of this

bond shall be called for redemption, the holder of this bond may elect not to surrender this bond in exchange for a new Bond in accordance with paragraph (c) above and in such event shall make a notation indicating the principal amount of such redemption and the date thereof on the Payment Grid attached hereto. For all purposes, the principal amount of this bond outstanding at any time shall be equal to the Principal Amount shown on the face hereof reduced by the principal amount of any partial redemption of this bond following which the holder of this bond has elected not to surrender this bond in accordance with paragraph (c) above. The failure of the owner hereof to note the principal amount of any partial redemption on the Payment Grid attached hereto, or any inaccuracy therein, shall not affect the payment obligation of the Authority hereunder. **THEREFORE, IT CANNOT BE DETERMINED FROM THE FACE OF THIS BOND WHETHER A PART OF THE PRINCIPAL OF THIS BOND HAS BEEN PAID.**

5. Defeasance. The Trust Agreement prescribes the manner in which it may be discharged and provides that Bonds shall be deemed to be paid if moneys or certain Government Obligations (as defined in the Trust Agreement), the principal of and interest on which, when due, will be sufficient to pay the principal or redemption price of and interest on such Bonds to the date of maturity or redemption thereof, shall have been deposited with the Trustee.

6. Persons Deemed Owners; Restrictions upon Actions by Individual Owners. The Authority and the Trustee may deem and treat the person in whose name this bond is registered as the absolute owner hereof (whether or not this bond shall be overdue and notwithstanding any notation of ownership or other writing hereon made by anyone other than the Authority or the Trustee) for the purpose of receiving payment of or on account of the principal or redemption price of this bond, and for all other purposes except as otherwise provided herein with respect to the payment of interest on this bond, and neither the Authority nor the Trustee shall be affected by any notice to the contrary. All such payments so made to any such registered owner, or upon his order, shall be valid and, to the extent of the sum or sums so paid, effectual to satisfy and discharge the liability for moneys payable under this bond.

The registered owner of this bond shall have no right to enforce the provisions of the Trust Agreement, or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Trust Agreement, or to institute, appear in or defend any suit or other proceeding with respect hereto, except as provided in the Trust Agreement.

7. Transfer and Exchange. This bond may be exchanged for an equal, aggregate principal amount of Bonds, of the same maturity and bearing interest at the same rate and of other authorized denominations, and the transfer of this bond may be registered, upon presentation and surrender of this bond at the Designated Office of the Trustee, together with an assignment duly executed by the registered owner hereof or such owner attorney or legal representative. The Authority and the Trustee may require the person requesting any such exchange or transfer to reimburse them for any tax or other governmental charge payable in connection therewith. Neither the Authority nor the Trustee shall be required to register the transfer of this bond or make any such exchange of this bond after this bond or any portion thereof has been selected for redemption.

8. Modifications. Modifications or alterations of the Trust Agreement may be made only to the extent and in the circumstances permitted by the Trust Agreement.

9. Negotiability. As declared by the Enabling Act, this bond shall be and be deemed to be for all purposes a negotiable instrument subject only to the provisions for registration and registration of transfer stated herein.

10. Governing Law. This bond shall be governed by and construed in accordance with the laws of the State.

11. Bond Insurance. Financial Guaranty Insurance Policy No. 22524BE (the “**Policy**”) with respect to payments due for principal of and interest on this bond has been issued by Ambac Assurance Corporation (“**Ambac**”). The Policy has been delivered to The Bank of New York, New York, New York, as the Insurance Trustee under the Policy and will be held by such Insurance Trustee or any successor insurance trustee. The Policy is on file and available for inspection at the principal office of the Insurance Trustee and a copy thereof may be secured from Ambac or the Insurance Trustee. All payments required to be made under the Policy shall be made in accordance with the provisions thereof. The owner of this bond acknowledges and consents to the subrogation rights of Ambac as more fully set forth in the Policy.

12. Notices. Except as otherwise provided in the Trust Agreement, when the Trustee is required to give notice to the owner of this bond, such notice shall be mailed by first-class mail to the registered owner of this bond at such owner’s address as it appears on the registration books maintained by the Trustee. Any notice mailed as provided herein will be conclusively presumed to have been given, whether or not actually received by the addressee.

All acts, conditions and things required by the Constitution and laws of the State and the rules and regulations of the Authority to happen, exist and be performed precedent to and in the issuance of this bond and the execution and delivery of the Trust Agreement have happened, exist and have been performed as so required.

No recourse shall be had for the payment of the principal or redemption price of and interest on this bond or for any claims based thereon or on the Trust Agreement against any member or other officer of the Authority or any person executing this bond, all such liability, if any, being expressly waived and released by the registered owner of this bond by the acceptance of this bond.

This bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Trust Agreement until it shall have been authenticated by the execution by the Trustee of the certificate of authentication endorsed hereon.



**IN WITNESS WHEREOF**, Maryland Transportation Authority has caused this bond to bear the manual or facsimile signatures of the Chairman of the Authority and the Executive Secretary of the Authority and the official seal of the Authority to be imprinted hereon, all as of the 8th day of June, 2004.

**MARYLAND TRANSPORTATION AUTHORITY**

[SEAL]

---

Thomas L. Osborne  
Executive Secretary  
of the Maryland  
Transportation Authority

---

Robert L. Flanagan  
Chairman  
of the Maryland  
Transportation Authority

## CERTIFICATE OF AUTHENTICATION

Date of Authentication: \_\_\_\_\_, 2004

This bond is one of the bonds of the series designated therein and issued under the provisions of the Trust Agreement. A signed original opinion of Deborah A. Donohue, Assistant Attorney General and Principal Counsel to the Maryland Transportation Authority, and of Bond Counsel, McKennon Shelton & Henn LLP, Baltimore, Maryland, is on file with the undersigned.

**THE BANK OF NEW YORK,**  
as Bond Registrar

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

Authorized Officer

### PAYMENT GRID

[illegible]

04012096